

**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 George Siakotos, a Member of the Ontario College of Teachers.

PANEL: Ted Coulson, Chair
 Gabrielle Blais
 Rosemary Fontaine

BETWEEN:)	
)	
)	
ONTARIO COLLEGE OF TEACHERS	)	Brian Wasyliw,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
	)	assisted by Jennifer Robinson,
	)	Law Clerk
)	
- and -	)	George Siakotos,
	)	on his own behalf
GEORGE SIAKOTOS)	
(CERTIFICATE #458027))	
	)	Christopher Wirth,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: January 16, 2006

REASONS FOR DECISION, DECISION AND ORDER (S)

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on January 16, 2006 at the Ontario College of Teachers (the “College”) at Toronto.

Prior to the commencement of the hearing, George Siakotos (the “Member”) brought a motion.

The Motion

The motion was for an order that the Member be allowed to present his case first at the hearing.

The grounds for the motion were as follows:

1. Preventing a prejudicial hearing.
2. Impartial hearing, his Ontario College of Teachers’ rights.

Submissions of the Member

The Member argued that he should present his case first to prevent a prejudicial hearing and to allow for an impartial hearing. The Member stated that he is a Member in good standing and found innocent by the Toronto District School Board and the police. The Member’s case has been ongoing for two years and has tarnished his reputation. The Member feels that if the College presents its evidence first, the panel will be prejudiced and will not fairly weigh his evidence.

Submissions of Counsel for the College

Counsel for the College argued that it is the practice for the College to proceed first. It is the burden of the College to prove its case. When the College proceeds first, the Member has an opportunity to respond and identify the weaknesses of the College’s case.

Advice of Independent Legal Counsel

Independent Legal Counsel advised that standard practice is for the College to proceed first as it must prove its case. The two reasons given by the Member are not significant enough to warrant changing normal procedure. No prejudice is created in following this

practice.

Decision on Motion

Having considered the submissions of the Member, Counsel for the College and advice from Independent Legal Counsel, the Committee denied the Member's motion.

Reasons for Decision on Motion

The Committee has no knowledge of the case and will only become aware of the allegations once the *Notice of Hearing* is presented by College counsel. The Member's submissions have not persuaded the Committee that standard procedure should be changed to ensure impartiality. The mandate of the Committee is to adjudicate impartially based on the evidence presented by both parties.

The Allegations

The allegations in the *Notice of Hearing* dated June 6, 2005 are as follows:

IT IS ALLEGED that George Siakotos 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"), 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); and
- (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.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. George Siakotos (the “Member”), is a member of the Ontario College of Teachers.

2. At all material times, the Member was employed by the Toronto District School Board as an Occasional Teacher. On the occasion in question, the Member was assigned to the library at Elia Middle School (“the School”).

3. On April 8, 2004, [REDACTED], a female Grade [REDACTED] student, had been assigned to the School pursuant to a Co-op student placement.

4. While [REDACTED], who had been stacking books on the library shelves, was alone with the Member in the library at the School on the morning of April 8, 2004, the Member:

- (a) invited [REDACTED] on two occasions to sit at his table;
- (b) asked [REDACTED] whether she had a boyfriend;

- (c) asked [] where she lived;
- (d) asked [] for her telephone number;
- (e) advised [] not to tell anyone about his request for either her address or telephone number;
- (f) told [] that she was very attractive and that he hoped he was not too old for her;
- (g) told [] that she had beautiful hair while stroking her hair; and
- (h) asked [] for a kiss.

Member's Plea

The Member denied the allegations of professional misconduct against him as set out in the Notice of Hearing dated June 6, 2005.

The Evidence

The College called four witnesses, [], Patricia Good ("Good"), a Co-op Teacher with the Toronto District School Board ("the Board"), Charles Hay ("Hay"), Superintendent, Toronto District School Board and Constable David Spaulding ("Spaulding") of the Toronto Police. The Member also testified before the Committee in his own defence.

