

**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 Dan  
Craig Stuart, a member of the Ontario College of Teachers.

PANEL:                      Bernard J. Adam, Chair  
   Janet Cornwall  
   Hilda Watkins

BETWEEN:	)	
	)	
	)	Nadine Carpenter,
ONTARIO COLLEGE OF TEACHERS	)	Dispute Resolutions Administrator,
	)	for Ontario College of Teachers
-and-	)	
	)	
DAN CRAIG STUART	)	Dan Craig Stuart was not present,
(CERTIFICATE #456832)	)	nor was he represented
	)	
	)	Nancy Spies,
	)	Stockwoods,
	)	Independent Legal Counsel
	)	
	)	Heard: June 9, 2004

**REASONS FOR DECISION, DECISION AND ORDER(S)**

This matter came on for hearing before a panel of the Discipline Committee (the  
“Committee”) on June 9, 2004 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing* dated May 26, 2004 was served on Dan Craig Stuart, requesting attendance before the Discipline Committee of the Ontario College of Teachers on June 9, 2004 to hold a hearing, and specifying the charges.

Dan Craig Stuart was not in attendance at the hearing.

### The Allegations

The allegations in the *Notice of Hearing* are as follows:

**IT IS ALLEGED** that Dan Craig Stuart is guilty of professional misconduct as defined in subsection 30(2) 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 failed to comply with the *Ontario College of Teachers Act, 1996*, the regulations or the bylaws, contrary to Ontario Regulation 437/97, subsection 1(14);
- (c) he failed to comply with the *Education Act, R.S.O. 1990*, and specifically paragraph 264(1)(c) or the regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);
- (d) he committed an act 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).

**PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:**

1. Dan Craig Stuart (the “Member”) is a member of the Ontario College of Teachers.
2. At all material times, the Member was employed by the District School Board of Niagara (the “Board”) as an occasional teacher at Winston Churchill Secondary School (the “School”).
3. During the 2002/2003 school year, the Member developed and engaged in an unprofessional and inappropriate relationship with [REDACTED], a female student who was 18 years old at that time, which included, *inter alia*:
  - a. discussing personal issues such as the breakdown of his marriage;
  - b. expressing to [REDACTED] that he had developed feelings for her;
  - c. telephoning her;
  - d. sending her electronic mail messages; and
  - e. meeting with her off school property.
4. On or around May 10, 2003, the Member wrote a letter to [REDACTED]’s parents indicating that:
  - a. he had made a mistake in developing a personal relationship with [REDACTED];
  - b. [REDACTED] had been an excellent friend to him;
  - c. his actions had put [REDACTED] in a terrible position;
  - d. his inappropriate conduct showed a complete disrespect for [REDACTED], for them, and for the school; and
  - e. his intentions were good, but the consequences of his actions were unquestionably bad.
5. On or around July 28, 2003, the Member wrote a letter to Mike Simpson, the school principal, indicating that:

- a. he had developed a friendship with [■];
  - b. after the dissolution of his marriage, he had confided personal details of his life to [■];
  - c. he had hypothesized about the progression of the friendship with [■];
  - d. he had confessed to [■] that he had feelings for her;
  - e. he and [■] had discussed their feelings for each other in great detail; and
  - f. after agreeing to end his relationship with [■] and the girls' soccer team, he continued a relationship with [■], which included conversations, e-mail, and meetings on a street corner in [■]'s neighbourhood.
6. During the summer months of 2003, the Member met with Superintendent Marilyn Hyatt regarding his inappropriate relationship with [■]
  7. The Member has accepted responsibility for his actions and has not applied for teaching opportunities at the board.
  8. On September 10, 2003, William McLean, Director of Education, wrote to the Member and indicated that the board would not offer him future employment.

#### Publication Ban

On June 9, 2004, the Committee made an order that there be no publication of any information that may disclose the identity of the student involved in this matter.

#### Member's Plea

The Member Dan Craig Stuart admits that the matters referred to in paragraphs 3, 4 and 5 under Particulars of Allegations of the *Notice of Hearing* constitute professional

misconduct and pleads guilty to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1(18) and 1(19) of the Act, as set out in the *Notice of Hearing*.

