

**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 Keith Derek Secor, a member of the Ontario College of Teachers.

PANEL: Tianna Travaglini-Babic, Chair
 Jacques Tremblay
 John Tucker

BETWEEN:)	
)	
	)	Brian Wasyliw,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
Keith Derek Secor	)	Keith Derek Secor was
(CERTIFICATE #247653)	)	not present or represented
	)	by counsel
)	
)	
	)	Phil Tunley,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: March 27, 2007

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on March 27, 2007 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated September 20, 2005 was served on Keith Derek Secor (the “Member”), requesting attendance before the Discipline Committee of the Ontario College of Teachers on October 17, 2005 to set a date for a hearing, and specifying the charges. The *Notice of Hearing* was amended on March 26, 2007 and the hearing was set for March 26, 2007. The Member was not in attendance at the hearing.

THE ALLEGATIONS

The allegations against the Member in the *Amended Notice of Hearing*, (*Exhibit 1*) dated March 26, 2007 are as follows:

IT IS ALLEGED that Keith Derek Secor is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) of the *Ontario College of Teachers Act, 1996* (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 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;
- (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;
- (h) he contravened a law, the contravention of which is relevant to the Member's suitability to hold a Certificate of Qualification and Registration, contrary to Ontario Regulation 437/97, subsection 1(16); and
- (i) he contravened a law, the contravention of which has caused students under the Member's professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17).

At the hearing of this matter on March 27, 2007, counsel for the College advised that the College would not be proceeding with the allegations of professional misconduct outlined in (a) through (g) above but would be proceeding with the allegations in (h) and (i) above as added in the *Amended Notice of Hearing*.

PUBLICATION BAN

An order, pursuant to Section 486(3) of the *Criminal Code* (Canada) was made by the Court with respect to the identity of the complainants and any information that could disclose their identities is not to be published in any newspaper or broadcast in any way. In order to honour this publication ban, the parties agreed that the complainants would not be identified in any exhibits filed in this matter. Therefore, the Committee orders that the names of the complainants and any witnesses be removed from any and all documents that were presented in this hearing.

AGREED STATEMENT OF FACTS

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced as *Exhibit 2, an Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty (ASF – Exhibit 2)*. Counsel for the College advised the Committee that, although the Member was not present or represented by counsel at the hearing, this agreement had been reached with the Member through his counsel, Markle May Phibbs.

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

1. Keith Derek Secor (“the Member”) is a member of the Ontario College of Teachers. Exhibit 2, Tab “A” is a copy of the Ontario College of Teachers Registered Member Information respecting the Member.
2. The Member, who was certified to teach in 1977, was employed by the Waterloo Catholic District School Board (“the Board”) and at all times material hereto, was an elementary teacher at [REDACTED] (“the School”), in [REDACTED], Ontario.
3. From on or about September [REDACTED] to December [REDACTED], while A, B, C, D and E were female students in the [REDACTED] class at the School, and while F was a female student in an older class at the School who [REDACTED], the Member engaged in “french kissing” with A, B, C, D, E and F.

4. In June and August 2004, the Member was charged by Waterloo Regional Police, *inter alia*, with one count each of:

a. indecent assault contrary to s. 149 of the *Criminal Code of Canada*; and

b. gross indecency contrary to s. 157 of the *Criminal Code of Canada*,

against A, B, C, D, E and F. Exhibit 2, Tab “B” is a copy of the Indictment in the Superior Court of Justice, dated July 7, 2005 and Appearance sheets, detailing these criminal charges against the Member. Six other similar charges against the Member were withdrawn at the Preliminary Hearing of this matter.

5. Following a trial before Mr. Justice D. J. Gordon heard on July 10, 11, 12, 13, 14, 17 and 18, 2006, the Member was found guilty on all six counts of indecent assault contrary to s. 149 of the *Criminal Code of Canada* and all six counts of gross indecency contrary to s. 157 of the *Criminal Code of Canada*, in respect of A, B, C, D, E and F. Exhibit 2, Tabs “C” and “D”, respectively, are copies of the transcripts of the oral and written *Reasons for Judgment* of Mr. Justice Gordon. Prior to the sentencing of the Member, the court entered stays on all six counts relating to gross indecency.

6. An Order, pursuant to Section 486(3) of the *Criminal Code* (Canada) was made by the court with respect to the identity of the complainants and that any information that could disclose their identities is not to be published in any newspaper or broadcast in any way.

7. On January 19, 2007, the Member was sentenced by Mr. Justice Gordon to a conditional sentence of nine months consisting of six months house arrest to be followed

by three months curfew in respect of all counts relating to indecent assault. The Member was also ordered:

- a. not to communicate directly or indirectly or associate with any of the named victims and not to attend within one hundred metres of the victims' places of employment or residences;
- b. not to attend at a local community charity or at any special or community function associated with the local community charity; and
- c. not to seek, obtain or continue any employment, whether or not the employment is remunerated, or become a volunteer in a capacity that involves being in a position of trust or authority towards persons under the age of fourteen years.