Evidence of []

[] was a student of [] in April 2004 who had a co-op placement in the library at Elia Middle School ("Elia"). [] met the Member on April 8, 2004 when he was assigned to the library in place of the regular teacher librarian. She testified that this was the first and only time that they had met. When [] arrived the Member was teaching a class and she commenced her regular library duties. After the class left the Member asked the last

student to close the door. The student did not close the door properly so the Member asked [REDACTED] to close the door and come and sit with him. [REDACTED] testified that the Member asked about her future plans and ambitions and also asked personal questions about whether she had a boyfriend, where she worked and what she did for fun. She also testified that the Member disclosed personal information about himself. He asked for her cell phone number, which she gave to him. She began to feel awkward and uncomfortable because she was alone with the Member. She left the table where they were sitting and went to the computer to check her e-mail. She testified that the Member came up behind her, touched her hair, said it was beautiful, and asked, "Do you mind if we kiss?"

At this point the vice-principal entered the library and began to speak to the Member, so [REDACTED] excused herself from the library. [REDACTED] went to the office and called the co-op teacher at [REDACTED] and asked permission to return there. She asked a student to get her bag from the library, left Elia, walked across the street to [REDACTED] where she told the co-op teacher, Patricia Good, about the incident.

Upon further questioning by College Counsel, [REDACTED] admitted that she had given her cell phone to the Member. She also testified that the Member told her that he found her attractive and told her not to tell anyone about the conversation. [REDACTED] testified that previous to her testimony she had not reviewed any notes.

Under cross-examination [REDACTED] said that because she felt uncomfortable, she went to the computer to distance herself from the Member, rather than leave the room at that time. She did not anticipate that the Member would follow her to the computer, but when he did she felt she needed to remove herself from the situation. She denied that when she left Elia, she waved and smiled at the Member.

Evidence of Good

Patricia Good (“Good”) was the co-op teacher at [REDACTED] who supervised [REDACTED]’s co-op placement. Good received a telephone call from an upset [REDACTED], who wanted to leave the placement at Elia. Good indicated that [REDACTED] was normally very composed. When [REDACTED] arrived, she stated that the supply teacher in the library had made advances towards her. Good told [REDACTED] to write down what had happened. Good reported the incident to the principal at [REDACTED] who informed her that the police would be contacted and that [REDACTED] should wait for the police.

Evidence of Hay

Charles Hay (“Hay”), Superintendent with the Toronto District School Board, was at the time of the incident the Central Co-ordinating Principal, Employee Services. One responsibility was employee relations with the elementary occasional teachers. Hay testified that the internal investigation by the Board concluded that the Member had acted in an inappropriate manner, that he was reprimanded and was removed from the occasional teaching list for the balance of the school year 2003-2004, and that there would be no more assignments for the Member at Elia Middle School. Hay agreed that the actions taken by the Board were appropriate.

Evidence of Spaulding

Constable Spaulding (“Spaulding”) was assigned to a street crimes unit with responsibilities for neighbourhood schools. Spaulding testified that he received a phone call from the principal of [REDACTED] regarding an incident of sexual harassment. He interviewed [REDACTED] and the vice-principal of Elia the same day of the incident. Spaulding indicated that he believed the veracity of the information provided by [REDACTED] He concluded

that there was no reasonable prospect for a conviction of sexual assault. At the most he could charge the Member with common assault, but [] did not want to proceed. The Member was given a formal caution, a police report was filed, and the Board was notified.

Evidence of the Member

Under examination in chief and under cross examination, the Member confirmed that he was a replacement teacher at Elia on April 8, 2004 and that he met [] who was on a co-op placement in the library. When the class left the library, the last student closed the door and [] approached the table and they commenced a normal conversation. He testified that [] voluntarily gave him personal information and her cell phone number on a scrap of paper. He testified that when [] gave him her telephone number, he told her “with eye contact” that it was inappropriate. He provided a copy of the scrap of paper with the phone number on it to the Committee and indicated he had taken it “for evidence”, from the table where [] had left it.

The Member indicated he went to the computer to see what [] was doing because he was concerned that she might be viewing an inappropriate web site. He admitted that he may have touched []’s hair by accident as it was overflowing over the back of her chair.

The Member testified that, on April 13, 2004, accompanied by legal counsel, he met with Constable Spaulding. The Member remained silent and said he was told by Spaulding there were no grounds for charges and that nothing inappropriate had occurred.

However, he admitted that Spaulding had cautioned him about his behaviour and his role as an authority figure to students.

