

**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 Robert Bruce Tanney, a member of the Ontario College of Teachers.

PANEL: Jacques Tremblay, Chair  
Danny Anckle  
Tianna Travaglini-Babic

BETWEEN:	)	
	)	Caroline Zayid,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -	)	
	)	
Robert Bruce Tanney	)	Howard Goldblatt,
(CERTIFICATE #233114)	)	Sack Goldblatt Mitchell,
	)	for Robert Bruce Tanney,
	)	assisted by Mandy Wojcik
	)	
	)	Martha Cook,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
	)	
	)	Heard: January 30, 2007

**REASONS FOR DECISION, DECISION AND ORDERS**

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on January 30, 2007 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated June 19, 2006 was served on Robert Bruce Tanney, requesting attendance before the Discipline Committee of the Ontario College of Teachers on September 13, 2006 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for January 30, 2007.

Robert Bruce Tanney was not in attendance at the hearing.

### **THE ALLEGATIONS**

The allegations against Robert Bruce Tanney in the *Notice of Hearing*, (*Exhibit 1*) dated June 19, 2006 are as follows:

**IT IS ALLEGED** that Robert Bruce Tanney 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 contravened a law, the contravention of which is relevant to the Member’s suitability to hold a Certificate of Qualification and Registration, contrary to Ontario Regulation 437/97, subsection 1(16);

- (e) he contravened a law, the contravention of which has caused students under the Member's professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17);
- (f) 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);
- (g) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (h) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40 (1.1) of the *Act*.

## **PUBLICATION BAN**

An order, pursuant to Section 486.3 of the Criminal Code (Canada) was made by the Court with respect to the identity of the complainant (the "Student"), that any information that could disclose that identity was not to be published in any newspaper or broadcast in any way. In order to honour this publication ban, the parties agreed that the Student would not be identified in any exhibits filed in this matter. Therefore, the Committee orders that the name of the Student, as well as the names of other minors and persons who may disclose the identity of the Student be removed from any and all documents that were presented in this hearing.

## **AGREED STATEMENT OF FACTS**

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)*

*The Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* provides as follows:

1. Robert Bruce Tanney (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 as a teacher at the [REDACTED] Public School (the “School”).
3. During the 1999-2000 academic year, the Member was a [REDACTED] teacher at the School.
4. During the 1999-2000 academic year, [REDACTED] was approximately [REDACTED] old and was a [REDACTED] at the School.
5. During the 1999-2000 academic year, the Member used some of his class time to show various children’s movies to his students. The students were also allowed to bring movies from their homes to watch during the school day. The Member watched the movies with his class on a regular basis.
6. During the viewing of a movie in his classroom at the School, the Member would turn the lights off in the classroom to facilitate the showing of the movie.
7. While the movies were being shown, the Member sat on a staged area at the back of the class. During the showing of some of the movies, [REDACTED] sat beside the Member with the other students sitting in front of the Member and [REDACTED]
8. On more than one occasion during the 1999-2000 academic year, while [REDACTED] was sitting beside the Member during the showing of movies in the darkened classroom, the

Member rubbed [ ]'s back and then dropped his hand to the inside of her clothing then touched her buttock with his hand.

9. On or about February 24, 2006, the Member pleaded not guilty to a charge of sexual assault on [ ] but pleaded guilty to the lesser and included charge of assault against [ ], contrary to the Criminal Code (Canada). A certified copy of the Information dated 6 June 2005 is attached and marked as Exhibit "B".

10. The guilty plea of the Member was accepted by the Honourable Mr. Justice Peter Hryn on February 24, 2006 in the Ontario Court of Justice at Toronto.

11. On or about February 24, 2006, the passing of a sentence by Mr. Justice Hryn was suspended and the Member was placed on probation for a period of two years. The Member was ordered to report as required and was to have no contact directly or indirectly with [ ] or any members of her family. Further, the Member is to take any counselling as directed by the probation officer and to sign any releases necessary for the probation officer to be able to monitor the counselling. In addition, the Member is not to be in the presence of any child under the age of 14 years unless he is in the presence of persons named in the probation order.

12. Other conditions were imposed on the Member as part of his probation as follows:

- (a) not to engage in any activity with persons under the age of 14 years including using a computer system within the meaning of subsection 342.1(2) of the *Criminal Code* (Canada) for the purpose of communicating with a person under the age of 14 years;
- (b) not to attend a public park or swimming pool area where persons under the age of 14 years are present or can be reasonably expected to be present or at a day care centre, school ground, playground or community centre; and

(c) not to seek, obtain or continue employment whether or not the employment is remunerated or become or be a volunteer in a capacity that involves being in a position of trust or authority towards persons under the age of 14 years.

