

**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 Barry Frederick Schroeder, a member of the Ontario College of Teachers.

PANEL: Tianna Travaglini-Babic, Chair
 Annilee Jarvis
 John Tucker

BETWEEN:)	
	)	Caroline Zayid,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson,
	)	Law Clerk
- and -)	
)	
BARRY FREDERICK SCHROEDER	)	Ian Fellows and Simon Blackstone,
(CERTIFICATE #240027)	)	Green & Chercover LLP,
	)	for Barry Frederick Schroeder
)	
	)	Martha Cook,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: October 22, 2007

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on October 22, 2007 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated February 19, 2004, was served on Barry Frederick Schroeder, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on March 24, 2004 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for October 22, 2007.

Barry Frederick Schroeder was in attendance at the hearing.

THE ALLEGATIONS

The allegations against Barry Frederick Schroeder in the *Notice of Hearing*, (Exhibit 1) dated March 24, 2004 are as follows:

IT IS ALLEGED that Barry Frederick Schroeder is guilty of professional misconduct as defined in section 30(2) and 40 (1.1) of the Ontario College of Teachers Act (the “Act”) and/or is incompetent as defined in section 30(3) of 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, and/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);
- (e) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).
- (f) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40 (1.1) of the *Act*; and
- (g) he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the Member is either unfit to carry out his professional responsibilities or that the Member's certificate should be made subject to terms, conditions or limitations.

At the hearing on October 22, 2007 College counsel sought to withdraw the particular allegation contained in paragraphs (f) and (g) of the *Notice of Hearing*. These allegations related to criminal charges brought against the Member. The Member denied these allegations. College Counsel advised that there were evidentiary issues with respect to the College's ability to prove these allegations before the Committee. College Counsel submitted as resolution, an undertaking and acknowledgement by the Member (Exhibit 3) which states:

1. The Member will, immediately following the hearing, resign his membership in the Ontario College of Teachers and will immediately surrender his original Certificate of Qualification and Registration to the Registrar of the Ontario College of Teachers for cancellation.
2. The Member undertakes never again to teach in any public or private school in the

Province of Ontario.

3. The Member undertakes that he will never seek reinstatement of his Certificate of Qualification and Registration.

4. The Member acknowledges that the Public Register of the Ontario College of Teachers will reflect the fact that he has resigned as a member while disciplinary proceedings were in progress and that he has undertaken never to teach again in any public or private school in the Province of Ontario and that he will never seek reinstatement of his Certificate in the Province of Ontario.

On this basis, the Committee agrees that these allegations shall be withdrawn.

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. Barry Frederick Schroeder (“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 Toronto District School Board as a Science teacher, and taught [■] at the Grade [■] and [■] levels at [■] (“the School”).

3. During the 2001-2002 academic year, the Student was a male student in the Member’s Grade [■] class.

4. From in or around September 2001 through to March 2002, the Member developed an interest in the Student that extended beyond the boundaries of an appropriate teacher/student relationship. Specifically, the Member:

- (a) communicated with the Student via electronic messaging exchanges, during which exchanges, *inter alia*, the Member resorted to calling the student names;
- (b) issued invitations to the Student to meet with him outside of School at the Member’s home and cottage;
- (c) provided the Student with his home telephone number and requested that the Student give him the Student’s telephone number;
- (d) arranged to spend time with the Student during detention periods at the School.

5. The Student complained to School administration about the attention being shown to him by the Member and disclosed the internet message exchange between the Student and the Member.

PLEA OF NO CONTEST

6. By this document, the Member admits the truth of the facts referred to in paragraphs 1 to 5 above (the “Admitted Facts”). The Member hereby acknowledges that his conduct as described in paragraph 4 of the Admitted Facts constitutes professional misconduct, and pleads no contest to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97 1(5), 1(7) - verbal, psychological and/or emotional abuse, 1(14), 1(15),1(18) and 1(19).

7. The Member states that:

- (a) he understands fully the nature of the allegations against him;
- (b) he understands that by pleading no contest to the allegations he is waiving his right to require the College to prove the case against him and the right to have a hearing;
- (c) he voluntarily decided to plead no contest; and
- (d) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally and with the benefit of legal counsel.

8. 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.

9. In light of the Admitted Facts and circumstances, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.

JOINT SUBMISSION ON PENALTY

10. In light of the Admitted Facts and circumstances, 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 and the fact of the reprimand be recorded on the Register;
- (b) directs the Registrar of the Ontario College of Teachers to suspend the Member's Certificate of Qualification and Registration for a period of six (6) months; and
- (c) directs that there be publication of the findings and Order of the Committee in summary form, including the full name of the Member in the official publication of the College *Professionally Speaking/Pour parler profession*.

11. 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. The Committee finds that Barry Frederick Schroeder committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7) – verbal, psychological and/or emotional abuse, 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 paragraph 4 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*.

The Committee determined that the Member's conduct did not comply with the standards of the profession or the Education Act. Over a period of six months, the Member acted in an unprofessional manner by developing an interest in a student that extended beyond the boundaries of an appropriate student/teacher relationship. He did so by engaging in electronic messaging, issuing invitations to meet outside of school, seeking to exchange phone numbers and arranging to spend time with the student during detention periods. These events caused the student such verbal, psychological and emotional discomfort that he reported the Member's conduct to school administration. The Committee determined that this conduct by the Member was unbecoming a member of the profession and disgraceful and dishonourable.

PENALTY DECISION

The Committee makes the following order as to penalty:

- (a) The Member is required to appear before the Committee immediately following the completion of the hearing of this matter to be reprimanded, and the fact of the reprimand is to be recorded on the Register of the Ontario College of Teachers;
- (b) The Registrar is directed to suspend the Member's Certificate of Qualification and Registration for a period of six months from October 22, 2007;

- (c) The Committee directs that there be publication of the findings and Order of the Committee in summary form, with the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

As indicated above, the Committee heard submissions from College Counsel with respect to withdrawal of certain allegations contained in the *Notice of Hearing*, namely that the Member:

- (f) engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40 (1.1) of the *Act*; and
- (g) displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the Member is either unfit to carry out his professional responsibilities or that the Member's certificate should be made subject to terms, conditions or limitations.

The Committee agreed that these allegations could be withdrawn as the public interest was being served by the comprehensive nature of the Member's Undertaking and Acknowledgment (Exhibit 3).

The Member undertook to immediately resign his membership following the hearing, never to teach again or to seek reinstatement of his Certificate in the Province of Ontario. He acknowledged that the Public Register would reflect this undertaking and the fact that he resigned while disciplinary proceedings were in progress.

The reprimand of the Member in respect of his inappropriate conduct with the student serves to reinforce the necessity to maintain appropriate boundaries. That the reprimand

will be recorded on the Register serves as a specific deterrent. The fact of the reprimand will further remind all members to uphold the standards of the profession and not to engage in conduct unbecoming a member.

The Committee accepted the joint submission on penalty regarding a six month suspension of the Member's Certificate. No oral submissions were made by counsel regarding suspension. No further consideration was given regarding suspension in light of the Member's undertaking to resign and to not seek reinstatement.

Publication of the findings and order of the Committee with the name of the Member serves as a restraint to the Member and a general deterrent to members of the profession that engaging in such misconduct will have serious consequences.

In the view of this Committee, the penalty ordered is appropriate, having regard to all the circumstances and is in the public interest.

Date: October 22, 2007

Tianna Travaglini-Babic
Chair, Discipline Panel

Annilee Jarvis
Member, Discipline Panel

John Tucker
Member, Discipline Panel