Decision

(i) Onus and Standard of Proof

The College bears the onus of proving the allegations in accordance with the standard of proof with which the Committee is familiar as set out in *Re Bernstein and College of Physicians and Surgeons of Ontario* (1977) 15 O.R. (2d) 477. The standard of proof applied by the Committee, in accordance with the *Bernstein* decision, is a balance of probabilities with the qualification that the proof must be clear and convincing and based upon cogent evidence accepted by the Committee. The Committee also recognizes that the more serious the allegations to be proved, the more cogent must be the evidence. The Committee considered the allegations in this case to be serious.

(ii) Decision

Having considered the evidence and onus and standard of proof, and the submissions made by Counsel for the College and the Member, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that George Siakotos committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsection 1(5), 1(7), 1(14), 1(15), 1(19) and pursuant to subsection 1(18), that he committed acts that having regard to all the circumstances would reasonably be regarded by members as unprofessional.

Reasons for Decision

The Committee determined that an incident did occur between the Member and [■] on April 8, 2004. This incident, which occurred behind closed doors in a school library, included an inappropriate conversation between student and teacher. During this conversation the Member received and retained the student's cell phone number.

The Committee found that the Member:

- (a) invited [■] on two occasions to sit at his table;
- (b) asked [■] whether she had a boyfriend;
- (c) asked [■] where she lived;
- (d) asked [■] for her telephone number;
- (e) asked [■] not to tell anyone about his request for either her address or telephone number;
- (f) told [■] that she was very attractive and that he hoped he was not too old for her;
- (g) told [■] that she had beautiful hair while stroking her hair; and
- (h) asked [■] for a kiss.

Each of these actions indicate that the Member exercised poor judgment and failed to maintain appropriate boundaries with the student.

As a result of subsequent investigations, the Member was cautioned by the police and received a letter of reprimand from the Board.

[■] was composed in giving her evidence and was able to recall the details of the incident without reviewing reports of the incident. She gave her evidence in a consistent and forthright manner and the other witnesses who testified on behalf of the College supported her evidence. Good said she had known the student for some time and had always found her to be truthful. Spaulding indicated that there were sufficient grounds for a charge of common assault to be laid, but [■] was not willing to testify. The Committee could not discern any reason why the student might 'create this incident' and found the evidence of [■] to be credible.

The Member did not show any inconsistencies in the story of [■]. The Member repeatedly focused on a previous relationship of the student, race and skin colour of student and himself and stated he was not attracted to the student. The Member retained the phone number of the student even though he said she should not have given it to him. The Committee did not find the evidence of the Member to be credible.

Penalty Decision

The Committee makes the following order as to penalty:

1. The Member is to appear before the Committee on Monday, April 13, 2006 at 8:45 a.m. to be reprimanded by the Committee, and the fact of the reprimand is to be recorded on the Register of the College for one (1) year from the date of this Order. Should the Member not attend as required, he may be in violation of Regulation

437/97, in particular paragraph 21, which states that it is an act of professional misconduct to fail to comply with an order of a panel of the Discipline Committee.

2. Within 120 calendar days from the date of this Order, the Member is to enrol in and complete, at his own expense, a course of instruction, pre-approved by the Registrar, on maintaining appropriate boundaries with students.
3. Within 150 calendar days from the date of this Order, the Member is to provide the Registrar with written confirmation of successful completion of the said course of instruction on maintaining appropriate boundaries with students.
4. If the Member fails to complete the above course and fails to provide written confirmation the Registrar is directed to suspend the certificate of qualification and registration for a period of one year from the date of this order.
5. 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 full name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

Reasons for Penalty Decision

The Committee is satisfied that the penalty is appropriate in the circumstances, that the Member successfully complete a course of instruction, approved by the Registrar, on maintaining appropriate boundaries with students and that the taking of such course will serve to remediate the Member.

The decision to reprimand serves as a specific deterrent to the Member. The decision with regard to publication serves to educate members of the profession and serves as a general deterrent to the profession.

The Committee concludes that the penalty is reasonable and serves and protects the public interest.

Date: March 6, 2006

Ted Coulson
Chair, Discipline Panel

Gabrielle Blais
Member, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel