

**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
Silvio Joseph Tallevi, a member of the Ontario College of Teachers.

PANEL: Mel Greif, Chair
 Alexander Bass, OCT
 Robert Ryan, OCT

BETWEEN:	)	Christine Lonsdale,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans
	)	(November 2, 2010) and
	)	Jennifer Robinson
	)	(May 10, 2011), Law Clerks
- and -)	
)	
SILVIO JOSEPH TALLEVI	)	Denise Bolohan and Salama Rajab
(CERTIFICATE #118404)	)	(May 10, 2011),
	)	Ontario Principals' Council,
	)	for Silvio Joseph Tallevi
)	
	)	Rebecca Durcan (November 2, 2010),
	)	Richard Steinecke (May 10, 2011),
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
)	
	)	Heard: November 2, 2010,
	)	May 10, 2011

DECISION, REASONS FOR DECISION AND ORDERS

This matter initially came on for hearing before a panel of the Discipline Committee (the “Committee”) on November 2, 2010 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated November 11, 2009 was served on Silvio Joseph Tallevi, requesting his presence on December 8, 2009 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for November 2, 2010.

Silvio Joseph Tallevi was in attendance.

THE ALLEGATIONS

The allegations against Silvio Joseph Tallevi in the *Notice of Hearing*, (Exhibit 1) dated November 11, 2009, are as follows:

IT IS ALLEGED that Silvio Joseph Tallevi is guilty of professional misconduct as defined in section 30(2) 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 failed to supervise adequately a person who is under his professional supervision, contrary to Ontario Regulation 437/97, subsection 1(11);
- (c) he failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, or the Regulations made thereunder, contrary to Ontario Regulation 437/97, subsection 1(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);
and
- (e) he failed to comply with his duties under the *Child and Family Services Act*, contrary to Ontario Regulation 437/97, subsection 1(27).

At the hearing on November 2, 2010, College counsel sought to withdraw the allegations of professional misconduct in paragraphs (b), (c) and (e), namely that the Member breached Ontario Regulation 437/97, subsections 1(11), 1(15) and 1(27). 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 a *Statement of Uncontested Facts, Plea of No Contest and Joint Submission on Penalty* (Exhibit 2), which provides as follows:

STATEMENT OF UNCONTESTED FACTS

1. Silvio Joseph Tallevi (the “Member”) is a member of the Ontario College of Teachers. Attached hereto and marked as **Exhibit “A”** is a copy of the Ontario College of Teachers Registered Member Information respecting the Member.
2. At all material times, the Member was employed by the Toronto District School Board (the “Board”) and was a Vice-principal at [XXX] (the “School”), in Toronto, Ontario.
3. On or about October 26, 2006, the Member was advised by a female teacher at the School that a report had been made to her by a number of female students about sexual activity in one of the boys’ washrooms at the School. The Member was advised that a female [XXX] student, Student #1, had been threatened, intimidated and/or coerced by one or more male students to perform oral sex on one or more male students while at least two other male students stood guard at the washroom door.

4. Further reports about the incident were received by the Member during the ensuing days, and on or about November 2, 2006, the Member met with Student #1 who confirmed to the Member that the advice he had received about the bathroom incident was accurate. Student #1 was unable to identify the male students involved and expressed fear about having the incident reported to her father.

5. As a result of the information he had received, the Member was concerned for the safety and well-being of Student #1 and was concerned that she was potentially at risk for further harm in the future.

6. Sometime later in November, 2006, and not immediately, the Member advised the Principal of the School about the incident involving Student #1, but did not fill out an incident form.

7. If called to give evidence at a contested hearing, the Member's evidence would be that he provided full details of the incident involving Student #1 to the Principal. However, if called to testify at a contested hearing, the Principal's evidence would be that although she was told by the Member that Student #1 was being harassed and bullied, details of the bathroom incident were not provided to her by the Member.