#### Memorandum of Agreement

Counsel for the College advised the Committee that subject to ratification by the Committee, agreement had been reached on the facts and introduced a *Memorandum of Agreement (MOA)*, which provides as follows:

The parties agree to resolve the matter as follows:

1. The parties agree and understand that the terms of this *MOA* constitute a proposed settlement of this matter and that the terms are subject to ratification by the Discipline Committee of the College. Accordingly, this *MOA* is not considered final and binding on the parties until such time as it is ratified by the Discipline Committee.
2. The parties agree and undertake that if the Discipline Committee ratifies this *MOA*, there shall be no appeal, by either party, to any forum, of any or all of the terms of this *MOA*, or from any decision of the Discipline Committee on any issue and that there shall be no application for judicial review of the terms of the *MOA*.
3. The parties agree and undertake to take no further action with respect to the complaint provided that the terms of this *MOA* are complied with.
4. The Member agrees and understands that for the purpose of considering this matter, the Discipline Committee will be provided with a copy of this *MOA* and it will be marked as an Exhibit at the hearing and will, together with the *Notice of Hearing*, constitute the evidence against the Member and the evidence upon which the guilty plea will be accepted, the finding of guilt will be made, and the penalty will be imposed.
5. By this document, the Member pleads guilty to professional misconduct as alleged in the *Notice of Hearing*, issued on May 26, 2004 and attached as Appendix "A", and in so doing, accepts as true the particulars of the allegations set out therein. The Member admits that he engaged in the conduct described in the *Notice of Hearing* and that said conduct amounts to professional misconduct as defined in Regulation 437/97 under the *Ontario College of Teachers Act, 1996*.

6. The Member agrees that he voluntarily admitted the allegations against him.
7. The Member understands the nature of the allegations that have been made against him and understands that by admitting the allegations, he is waiving the right to require the College to prove the case against him and the right to a hearing.
8. The Member agrees and understands that once this *MOA* is ratified by the Discipline Committee, the Discipline Committee will find him guilty of professional misconduct and, pursuant to subsection 30(4) of the *Ontario College of Teachers Act, 1996*, will direct the Registrar to suspend his certificate of qualification and registration for a period of 12 months.
9. The Member agrees and understands that upon ratification of this *MOA* by the Discipline Committee, he will immediately surrender his certificate of qualification and registration to the Registrar.
10. The Member agrees and undertakes that prior to returning to employment where a certificate of qualification and registration is required, he shall complete a course of instruction by a practitioner, approved by the Registrar, regarding maintaining appropriate boundaries in student-teacher relations.
11. The Member agrees and understands that the cost of the course of instruction will be borne solely by him.
12. The Member agrees and undertakes that prior to returning to employment where a certificate of qualification and registration is required, he shall provide the Registrar with a written report by the practitioner indicating whether the member is able to return to full-time classroom duties without causing risk of harm or injury to students or the school community.
13. The Member agrees and understands that should the Registrar receive a report that the Member is not able to return to full-time classroom duties without causing risk of harm or injury to students or the school community, the Registrar has the discretion to initiate a complaint against the Member.
14. The Member agrees and understands that upon ratification of this *MOA*, a notation on the Public Register maintained by the Registrar, in accordance with section 23 of the *Ontario College of Teachers Act, 1996*, will include the following information:

“On June 9, 2004, the Discipline Committee found Dan Stuart guilty of professional misconduct and directed the Registrar to suspend his certificate of qualification and registration until June 9, 2005.”

15. The Member agrees and undertakes that during the suspension of his certificate of qualification and registration, he shall not seek or engage in employment where a certificate of qualification and registration is required.
16. The Member agrees and understands that upon ratification of this *MOA* by the Discipline Committee, the College will publish the Member's identity with a summary of the complaint and its resolution as contained in this *MOA*. Such publication will be made in the College's official publication, *Professionally Speaking/Pour parler profession*, on the College web site, and in such other manner as deemed appropriate by the Registrar.
17. The Member agrees and understands that upon ratification of this *MOA* by the Discipline Committee, the College will maintain a copy of the Decisions and Reasons of the Discipline Committee in the College's Margaret Wilson Library. The Decision and Reasons will be available for review by the public.
18. The Member agrees and understands that upon ratification of this *MOA* by the Discipline Committee, the College will provide notice of the suspension of the Member's certificate of qualification and registration to any Canadian school board, any Canadian teacher federation or affiliate, the Ontario Directors of Education and Heads of Private Schools, and the teacher licensing and governing bodies in Canada and elsewhere who are routinely notified by the College of such disciplinary action.
19. The Member agrees and understands that upon ratification of this *MOA* by the Discipline Committee, the College will provide the Member's former employer, the District School Board of Niagara, with the Discipline Committee's Decision and Reasons, including this *MOA*, pursuant to section 43.4 of the *Ontario College of Teachers Act, 1996*.
20. The Member agrees that he has freely elected not to obtain representation from independent legal counsel or an affiliate of the Ontario Teachers' Federation despite being encouraged to do so by College staff.
21. The parties agree and understand that if any phrase or paragraph of this *MOA* is null and void, the *MOA* shall be read as though the phrase or paragraph was stricken from the *MOA* and the amended *MOA* shall remain in force and effect.
22. The Member agrees and understands that this *MOA* is the entire agreement between himself and the College and that there have been no oral or written representations made by the College as an inducement or threat to enter into this *MOA*.
23. The Member agrees and understands that should he breach this *MOA* by seeking or engaging in employment where a certificate of qualification and registration is

