

**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 Annette Snow, a member of the Ontario College of Teachers.

PANEL: John Tucker, Chair
 Rosemary Fontaine
 Hanno Weinberger

BETWEEN:	)	Awanish Sinha,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson
	)	Law Clerk
- and -)	
	)	Allyson Otten
ANNETTE SNOW	)	General Counsel,
(CERTIFICATE # 150662)	)	Ontario Principals' Council
	)	for Annette Snow
)	
	)	Christopher Wirth
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: January 28, 2009

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on January 28, 2009 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated November 7, 2008 (Exhibit 1) was served on Annette Snow (the “Member”), providing her with notice that the Discipline Committee of the Ontario College of Teachers would meet on November 25, 2008 to set a date for a hearing, and specifying the charges. The Discipline Committee subsequently set January 28, 2009, as the date for the hearing on the merits.

THE ALLEGATIONS

The *Notice of Hearing* sets out the following allegations:

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

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) she failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 437/97, subsection 1(11);
- (c) she 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) she 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) she engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

At the hearing on January 28, 2009, College counsel sought to withdraw the following particulars contained in paragraphs (c) and (d) of the *Notice of Hearing* being alleged

breaches of Ontario Regulation 437/97, subsections 1(14), 1(15) and 1(18). The Committee agrees that these allegations shall be withdrawn.

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)* which provides as follows:

AGREED STATEMENT OF FACTS

The Member

1. Annette Snow is a member of the Ontario College of Teachers (the “Member”). Attached and marked as **Exhibit “A”** is a copy of the Ontario College of Teachers Registered Member Information in respect of the Member. The Member’s current status is ‘*Suspended – Non-payment of fees*’.
2. During the 2005/2006 academic year, the Member was employed by the Toronto District School Board (the “Board”) and was the Principal of Fern Avenue Junior and Senior Public School (“Fern Avenue”) in Toronto, Ontario. The Member retired from the Board in August 2006 and is not currently employed in the education field.
3. The Member commenced her teaching career with the then Etobicoke Board of Education in 1975. During her thirty-one years in public education, the Member was employed in roles of increasing responsibility. She was a Vice Principal at three schools of the Board, and was appointed Principal at Fern Avenue in 2002. The Member was

highly respected in these roles and, until the events of May 2006, had an unblemished record.

Background and Events at Fern Avenue in May 2006

4. On or about May 15, 2006, the Grade 3 and Grade 6 Education, Quality and Accountability Office (“EQAO”) test packages, including the student test booklets and the written instructional EQAO Guidelines for Administering these tests, for both Principals and teachers (“EQAO Guidelines”), arrived at Fern Avenue.

5. The tests were to be administered to students at Fern Avenue during the following weeks.

6. While it had been five years since the Member had actively administered the test, the Member was aware of and familiar with the EQAO Guidelines. Contrary to the EQAO Guidelines, on May 15, 2006, the Member, in the presence of Grade 3 teachers at Fern Avenue, opened or permitted the opening by one of the Grade 3 teachers present, of one of the sealed Grade 3 student test packages.

7. Contrary to the EQAO Guidelines, on May 18, 2006, the Member, in the presence of Grade 6 teachers at Fern Avenue, opened or permitted the opening by one of the Grade 6 teachers present, of one of the sealed Grade 6 student test packages.

8. On one or both of the occasions referred to at paragraphs 6 and 7 above, the Member permitted the photocopying of one or more of the tests contained in the student test packages.

9. The Member, during the period following the opening of the test packages, namely May 15 and May 23, 2006, made comments to the teachers responsible for administering the Grade 3 and Grade 6 EQAO tests suggesting that they do what they could to ensure good test scores. The Member's comments were understood by certain of those Grade 3 and Grade 6 teachers as a direction from the Member to disregard EQAO guidelines in the preparation for and administration of the tests.

10. On or about May 23, 2006 and while the Grade 3 EQAO test was being administered, the Member:

- (a) wrote an example of a "story web" on the blackboard, and provided instructions/suggestions to the students on how to answer specific questions on the test;
- (b) assisted students by providing direction to them, which assistance was intended to ensure that their answers were correctly given.

PLEA OF NO CONTEST

11. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and exhibit referred to in paragraphs 1 to 10 above.

12. The Member hereby acknowledges that the uncontested facts referred to in paragraphs 6 through 10 above constitute conduct which is unprofessional and pleads no contest to the allegations against her, being more particularly a breach of Ontario Regulation 437/97 sections 1(5), 1(11), and 1(19).

13. The Member states that:

- (a) she understands fully the nature of the allegations of professional misconduct against her;
- (b) she understands that by signing this document she is consenting to the evidence as set out in paragraphs 1 – 10 above, including the referenced exhibit, being presented to the Discipline Committee at the hearing of this matter;
- (c) she understands that by pleading no contest to the allegations, she is waiving the right to require the College to prove the case against her, and the right to have a full hearing on these issues; and
- (d) she understands and acknowledges that she is executing this Agreement voluntarily, unequivocally and with the advice of legal counsel.