8. The Member did not at any time, following his discussion with the Principal, report the information relating to the sexual assault of Student #1 to her parents, the police, the Children's Aid Society, any social worker, or to the Safe and Caring Schools Department. Moreover, even when it became clear to the Member that no action was being taken by the Principal about the incident, and despite the Member's ongoing concerns for the safety and well-being of Student #1, the Member did not contact his

Superintendent of Education or any other Board employee respecting the assault and/or the Principal's lack of action.

9. Student #1 was the object of taunts, including physical threats and verbal harassment by several students at the School during the months following the October incident. On or about December 6, 2006, a transfer was arranged for Student #1 to another school of the Board.

10. A charge of failing to report contrary to s. 72(4) of the *Child and Family Services Act*, R.S.O. 1990, C. 11 was brought against the Member and others. The charges were quashed on the basis that they had not been brought within the 6 months' limitation period and were thereby barred from prosecution. Subsequent appeals by the Crown in an effort to have the charges proceed were dismissed by the Court of Appeal for Ontario on the basis that a charge of failing to report constitutes a single offence rather than a continuing offence until the report is made and therefore the charge was laid outside of the six (6) month limitation period. Attached and marked as **Exhibit "B"** are the Reasons of the Court of Appeal, released May 28, 2009.

11. The Member retired from his employment with the Board on or about June 29, 2007.

PLEA OF NO CONTEST

12. 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 11 above (the "uncontested facts").

13. The Member hereby acknowledges that the uncontested facts referred to in paragraphs 6 and 8 above, constitute conduct that is unprofessional and pleads no contest to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97 1(5) and 1(18 - unprofessional).

14. By this document 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 uncontested 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;
- (d) he understands that depending on the penalty ordered by the Discipline Committee, the decision of the Committee and a summary of its reasons, including reference to his name, may be published in the official publication of the College;
- (e) he understands that any agreement between his counsel and counsel for the College with respect to the penalty proposed in this document does not bind the Discipline Committee;
- (f) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally, and with the advice of legal counsel.

15. 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.

16. 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

17. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in these matters would be that the Committee:

- (a) directs that the Member appear before the Committee immediately following the hearing of this matter to receive a reprimand, and the fact of the reprimand is to be recorded on the Register of the Ontario College of Teachers;
- (b) directs the Registrar to impose the following term, condition or limitation on the Member's certificate, the fact of such term, condition or limitation to be recorded on the Register of the College until such time as it is fulfilled:
 - (i) that the Member, prior to engaging in any future full or occasional teaching employment of any kind for which a certificate of qualification and registration is required, must first enrol in and

successfully complete, at his own expense, a course in professional ethics, pre-approved by the Registrar, and

- (ii) within thirty (30) days of his completion of the course outlined in (i) above, the Member shall deliver directly to the Registrar proof of the successful completion of the course referred to at (i) above;
- (c) directs that there be publication of the findings and Order of the Committee in summary form in the official publication of the College, *Professionally Speaking/Pour parler profession*. The parties have not agreed on whether or not the Member's name is to be published and submissions will be made to the Committee on that issue.

DECISION

On November 2, 2010, the Committee rendered an oral decision, followed by a written decision dated November 29, 2010. The Committee found that after considering the evidence, onus and standard of proof, and the submissions made by Counsel for the College and Counsel for the Member, the Committee found that the facts supported a finding of professional misconduct. In particular, the Committee found that Silvio Joseph Tallevi committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5) and 1(18-unprofessional).

REASONS FOR NOVEMBER 2, 2010 DECISION

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 11 (the "uncontested facts") of the *Statement of Uncontested Facts, Plea of No Contest, and Joint Submission on Penalty* (Exhibit 2). He acknowledged that the uncontested facts

referred to in paragraphs 6 and 8 above constitute conduct that is unprofessional and pleaded no contest to the allegations of professional misconduct. The Committee accepted the Member's plea of no contest and the facts in the *Statement of Uncontested Facts, Plea of No Contest, and Joint Submission on Penalty*.

The Committee finds that the Member failed to report an incident of sexual assault of a student and further incidents of physical threats and verbal harassment of that student to the proper authorities and to his supervisory officer. He was required by the laws and regulations pertaining to child welfare in the province of Ontario and by school board policy to report these incidents. By failing to do so, the Member committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5) and 1(18- unprofessional).

SUBMISSIONS ON PUBLICATION

The Committee received submissions from Counsel for the College and Counsel for the Member with respect to publication of the Member's name in *Professionally Speaking/Pour parler profession*

Counsel for the College argued that the Member's name should be published. She submitted that hearings are open to the public and that resulting decisions are publicly accessible. In order to support the transparency of the proceedings, publication of the Member's name should follow. It was important to demonstrate general deterrence because the matter is one that should serve to educate the profession as a whole and specific deterrence is important because the Member needs to appreciate how he failed in his professional duty. In addition, there was no danger that the student would be

identified in a publication as the summary of this case would not refer to the specific student.

Counsel for the Member presented a written submission in which she argued that the matter is appropriate to warrant publication without the Member's name in the official publication of the College. Counsel presented the following arguments: The conduct was unique and there is no other evidence of any previous or subsequent misconduct. Because there was no prior record of similar behaviour, there was little risk of repetition. The Member had a 30-year career as an educator without any allegations of professional misconduct. The Member has retired and does not contemplate returning to the role or to teaching. Should the Member return to teaching he is prepared to take a course in professional ethics.

Counsel for the Member further argued that since the misconduct in question falls at the low end of the spectrum, publication without name is appropriate. The misconduct should be considered to be at the low end because he believed he was acting in the best interests of the student and was concerned for the safety of the student. He was fearful that in the student's cultural community, the student would be subject to shame and he had no deliberate intention to cause harm. Further, there were other individuals including a female teacher who had received a report of this abuse who had a similar duty to report and who did not.

Counsel also argued that publication without name can serve as a general deterrent to the profession as the summary form without name would suffice. Counsel also argued that the reprimand and the recording of the fact of the reprimand on the Public Register

constitutes a specific deterrence and that publication with name is not required to achieve this goal.

A further element in the issue of specific deterrence is that the Member was assigned to home one day before his planned retirement and forced to retire and thereby suffered a genuine loss to his reputation and negative publicity.

Member's counsel stated that the public interest was served by the notation on the register of a finding of professional misconduct and the reprimand of the Member. The notation on the Public Register can protect the public interest without identifying the Member. Finally, publication of a summary of the findings and the order of the Committee provides transparency and advises members of the profession and the public that such practices are unacceptable.

PENALTY

The Committee makes the following order as to penalty:

1. The Member is to appear before the Committee immediately following the hearing of this matter to receive a reprimand, and the fact of the reprimand is to be recorded on the Register of the Ontario College of Teachers;
2. The Committee directs the Registrar to impose the following term, condition or limitation on the Member's certificate, the fact of such term, condition or limitation to be recorded on the Register of the College until such time as it is fulfilled:
 - (i) that the Member, prior to engaging in any future full or occasional teaching employment of any kind for which a certificate of qualification and registration is required, must first enrol in and

successfully complete, at his own expense, a course in professional ethics, pre-approved by the Registrar, and

- (ii) within thirty (30) days of his completion of the course outlined in (i) above, the Member shall deliver directly to the Registrar proof of the successful completion of the course referred to at (i) above;

3. The Committee directs that there be publication of the findings and Order of the Committee in summary form, with the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

The Committee determined that the Member failed in his duty as a professional. The Member was well aware of his responsibilities to report any incident of abuse and he chose not to do so. Perhaps his intentions were to do no harm but this decision was not his to make. The laws and regulation regarding child welfare and the duty of all adult citizens are very clear; we all have a duty to report and this is especially so with people in positions of leadership, care and responsibility. The Member, a Vice-principal, had a specific responsibility of leadership and to be a role model in the exercise of that duty. All members have a duty to report but members in a leadership position have an inarguable and heightened responsibility.

The Committee determined that a reprimand was appropriate to indicate that the Member's behaviour in failing to report was a serious breach of his responsibility. There can be no mitigation that would allow the Member to choose not to report. It was his clear responsibility. The reprimand serves as a simple and specific deterrent which

reminds the Member that he did indeed have a responsibility and that there can be no excuse for failing in that regard.

It is appropriate that the Member, should he return to the profession, complete a course in professional ethics because he has demonstrated a clear deficiency in his understanding of his duties. All teachers and other persons working in schools are assigned the duty of first line defence in the care of students entrusted to them by parents and society. Not to report an incident of sexual abuse is egregious and a contravention of the law. An ethics course will reintroduce the Member to the current standards and expectations of the profession and the public.

The Committee determined that publication, with the name of the Member, in summary form was appropriate because the Member was an experienced administrator who should have known better. There is nothing unique about this incident. Every member of the profession knows of the duty to report. The Member, with his 30 years experience, must have been aware that there was no other reasonable option but to report. The consequences of not reporting must have been obvious to the Member. Had he reported the incident of sexual abuse, the student might not have been the object of taunts, including physical threats and verbal harassment following the incident. The Committee determined that the Member's behaviour was of a very serious nature and not at the low end of the scale. The Member betrayed the societal expectations of persons in a leadership role of trust and authority. Publication of the findings, with the name of the Member, provides a specific deterrent to the Member, a general deterrent to the profession, instructs the profession and advises the public that this type of misconduct is taken very seriously.

The Committee is satisfied that the penalty is appropriate in the circumstances and serves and protects the public interest.

RECONSIDERATION OF NOVEMBER 2010 DECISION

Subsequent to the publication of this written decision and delivery to the parties, counsel for the Member served notice of concern that the decision was based partially on an error in law (i.e., that the Committee had relied upon the failure to report the matter to the Children's Aid Society when that allegation had been withdrawn) and asked the Committee to revisit its reasons for decision. Member's counsel offered to appear before the Committee to provide submissions on this issue. College counsel agreed to this request and to participate in any subsequent considerations of this matter.

On May 10, 2011, the Committee reconvened the parties to hear oral submissions on two issues: whether the Committee could reconsider its decision and reasons, and whether there should be publication of the Member's name.

On November 2, 2010, the Discipline Committee determined that the Member was to be reprimanded and the fact of the reprimand was to be recorded on the Register of the Ontario College of Teachers. The Committee also directed the Registrar to impose a condition that the Member must enrol in and complete, at his own expense and subject to approval by the Registrar, a course in professional ethics and to deliver proof of the completion of this course to the Registrar within 30 days of the successful completion of the said course. Finally the Discipline Committee directed that the findings and Order of

the Committee be published in summary, with the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

In its Reasons dated November 29, 2010, the Discipline Committee Panel cited the fact that the Member did not report the incident under review to the *Children's Aid Society* as required by law. In fact, that allegation had been withdrawn. The issue before the Discipline Committee was based on the failure of the Member to follow the Toronto District School Board Policy.

The Committee was made aware of the fact that this error in law may have made the decision of November 2010 a nullity. This hearing reconvened on May 10, 2011 to determine the validity of the arguments in this matter as they apply to (a) nullity and (b) the impact on the decision about publication as it might have been coloured by the finding outlined in the error in law.

The matter of the Reprimand, which was delivered on November 2, 2010 and the imposition of the order to take a course on professional ethics are not in question at this re-hearing. This re-hearing is to determine the fact of nullity and the issue of publication.

In the first question before the Discipline Committee, that of the reconsideration of the findings of November 2, 2010, the primary principle of *functus officio* was considered. This principle of law states that once a decision has been rendered it cannot be re-opened.

Arguments were made by both counsel and they were supported by case law that demonstrated that it was appropriate to revisit the original decision. Specific case law is *Chandler et al v Alberta Assn. of Architects* (1989) 62 D.L.R. (4th). In this Supreme

Court decision, it was determined, as stated on page 596, to the extent that the principle *functus officio* applies, administrative tribunals are given more flexibility within the general rules. Both counsel submitted the same example in case law to demonstrate their position about the suitability of re-opening the matter of *Tallevi*. The Discipline Committee, in part, based its original penalty decision on an allegation in the *Notice of Hearing* dated November 11, 2009 that had been specifically withdrawn by College counsel and on the agreement of both counsel and with the consent of the Discipline Committee on November 2, 2010. As a result the original decision was based on an error in law and therefore is to be considered a nullity. If the error in law is one that may taint the whole proceeding, then the tribunal must start afresh and render a valid decision. (Chandler, *supra*, p. 597). The fact of this nullity required that a new decision be rendered.

The agreement for the withdrawal of the allegation that the Member had failed to report an incident to the Children's Aid Society was based on the fact that the charges had been brought too late. In addition, counsel for the member submitted that it was not required for a school official or any employee of the school board to take that action, a point we do not have to decide. In fact there was a protocol in place and all employees are made aware of the procedure that was available and required to report any incident to the proper school official, in this case that being the Principal and/or the Superintendent. Member's counsel argued that the Member had indeed reported to the principal of the school. If called to testify, the Principal's evidence would be that although she was told by the Member that the Student was being harassed and bullied, details of the bathroom incident were not provided to her by the Member. Regardless, it was agreed that despite

the Member's ongoing concerns for the safety and well-being of the student the Member failed to take additional action.

Member's counsel took the position that a misunderstanding of the obligations imposed by the requirement to alert the *Children's Aid Society* fatally tainted the decision of the Discipline Committee. Both parties agreed on this fact and therefore the tribunal agreed "to reconsider the matter afresh and render a valid decision". *Grier v. Metro International Trucks Ltd. et al.* [1996] O.J. No. 538, p.8.

Additional concerns raised by Member's counsel also played a role in the decision to re-open the matter. The Member could not have known before hand of the possibility of sexual assault and therefore the wording of the original decision of November 29, 2010 was not correct. The "proper authorities" in this matter would have been the police and this is verified by Board protocol and policy. Counsel suggested that there is no "heightened" legal duty placed on school administrators to report incidents of abuse. All members have an equal duty to report. The Member did not contravene the law but failed to follow school board policy. The submissions by both counsel, substantiated by case law, about the issue of an error in law, helped the Discipline Committee to determine that a re-opening of the matter was appropriate.

Publication

Member's counsel posited that incorrect assumptions about duty of care and reporting requirements negatively affected the decision about publication. The Committee

considered the issue of publication again without considering the issue that no report had been made to the Children's Act Society.

In general it can be safely accepted that an administrator has a fundamental role in a school setting to provide for first line of care and for student safety. In this case, this standard of care was not provided. The Member was faced by a set of facts that required very careful consideration of all of the possible consequences of his decision.

According to the *Statement of Uncontested Facts* the Member was informed about the incident of an assault from other sources and asked the student, who was [XXX] at the time to come to his office and she confirmed that a sexual assault had occurred in the boys' bathroom some time previously. Counsel for the Member submitted that according to the Member, the Student was still being harassed by some of the same boys. The Member believed he was acting in the best interests of the student because he was concerned for her safety and the student had expressed fear about having the incident reported to her family.

It is alleged that the Member advised the Principal of the School about the incident but did not fill out an incident form. The Member maintains that he provided full details of the incident to the Principal, but did not fill out an incident report as required by school board policy. The Principal's evidence, if called to give evidence at a contested hearing, would be that although she was told by the Member that the Student was being harassed and bullied, the details of the bathroom incident were not provided to her by the Member.

Moreover, even when it became clear to the Member that no action was being taken by the Principal about the incident, and despite the Member's ongoing concerns for the

safety and well-being of the Student, the Member did not contact his Superintendent of Education or any other Board employee respecting the assault and/or the Principal's lack of action.