8. Exhibit 2, Tab "E", is a copy of the transcript of the Reasons for Sentence by Mr. Justice Gordon.

9. The Member has not appealed either the conviction or the sentence imposed on him.

PLEA OF NO CONTEST

10. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and exhibits referred to in paragraphs 1 to 9 above, ("the Admitted Facts").

11. The Member acknowledges that the Admitted Facts referred to in paragraphs 3, 5 and 7 constitute professional misconduct, and pleads no contest to these allegations of

professional misconduct against him, being more particularly, breaches of Ontario Regulation 437/97 1(16) and 1(17).

12. 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 the Admitted Facts being presented to the Discipline Committee;
- c. he understands that by pleading no contest to the allegations, 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 understands and acknowledges that he is executing this Agreement voluntarily, unequivocally and with the advice of legal counsel.

13. 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, chapter 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.

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

JOINT SUBMISSION ON PENALTY

15. 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. directs the Registrar of the Ontario College of Teachers to immediately revoke the Certificate of Qualification and Registration of the Member, which Certificate the Member is to immediately surrender to the Registrar of the Ontario College of Teachers; and
- b. directs that the findings and order of the Committee, including the Member's name, be published in the official publication of the College *Professionally Speaking/Pour parler profession.*

16. 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 Keith Derek Secor

committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 1 (16) and 1(17).

REASONS FOR DECISION

Rules 13.05 and 13.06 of the *Rules of Procedure of the Discipline Committee of the Ontario College of Teachers* allow the Committee to accept as proof that an offence was committed by a person, where there is a finding of guilt and conviction in a Canadian court, provided that there is no evidence to the contrary and that no appeal has been granted.

The Committee accepts the specific findings of fact contained in the *Brief of Court Documents* (Exhibit 2) that following a trial before Mr. Justice D.J. Gordon on July 10, 11, 12, 13, 14, 17 and 18, 2006, the Member was found guilty on six counts of indecent assault contrary to s.149 of the *Criminal Code* of Canada and six counts of gross indecency contrary to s.157 of the *Criminal Code* of Canada, in respect of 6 minors. Prior to the sentencing of the Member, the court entered stays on all six counts relating to gross indecency.

Further, the Member was sentenced by Mr. Justice Gordon to a conditional sentence of nine months consisting of six months house arrest to be followed by three months curfew in respect of the counts relating to indecent assault. In addition, the Member was ordered not to communicate with any of the victims and not to attend at a local community charity. He was also prohibited from being involved in employment or engaging in volunteer work with persons under the age of 14 years.

The Member has not appealed either the conviction or the sentence imposed on him.

In absence of evidence to the contrary, the Committee accepts as proof, the findings of fact by The Honourable Mr. Justice Gordon, resulting in the criminal conviction of the Member.

The Committee finds that these facts constitute professional misconduct as alleged and as admitted to by the Member, more particularly breaches of Ontario Regulation 437/97, 1(16) and 1(17).

PENALTY DECISION

The Committee accepts the Joint Submission on Penalty and makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Certificate of Qualification and Registration of the Member, which Certificate the Member is to surrender immediately to the Registrar.
2. Pursuant to Section 30 (5) (3) of the Ontario College of Teachers Act, the findings and order of the Committee shall be published in summary, with the name of the Member in the official publication of the College, *Professionally Speaking/Pour parler profession.*

REASONS FOR PENALTY DECISION

The Member acknowledged that the admitted facts and exhibits referred to in the Agreed Statement of Facts constitute conduct which is unprofessional and pleaded no contest to the allegations of professional misconduct as alleged. The Committee, in reaching a decision to revoke the Member's certificate of qualification and registration, took into consideration the admitted facts, the plea of no contest, the joint submission on penalty and the criminal convictions.

The Member was convicted of indecent assault and gross indecency of six of his students who were in grades [■] at the time. This was a clear and obvious violation of the sexual integrity of the then [■] year old complainants. This is a breach of trust in a teacher/student relationship that cannot be overemphasized.

Children should be able to go to school and feel safe and protected. Instead, the Member indecently assaulted students and therefore must forfeit the privilege to be a member of the teaching profession.

The Committee determined that revocation of the Member's certificate of qualification and registration is appropriate and necessary given the severity of the Member's misconduct. This penalty demonstrates that the Member's conduct is unacceptable in the eyes of the profession, the public and students.

Publication of the findings and order of the Committee, in summary, along with the name of the Member, provides both a specific deterrent to the Member and a general deterrent to the profession while serving the public interest.

Dated: March 27, 2007

Tianna Travaglini-Babic
Chair, Discipline Panel

Jacques Tremblay
Member, Discipline Panel

John Tucker
Member, Discipline Panel