

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

REASONS FOR DECISIONS AND ORDERS

IN THE MATTER OF THE ONTARIO COLLEGE OF TEACHERS ACT, 1996, and the Regulation (Ontario Regulation 437/97) thereunder:

AND IN THE MATTER OF discipline proceedings against Patricia Anne Sutherland.

The Discipline Committee held a hearing on February 4, 2002,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**PATRICIA ANNE SUTHERLAND
CERTIFICATE #228352**

PRESENT:

Members of the Panel

Solette N. Gelberg (Chair)

Sterling Campbell

Guill Archambault

The Honourable Patrick Galligan, retired judge, Independent Counsel to the Panel

Awanish Sinha, McCarthy Tétrault LLP, Counsel for the Ontario College of Teachers,
assisted by Trevor Evans, Senior Law Clerk

The member did not attend and was not represented.

This decision is subject to a publication ban. On February 4, 2002, the Discipline Committee made an order directing that there may be no publication of any information which may disclose the identity of the students involved in this matter.

A Notice of Hearing dated November 27, 2001 was served on Patricia Anne Sutherland, requesting attendance before the Discipline Committee of the Ontario College of Teachers on January 14, 2002 to set a date for hearing, and specifying the charges. The hearing date was set for February 4, 2002.

It is alleged that Patricia Anne Sutherland is guilty of professional misconduct in that:

- a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- b) she abused a student physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- c) she failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2 and particularly section 264 (1) (c) thereof, and the Regulations made under that *Act*, contrary to Ontario Regulation 437/97, subsection 1(15);
- d) she contravened a law and that contravention is relevant to her suitability to hold a Certificate of Qualification and Registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- e) additionally, or alternatively, she contravened a law and that contravention has caused and may cause a student under her supervision to be put at risk, contrary to Ontario Regulation 437/97, subsection 1(17);

- f) she performed an act or acts that, having regard to all the circumstances, would reasonably be regarded by members as being disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18);
- g) she engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- h) she displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare of her students of a nature or extent that demonstrates that the member is either unfit to carry out her professional responsibilities or that the member's certificate should be made subject to terms, conditions or limitations.

The Notice of Hearing states that Patricia Anne Sutherland is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On February 4, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether the member is guilty of professional misconduct.

Patricia Anne Sutherland was not in attendance at the hearing, nor was she represented by counsel. Proof of service of the Notice of Hearing was presented and accepted by the panel (Exhibit #1).

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in Exhibit #1, alleging that Patricia Anne Sutherland is guilty of professional misconduct in that her acts were contrary to the Professional Misconduct Regulation made under the Ontario College of Teachers Act and filed as Regulation 437/97 on December 4, 1997, in particular, subsections 1(5), (7), (15), (16), (17), (18) and (19).

Counsel presented evidence that Patricia Anne Sutherland is a member of the Ontario College of Teachers (Exhibit #2). At all material times, the member was employed by the Peel District School Board as a teacher of [XXX] students at the [XXX] level.

Debra Mitchell, currently Superintendent of Human Resources responsible for Teaching Staff Services, testified that at the time of the charges in question, she was Manager of Human Resources and she told the member she was assigned to home and would be replaced as a teacher. She testified that Patricia Anne Sutherland's class consisted of [XXX]. Her staff included two teaching assistants and a registered nurse from the VON. There were also other resource teachers and other assistants who visited the class from time to time. She testified that the member had special education qualifications. She stated that the board has policies for intervention in the event that restraint is required for the safety of students, staff and others in the building. She testified that physical intervention for control of students was not the board policy. Debra Mitchell further testified that in November of 1996, the principal, Ed Schlotter, sent the member a letter regarding concerns about her behaviour as a classroom teacher reminding her that

“under no circumstances are negative physical interventions to be used with any children in this school or any other school in Peel. ” The letter included other suggestions for classroom management (Exhibit #3). In November of 1998, Patricia Sutherland resigned her position with the Peel District School Board and indicated that “due to health considerations and impending cardiac surgery,” she had decided to take early retirement, , effective December 31, 1998. The Board accepted the member’s resignation.

Constable Paul Black, currently of the Peel Regional Police Forensics Section,, testified that he was part of the Criminal Investigation Bureau in 1998 when he investigated this matter. After being contacted by the Children’s Aid Society, he attended with C.A.S. at the school where Patricia Anne Sutherland taught, to commence an investigation. He stated that there were allegations of five different assaults involving three of the member’s students, which had occurred in the member’s classroom, and a theft.

Constable Black testified that the member was indicted on assault charges. Exhibits were filed. Exhibit #6 laid out the charges against the member. Exhibit #7 was the Certificate of Conviction indicating the Patricia Sutherland received a suspended sentence with 18 months probation after conviction on three of the five charges. Exhibit #8 was a copy of the Probation Order.

FINDINGS OF FACT:

The panel finds the following facts:

- (1) The Committee relied on the Honourable Justice Durno's Reasons for Judgement and Reasons for Sentence (Exhibit #9, Exhibit #10).
- (2) The member was found guilty of three counts of assault against two of her students contrary to Section 266 of the *Criminal Code of Canada* (Exhibit #7)
 - (i) kicking [XXX] as he sat or lay on the floor, refusing to move,
 - (ii) yanking the head of [XXX], pulling his hair and yelling at him to "stop it!" when he began, in excitement about going home, to flail his hands as she attempted to put on his coat,
 - (iii) hitting [XXX] repeatedly, from behind, on the side of his head, shoulders and upper back with her right forearm and hand as he sat in [XXX], and as she was removing his coat.
- (3) The member was sentenced to a suspended sentence and 18 months probation (Exhibit #10).
- (4) The Committee finds that the above incidents did occur.

DECISIONS AND ORDERS:

Accordingly, the Committee finds Patricia Anne Sutherland guilty of professional misconduct under subsections 1(5), (7) in that she abused a student physically, psychologically, verbally and emotionally, (15), (16), (17), (18) and (19) of the Professional Misconduct Regulation, as alleged. The Committee also found that she displayed a lack of knowledge, skill and judgement and a disregard for the welfare of her students of a nature or extent that demonstrates that the member is unfit to carry out her professional responsibilities. The Committee directs the Registrar to revoke the member's Certificates of Qualification and Registration immediately.

Notice

It is important to the College's role in the governance of the profession to provide evidence to members that the College is active in self-regulation and is vigilant to breaches of its bylaws and rules of conduct. Such evidence is provided through notification of the decisions and orders of the College's disciplinary Committees, and is, in the opinion of the panel, a practice that has significant general deterrent value.

Pursuant to section 30(5)(iii) of the Ontario College of Teachers Act, the Committee orders that the findings of this hearing, as well as the name of the member, be published in the official publication of the Ontario College of Teachers, *Professionally Speaking/Pour parler profession*.

The Committee is concerned that with all of the resources available to that school and the Peel Board of Education that Patricia Sutherland's behaviour was not thoroughly investigated at an earlier time.

DATED AT TORONTO, THIS 14th DAY OF MARCH, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE

Solette N. Gelberg, **Chair**

Sterling Campbell

Guill Archambault