- required during any suspension of his certificate, the College may provide a copy of this *MOA* to any employer, school board, licensing body, or education authority who inquires about the Member's record with the College.
24. The Member agrees and understands that, in the event he breaches a term of this *MOA*, he is estopped from alleging, by way of defence, that the College failed to investigate or dispose of the complaint in a timely manner with respect to that period between the resolution of the complaint herein and the time that the College becomes aware of such a breach.
  25. The Member agrees and understands that, in the event he breaches a term of this *MOA*, the College may provide the Investigation, Executive, Discipline or Fitness to Practise Committee with all the information necessary to fulfill its statutory mandate.
  26. The Member agrees and understands that:
    - (a) if the Discipline Committee requests any modifications to this *MOA*, the Dispute Resolutions Administrator will consult the parties as to whether the modifications are acceptable. If the parties accept the modifications, they will sign and date the revised *MOA* and return it to the College, within ten business days from the date of the discussion with the Dispute Resolutions Administrator. The revised *MOA* is considered final and binding once the Discipline Committee has ratified it; and
    - (b) if the Discipline Committee does not ratify the *MOA*, or the parties do not accept all of the modifications, the matter will proceed through the hearing process at the College and will be considered by another panel of the Discipline Committee without prejudice. The second panel of the Discipline Committee will not be provided with, nor will it consider this *MOA*.

### Decision

Having examined the Exhibits filed, and based on the *Memorandum of Agreement*, and submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct, and in particular finds that Dan Craig Stuart committed acts of professional misconduct as alleged, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1(18) and 1(19).

## Penalty

The *Memorandum of Agreement* contains a joint submission as to penalty as set out above.

## Penalty Decision

The Committee accepts the joint submission as to penalty as set out in the *Memorandum of Agreement* and accordingly directs the Registrar to suspend the certificate of qualification and registration held by the Member for a period of twelve (12) months, commencing June 9, 2004, which certificate the Member is to surrender immediately to the Registrar.

The Committee further directs that:

- (a) Prior to returning to employment where a certificate of qualification and registration is required, the Member shall complete a course of instruction by a practitioner, approved by the Registrar, regarding maintaining appropriate boundaries in student-teacher relations.
- (b) Prior to returning to employment where a certificate of qualification and registration is required, the Member shall provide the Registrar with a written report by the practitioner indicating whether the Member is able to return to full-time classroom duties without causing risk of harm or injury to students or the school community.

The Committee further orders that pursuant to Section 30 (5) (iii) of the *Ontario College of Teachers Act, 1996*, the findings and order of the Committee be published in summary,

with the full name of the Member, in the official publication of the Ontario College of Teachers, *Professionally Speaking /Pour parler profession.*

To reiterate, the Committee orders that there be no publication of any information that may disclose the identity of the student involved in this matter.

Reasons for Decision and Order

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

Dan Craig Stuart has co-operated with the College, and by agreeing to the facts and a proposed penalty, has accepted responsibility for his actions.

The Committee finds that the Memorandum of Agreement is a fair one and that the penalty reflects a balance between punishment and rehabilitation, and represents an appropriate resolution to this matter.

Date: June 29, 2004

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Bernard J. Adam  
Chair, Discipline Panel

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Janet Cornwall  
Member, Discipline Panel

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Hilda Watkins  
Member, Discipline Panel