Subsequently and perhaps because of the inaction about the incident, the Student was the object of taunts, physical threats and verbal harassment by several students during the months following the incident. The Student eventually transferred out of the School.

A charge of failing to report contrary to s. 72(4) of the Child and Family Services Act, R.S.O. 1990, C.11 was brought against the Member and others. The charges were quashed on the basis that they had not been brought within the 6 months limitation period and thereby were barred from prosecution. Subsequent appeals by the Crown were dismissed by the Court of Appeal of Ontario.

By the *Statement of Uncontested Facts* the Member acknowledges his actions constitute conduct that is unprofessional and pleads no contest to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97 1(5) and 1(18-unprofessional). The above admission formed the basis for the finding of professional misconduct as stated in the November 29, 2010 decision.

The *Joint Submission on Penalty* left the matter of publication open to the determination of the Discipline Committee. The purpose of this hearing is to consider afresh the arguments on publication. An error in law rendered the previous decision a nullity.

College counsel reaffirmed arguments in favour of publication with name. College Counsel stated that this matter demands full public accounting and transparency. The

matter is a serious one and requires an appropriate consequence. The profession needs to be informed that the College takes matters such as this very seriously. There is both a specific deterrent and general deterrent that is required in the case. The Member needs to fully appreciate how he failed in his professional duty.

Counsel for the Member provided argument for publication without name. She indicated this was a unique incident with no prior evidence of similar behaviour with little risk of repetition as the Member is now retired. The nature and gravity of the misconduct falls within the low end of the spectrum. The Member believed that he was acting in the best interests of the Student. The Student was concerned about how her family would react to the incident. Only with hindsight does the Member realize and accept that his conduct was inappropriate. There were other individuals, in particular the female teacher who had received the report about sexual activity in the boys' bathroom, who had knowledge of the incident, who had a similar duty to report to the police and who did not. Publication with name unduly penalizes one particular person among the many who could have reported the incident. Publication without name would serve to inform the profession and act as a general deterrent. Counsel submitted that the reprimand that was administered and the imposition of the requirement to take an ethics course serve the purpose of specific deterrence. The Member has also suffered appropriate specific deterrence by the fact of being assigned to home duty the day before his retirement and on a note of suspicion and innuendo thereby being deprived of his well-earned proper farewell from his community, students and colleagues. The ensuing publicity and genuine loss to his reputation should be taken into consideration when assessing specific deterrence. For the

above reasons Member's counsel argues that only a general deterrence is required. Publication without name serves the public interest and provides for transparency.

Decision in the Matter of Publication

Publication with the name of the Member, in summary form is appropriate in this matter.

There is nothing unique in this matter. In fact its circumstances (i.e., failing to make a proper report because doing so will create challenges for all those involved) will continue to occur unless members of this profession are made aware of the consequences to them and to our profession of failing to respect the duty to report fully and appropriately. All members should know about their school board's policy about their duty to report as it is required to do so. The Member's failure to report as required by Board policy, had serious consequences. The student continued to be harassed. The Member was not able to protect the Student. It was essential to report the incident properly so that a more effective action might have been taken. The Member's behaviour was of a serious nature and certainly not at the low end of the scale. A failure to so report a sexual assault most certainly constitutes inaction at the high end of the scale. The Committee determined that the Member's actions constituted a serious breach of the public trust and therefore is at the high end of the spectrum.

More importantly his failure to fully carry out his responsibilities had an impact on others. This was not just a personal failure that reflected only on the Member, it was a failure that had consequences for a school community. The Member did not meet the expectations of the public and the profession. Publication with name provides a general deterrent, instructs the profession and advises the public that this type of misconduct is

taken very seriously. Finally it makes clear to the Member the level of professional failure that is at the very essence of his conduct.

Date: July 19, 2011

Mel Greif,
Chair, Discipline Panel

Alexander Bass, OCT
Member, Discipline Panel

Robert Ryan, OCT
Member, Discipline Panel