14. 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 *Ontario 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.

15. In light of the uncontested 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

16. 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 immediately following the completion of the hearing of this matter, to be reprimanded and that the fact of the reprimand be recorded on the public register of the Ontario College of Teachers;
- (b) directs the Registrar to suspend the Member's Certificate for a period of ten (10) months from the date of this Order, and the fact of the suspension be recorded on the public register of the College;
- (c) directs the Registrar to impose as a condition on the Member's certificate that should the Member accept any position for which membership in the College is required, the Member shall immediately notify the Registrar and shall, before commencing work in that position, enrol in and complete, at her own expense, a course of instruction, pre-approved by the Registrar, regarding ethics in the profession;

- (d) directs the Registrar to impose as a condition on the Certificate of the Member that the Member shall provide to the Registrar proof of successful completion of the course referred to in (c) above within 10 days of such completion; and
- (e) directs that the findings and Order of the Committee, including the Member's full name, be published in summary in the official publication of the College, Professionally Speaking/Pour parler profession.

17. By this document, the Member acknowledges her 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 Annette Snow committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5) 1(11) and 1(19).

REASONS FOR DECISION

The Member acknowledged that her actions constituted conduct which is unprofessional and pleaded no contest to the allegations of professional misconduct.

As a member of the profession, the Member was expected to respect protocols in the administration of Grades 3 and 6 EQAO tests.

The Member, a principal, was aware of and familiar with the EQAO Guidelines. Contrary to the EQAO Guidelines, in May of 2006, the Member, in the presence of Grade 3 and Grade 6 teachers, opened or permitted the opening by one of the teachers present, of one or more of the sealed student test packages. In addition, the Member permitted the photocopying of one or more of the tests. Further, the Member suggested to these teachers that they do what they could to ensure good test scores. The Member's comments were understood by certain of those Grade 3 and Grade 6 teachers as a direction from the Member to disregard EQAO guidelines in the preparation for and administration of the tests.

In one instance, while the Grade 3 EQAO test was being administered, the Member provided instructions, suggestions and assistance to the students on how to answer specific questions on the test with the intent to ensure that their answers were correctly given.

As the principal of the School, the Member has the responsibility of leadership. This failure to discharge her responsibility with regard to the protocols and procedures under which EQAO tests are expected to be administered constitutes professional misconduct. The Member failed to supervise adequately staff under her professional supervision, engaged in conduct unbecoming a member and thereby failed to maintain the standards of the profession.

PENALTY DECISION

The Committee makes the following order as to penalty:

- (a) The Member is required to appear before the Committee following the completion of the hearing of this matter to be reprimanded and the fact of the reprimand is to be recorded on the public register of the Ontario College of Teachers.
- (b) The Registrar is directed to suspend the Member's Certificate for a period of ten (10) months from the date of this Order, and the fact of the suspension is to be recorded on the public register of the College.
- (c) The Registrar is directed to impose the following conditions on the Member's Certificate of Qualification and Registration, the fact of such conditions to be recorded on the Register of the College until such time as they are fulfilled:
 - (i) should the Member accept any position for which membership in the College is required, the Member shall immediately notify the Registrar and shall, before commencing work in that position, enrol in and complete, at her own expense, a course of instruction, pre-approved by the Registrar, regarding ethics in the profession;
 - (ii) that the Member shall provide to the Registrar proof of successful completion of the course referred to in (i) above within 10 days of such completion; and

- (d) The findings and order of the Committee, with the name of the Member, shall be published in summary, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

The Committee agreed with the joint submission with respect to the penalty.

The Committee determined that a ten month suspension was appropriate given the Member's position of leadership and her involvement in the administration of the EQAO test. The length of the suspension reflects the seriousness of the misconduct as well as the Member's role of leadership, responsibility and authority within her school.

Should the Member accept any position for which membership in the College is required, she needs to be reminded of the ethics of the profession and to reflect on them. The ethics course recommended will be rehabilitative and will help her understand the motivation for her misconduct, the impact it has had and why she should not engage in similar behaviour in the future.

The reprimand by her peers serves as a specific deterrent to the Member. This censure on behalf of the profession and the public reinforces to the Member that her conduct was unacceptable. The fact, recorded on the Public Register, that the Member received a reprimand provides a general deterrent to the profession.

Publication of the findings and order of the Committee, in summary, with the name of the Member, in *Professionally Speaking/Pour parler profession* provides a specific deterrent

to the Member and a general deterrent to the profession and serves the public interest. It also reassures and advises the public that the College will not tolerate such misconduct and will deal with it appropriately.

In conclusion, the Committee is confident that the penalty serves the interests of the public, the profession and the Member.

Date: January 28, 2009

John Tucker
Chair, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel

Hanno Weinberger
Member, Discipline Panel