

**DISCIPLINE COMMITTEE
OF THE ONTARIO COLLEGE OF TEACHERS**

IN THE MATTER OF the *Ontario College of Teachers Act, 1996*, and the Regulation (Ontario Regulation 437/97) thereunder;

AND IN THE MATTER OF a discipline proceeding against Laird Norman Schneider, a member of the Ontario College of Teachers.

PANEL: John Tucker, Chair
 Annilee Jarvis
 Jacques Tremblay

BETWEEN:)	
	)	Brian Wasyliw,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson,
	)	Law Clerk
- and -)	
	)	Ian Fellows,
	)	Green & Chercover LLP,
LAIRD NORMAN SCHNEIDER	)	for Laird Norman Schneider
(CERTIFICATE #167205))	
)	
	)	Scott Hutchison
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: May 23, 2007

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on May 23, 2007 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated March 3, 2006, was served on Laird Norman Schneider, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on April 5, 2006 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for May 23, 2007.

The hearing took place on May 23, 2007 at which time the Committee rendered its decision orally and reserved its reasons for decision. These are those reasons.

Laird Norman Schneider was in attendance at the hearing.

THE ALLEGATIONS

The allegations against Laird Norman Schneider in the *Notice of Hearing*, (*Exhibit 1*) dated March 3, 2006, are as follows:

IT IS ALLEGED that Laird Norman Schneider is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act, 1996* (the “Act”), in that:

- (a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) he abused a student or students physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) he failed to comply with the *Act* and the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically section 264(1)(c) thereof or the

Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);

(d) he committed acts that having regard to all the circumstances would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18); and

(e) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).

AGREED STATEMENT OF FACTS

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced an *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty (ASF – Exhibit 2)*.

The Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty provides as follows:

1. Laird Norman Schneider (“the Member”) is a member of the Ontario College of Teachers. Attached hereto and marked as **Exhibit “A”** is a copy of the Ontario College of Teachers Registered Member Information respecting the Member.

2. At all material times, the Member was employed by the Upper Grand District School Board (“the Board”) as a [■] teacher at the [■] (“the School”), in [■], Ontario.

3. In or about December 2003, the Member requested that students massage his back during his [■] class at the School to help relieve an apparent muscle spasm. A number

of male students, including [■] and [■] acceded to the Member's request and rubbed his back and shoulders. This activity was witnessed by other students in the classroom.

4. Both [■] and [■] were uncomfortable and embarrassed by this activity.

5. Following an investigation, the Member was suspended by the Board, without pay, for four (4) days.

PLEA OF NO CONTEST

6. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts referred to in paragraphs 1, 2, 3, 4 and 5 above and the exhibit marked, and acknowledges that these admitted facts constitute professional misconduct.

7. The Member pleads no contest to the allegations of professional misconduct against him, being more particularly, breaches of Ontario Regulation 437/97 subsections 1(5), (7 -psychological), (14), (15), (18) and (19).

8. The Member states that:

(a) he understands fully the nature of the allegations against him;

(b) he understands that by signing this document he is consenting to the evidence as set out in this agreement being presented to the Discipline Committee;

- (c) he understands that by pleading no contest to the facts referred to in paragraph 3 above, he is waiving the right to require the College to prove the case against him and the right to have a hearing; and
- (d) he states that this plea of no contest was made voluntarily, unequivocally and with the benefit of independent legal counsel.

9. The Member provides this plea of no contest pursuant to Rule 3.02 of the Rules of Procedure of the Discipline Committee under protection of the *Evidence Act*, R.S.O. 1990, c. E. 23, for the purpose of this proceeding under the *College of Teachers Act*, 1996, chapter 12, and for no other purpose. The Member's plea of no contest does not constitute an admission by the Member as to the facts or findings in any other civil, criminal or administrative proceeding.

10. In light of the facts and circumstances described herein, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.

JOINT SUBMISSION ON PENALTY

11. In light of the facts and circumstances herein acknowledged by the Member, the Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that the Committee:

- (a) requires the Member to appear before the Committee to be reprimanded with respect to his inappropriate conduct with his students, and the fact of the reprimand to be recorded on the Register; and
- (b) directs the Registrar of the Ontario College of Teachers to impose the following terms, conditions or limitations on the Member's Certificates of Qualification and Registration, the fact of such terms and conditions and limitations to be recorded on the Register until such time as they are fulfilled:
 - (i) the Member must enrol in and complete, at his own expense, within three (3) months of the date of this Order, a course of instruction, approved in advance by the Registrar, in appropriate boundaries and boundary violation issues, in which the Member shall make the instructor of said course aware of all allegations in the Notice of Hearing; and,
 - (ii) following completion of the course, the Member shall deliver directly to the Registrar, proof of successful completion of the course within thirty (30) days of its completion.
- (c) directs that there be publication of the findings and Order of the Committee in summary form in the official publication of the College, *Professionally Speaking/Pour parler profession*. The parties have not agreed upon whether the Member's full name will be published in the

official publication of the College and submissions will be made to the Committee on that issue.

12. By this document, the Member acknowledges his understanding that any agreement between the College and the Member with respect to the penalty proposed in this document does not bind the Discipline Committee.

DECISION

Having examined the Exhibits filed, and based on the plea of no contest, the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Laird Norman Schneider committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7-psychological), 1(14), 1(15), 1(18) and 1(19), as set out in the *Notice of Hearing*.

REASONS FOR DECISION

The Member pleaded no contest and acknowledged that the facts as agreed to and as described in paragraphs 1 to 5 of the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* (ASF - Exhibit 2) constitute professional misconduct.

The Committee accepted the Member's plea of no contest and the evidence contained in the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty*.

While it is important for teachers to establish a rapport with their students, it is essential that they respect the boundaries of the teacher/student relationship. The Member's request that students massage his back was inappropriate and unprofessional. The Member took advantage of his position of authority by making these requests. He caused students to be uncomfortable and embarrassed thereby breaching subsection 1(7- psychological abuse). He engaged in acts that are unprofessional and in conduct unbecoming under 1(18) and 1(19) and breached subsection 1(14) and 1(15), by failing to comply with the Act or the regulations or the bylaws. By this conduct, the Member failed to comply with the standards of the profession under Ontario Regulation 437/97 subsection 1(5).

PENALTY

After reviewing the Agreed Statement of Facts, College Counsel submitted that publication should include the name of the Member to balance the interests of the public function. Publishing supports the transparency of public image and should occur as a natural course, following an open hearing. Counsel also submitted that publication of the name provides a specific deterrent to the Member by causing the Member to take ownership of the issues and acknowledge his wrongdoing. Publication would also serve as a general deterrent to the profession and the public in that this type of misconduct will not be tolerated.

Counsel for the Member requested that the name of the Member not be published. Counsel stated that as the hearing was open, the decision of the Committee and the name of the Member would be available to the public upon request. Counsel argued that the

Member had been teaching for 23 years without incident until the misconduct which occurred in 2003. Subsequently there was no evidence of reoccurrence of any misconduct. Counsel indicated that the Member had been on stress leave since January 2007 and that publication of his name would serve to aggravate his stress: the public interest would be better served if the Member returned to the classroom. Counsel submitted that the Member acknowledged that his conduct was inappropriate and that specific deterrence through publication of the Member's name was not necessary. Counsel suggested that the Member's request to his students to help relieve an apparent muscle spasm was unique and was not likely to be repeated by other members of the profession. It was not necessary therefore to publish the Member's name as a general deterrent.

PENALTY DECISION

The Committee accepts the joint submission on penalty and makes the following order as to penalty:

- (a) The Member is required to appear before the Committee immediately following the completion of the hearing into this matter to be reprimanded with respect to his inappropriate conduct with his students, and the fact of the reprimand is to be recorded on the Register;
- (b) The Registrar is directed to impose the following terms, conditions or limitations on the Member's Certificates of Qualification and Registration, the fact of such terms and conditions and limitations to be recorded on the Register until such time as they are fulfilled:

- (i) the Member must enrol in and complete, at his own expense, within three (3) months of the date of this Order, a course of instruction, approved in advance by the Registrar, in appropriate boundaries and boundary violation issues, in which the Member shall make the instructor of said course aware of all allegations in the Notice of Hearing; and,
 - (ii) following completion of the course, the Member shall deliver directly to the Registrar, proof of successful completion of the course within thirty (30) days of its completion.
- (c) The Committee directs that there be publication of the findings and Order of the Committee in summary form, without the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

The reprimand of the Member by his peers in respect of his inappropriate conduct with students serves to reinforce the necessity to maintain appropriate boundaries. The fact of the reprimand will further remind the member to uphold the standards of the profession and not to engage in conduct unbecoming a member. The fact that the reprimand will be recorded on the Register also serves as a specific deterrent.

Members of the profession should be aware of expectations regarding professional behaviour and not to engage in disgraceful and unprofessional conduct. The course of instruction in appropriate boundaries and boundary violation issues will guide the Member to comprehend the limits of student/teacher interaction and to avoid any future psychological abuse of students. The Committee is satisfied that the successful completion of this course, pre-approved by the Registrar, will serve to remediate the Member.

The Committee's decision to publish the findings without the name of the Member was made for several reasons. The misconduct was a unique incident and was not of a severe nature. There was no evidence before the Committee of any previous or subsequent misconduct. Publication of the member's name as a specific deterrent is unnecessary as the Member has learned that his behaviour was inappropriate and has not been repeated since his return to the classroom. The Member understands through his suspension from employment and his appearance before the Discipline Committee, that these admitted facts constitute professional misconduct.

Publication of the findings and order of the Committee, in summary, although without the name of the Member, in *Professionally Speaking/Pour parler profession*, serves as a general deterrent to the profession, sending a message that appropriate behaviour is required by members of the College.

The Committee is satisfied that the penalty is appropriate in the circumstances and it serves and protects the public interest.

Date: June 18, 2007

John Tucker
Chair, Discipline Panel

Annilee Jarvis
Member, Discipline Panel

MINORITY DECISION (JACQUES TREMBLAY)

I have had the benefit of reading the majority decision in this matter. I concur with the finding of the majority that the Member be found guilty of professional misconduct. I also concur with the penalty order of reprimand and that the member must enrol in a course of instruction in appropriate boundaries and boundary violation issues. Further, I concur that the findings and order of the Committee be published in *Professionally Speaking/Pour parler profession*. However I do not agree that publication be without the name of the Member.

To assure the transparency of the process, in an open hearing, the College has a duty to report to the public. In order to protect and serve the public interest, the Member's name should be published unless there are good reasons to not include the Member's name. In this case there were not sufficient compelling reasons to not publish the name of the Member. The need to publish the Member's name and thereby inform the public outweighs the potential impact of embarrassment to Member.

The nature of the misconduct involved physical touching between the Member and students. It was at the request of the Member that students rubbed the Member's back and shoulders. While this may have been a unique situation, this was an abuse of the Member's position of authority and placed his students in an embarrassing situation, resulting in psychological abuse. There is no guarantee that this type of behaviour will not be repeated by the Member and it is important therefore to include his name to act as a specific deterrent.

Publishing the Member's name sends a strong message the profession and alerts the public that the kind of behaviour engaged in by the Member will not be tolerated.

Dated: June 18, 2007

Jacques Tremblay
Member, Discipline Panel