13. Attached and marked as Exhibit “C” is a certified copy of the Probation Order dated February 24, 2006.

14. Attached and marked as Exhibits “D” and “E” respectively are copies of the transcripts of the proceedings before Mr. Justice Hryn on February 24, 2006, in respect of the plea of guilt and of the sentencing. An order, pursuant to Section 486.3 of the Criminal Code (Canada) was made by the Court with respect to the identity of the complainant and that any information that could disclose that identity is not to be published in any newspaper or broadcast in any way.

15. The Member has not appealed the sentence that was imposed on him.

## **PLEA OF NO CONTEST**

16. By this document, the Member admits the truth of the facts and exhibits referred to in paragraphs 1 to 15 above (the “admitted facts”).

17. The Member hereby acknowledges that the admitted facts and exhibits referred to in paragraphs 8 to 14 above, constitute conduct which 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), 1(7), 1(14), 1(15), 1(16), 1(17), 1(18) and 1(19). Further, the Member pleads no contest to the allegation that he engaged in sexual abuse of a student of a nature defined in Sections 1 and 40(1.1) of the *Act*.

18. By this document, through his counsel, the Member states that:

- (a) he understands fully the nature of the allegations against him;
- (b) 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;

- (c) he voluntarily decided to plead no contest; and
- (d) he understands and acknowledges that he has had the benefit of legal counsel and has voluntarily and unequivocally authorized his counsel to execute this agreement on his behalf.

19. In light of the admitted 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**

20. 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) direct the Registrar of the Ontario College of Teachers to immediately revoke the Certificate of Qualification and Registration of the Member, which Certificate the Member is to immediately surrender to the Registrar of the Ontario College of Teachers; and
- (b) direct that there be publication of the findings and order of the Committee, in summary form, including the full name of the Member, in the official publication of the College.

21. By this document, the Member acknowledges his 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 Robert Bruce Tanney committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 1(5), 1(7), 1(14), 1(15), 1(16), 1(17), 1(18) and 1(19). Further, the Committee finds that the Member engaged in sexual abuse of a student of a nature defined in Sections 1 and 40(1.1) of the *Act*.

## **REASONS FOR DECISION**

The Committee accepted the evidence contained in the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*. On more than one occasion during the 1999-2000 academic year, while [■], was sitting beside the Member during the showing of movies in the darkened classroom, the Member rubbed [■]'s back and then dropped his hand to the inside of her clothing then touched her buttock with his hand. As a result, two criminal charges were filed against the Member, one of sexual assault and one of touching for a sexual purpose, a person under the age of fourteen years.

Subsequently, the Member on February 24, 2006, pleaded guilty and was convicted of the lesser and included charge of assault against [■], contrary to the Criminal Code

(Canada). The Member received a suspended sentence and was placed on probation, with conditions, for a period of two years.

The Committee finds that these facts constitute professional misconduct as alleged and as admitted to by the Member.

### **PENALTY DECISION**

The Committee accepts the Joint Submission on Penalty and makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Certificate of Qualification and Registration of the Member, which Certificate the Member is to surrender immediately to the Registrar of the Ontario College of Teachers; and
2. 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 Member's full name, but without the name of the School in the official publication of the College, *Professionally Speaking/Pour parler profession.*

## **REASONS FOR PENALTY DECISION**

The Member acknowledged that the admitted facts and exhibits referred to in the Agreed Statement of Facts constitute conduct which is unprofessional and pleaded no contest to the allegations of professional misconduct as alleged. He further pleaded no contest to the allegation that he engaged in sexual abuse of a student of a nature defined in Section 1 and 40(1.1) of the Act. The Committee, in reaching a decision to revoke the Member's certificate of qualification and registration, took into consideration the admitted facts, the criminal conviction and his plea of no contest.

The Member arranged to show movies in class, in a darkened room, had [REDACTED] sit beside him, with other students sitting in front, and then touched [REDACTED] in an inappropriate and sexual manner. This is an assault on an [REDACTED] old, by a teacher who is a person in authority. He abused the authority and trust vested in him in his role as a teacher without regard for the well being of the students in his care. Children should be able to go to school and feel safe and protected. Instead, the Member abused [REDACTED] and has forfeited the privilege to be a member of the teaching profession.

The Committee therefore determined that revocation of the Member's certificate of qualification and registration was appropriate and necessary given the severity of the Member's misconduct. This penalty demonstrates that the Member's conduct is unacceptable in the eyes of the profession, the public and students.

Publication of the findings and order of the Committee, in summary, along with the name of the Member, provides both a specific deterrent to the Member and a general deterrent to the profession while serving the public interest.

Dated: January 30, 2007

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Jacques Tremblay  
Chair, Discipline Panel

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Danny Anckle  
Member, Discipline Panel

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Tianna Travaglini-Babic  
Member, Discipline Panel