

**DISCIPLINE COMMITTEE
ONTARIO COLLEGE OF TEACHERS**

IN THE MATTER OF the *Ontario College of Teachers Act* and the Regulation (Ontario Regulation 437/97) thereunder;

AND IN THE MATTER OF discipline proceedings against Yves Étienne Tourigny, a member of the Ontario College of Teachers.

PANEL: Dean Favero, Chair
 Gabrielle Blais
 Jacques Tremblay

BETWEEN:)	
	)	Colin Baxter,
	)	McCarthy Tétrault LLP, representing
ONTARIO COLLEGE OF TEACHERS	)	Ontario College of Teachers,
)	
)	
- and -	)	Christine Poirier,
	)	Nelligan,
YVES ÉTIENNE TOURIGNY	)	O'Brien Payne LLP,
(Certificate # 482309)	)	representing Yves Étienne Tourigny,
)	
)	
	)	Paul Le Vay,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: December 16, 2008

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on December 16, 2008 at the Ontario College of Teachers (“the College”) at Toronto.

A Notice of Hearing dated November 29, 2007 was served on Yves Étienne Tourigny requesting attendance before the Discipline Committee of the College on February 13, 2007. This Notice of Hearing was amended (Exhibit 1) on August 22, 2008 and a new hearing date was set for December 16, 2008.

The Member was present at this hearing.

ALLEGATIONS

The allegations against the Member in the amended Notice of Hearing (Exhibit 1) dated August 22, 2008 are as follows:

IT IS ALLEGED THAT Yves Tourigny is guilty of professional misconduct as defined in subsections 30(2) and 40(1.1) of the *Ontario College of Teachers Act, 1996* (the “Act”), in that he:

- a) failed to maintain the standards of the profession, contrary to subsection 1(5) of Ontario Regulation 437/97;
- b) abused a student or students physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- c) failed to comply with the Act and the *Education Act, R.S.O., 1990, Chapter E.2*, contrary to subsections 1(14) and (15) of Ontario Regulation 437/97;
- d) committed acts that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to subsection 1(18) of Ontario Regulation 437/97;

- e) engaged in conduct unbecoming a member, contrary to subsection 1(19) of Ontario Regulation 437/97.

At the hearing, College counsel requested the withdrawal of several of the allegations of professional misconduct, more particularly the allegations of having breached subsections 1(7), 1(14), 1(15) and 1(19) of Ontario Regulation 437/97 of the Act, as set out in paragraphs b), c) and e) above. He also requested the withdrawal of the allegation of sexual abuse related to subsection 40(1.1) of the Act. The Committee agreed to the withdrawal of these allegations.

AGREEMENT ON THE FACTS

1. Yves Étienne Tourigny is a member of the College (Certificate # 482309).
2. At all material times, the Member was employed by the Conseil des écoles publiques de l'Est de l'Ontario (the "Board") as a teacher at [XX] (the "School").
3. During the 2004/2005 school year, A, B and C were [XX] female students at the School in the Member's class.
4. During the 2004/2005 school year, D was a [XX] female student at the School.
5. During the 2004/2005 school year, the Member:
 - a) sent an e-mail to A, in which he wrote that she and another female student were granted more privileges than other students because they were pretty, nice and quiet in the classroom.
 - b) wrote and presented to A a limerick alluding to her as "a pretty bored girl" and to himself as "an ass";

- c) referred to C as "my love" in response to her question and then apologized for doing so;
- d) jokingly told C that if she did not wear her long hair down, he would give her a detention;
- e) showed his letter of resignation to A and D, and told them that if he did not resign, his employment would be terminated.

PLEA

- 6. The Member acknowledges that he is guilty of professional misconduct, as defined in subsection 30(2) of the Act, in that he:
 - a) failed to maintain the standards of the profession, contrary to subsection 1(5) of Ontario Regulation 437/97;
 - b) committed acts or omissions that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to subsection 1(18) of Ontario Regulation 437/97.
- 7. In light of the aforementioned facts and the Member's guilty plea, the College and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.
- 8. The Member voluntarily acknowledges the above particulars against him and understands that, by doing so, he is waiving the right to require the College to prove the case against him and the right to a contested hearing.

JOINT SUBMISSION ON PENALTY:

9. The parties jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that:

- a) the Discipline Committee order the Member to appear in person before the Discipline Committee immediately following the hearing in this matter; that the Committee impose a verbal command; and that this reprimand be recorded on the College's public register. The notation on the public register shall be withdrawn on the second anniversary of the Agreement ratification date;
- b) within six (6) months of the date of this order, the Member shall, at his own expense, enrol in Module 1 of the course of instruction entitled "Connaître les barrières, Respecter les limites" ("Knowing Barriers, Respecting Limits") offered by Mr. Donat Boulerice, which was pre-approved by the Registrar on the date the Agreement was signed. The Member shall deliver directly to the Registrar proof of the successful completion of the course within thirty (30) days of its completion;
- c) the public register maintained by the Registrar, in accordance with section 23 of the Act, shall include the following notation, and this note shall be automatically withdrawn from the College public register on the second anniversary of the Agreement ratification date:

The Member pleaded guilty to professional misconduct on (date of Agreement ratification).
- d) the Discipline Committee direct that a summary of the decision and order of the Discipline Committee be published in the next regular issue of *Professionally*

Speaking/Pour parler profession and that the Member's name, as it appears on the public register, be published.

10. 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 considered the exhibits filed and relying on the Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct and considers that the Member committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5) and 1(18), as set out in the Notice of Hearing.

REASONS FOR DECISION

The Committee accepted the Member's guilty plea as well as the Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty.

The Member's conduct with regard to the contraventions alleged against and admitted by him was highly inappropriate. He abused his position of authority and trust towards the parents and students.

All of these actions are contrary to the standards of the profession, in contravention of subsection 1(5) of Ontario Regulation 437/97 of the Act, and are contrary to professional conduct, in contravention of subsection 1(18) of this same regulation.

DECISION ON PENALTY

The Committee makes the following order as to penalty:

- 1) the Discipline Committee orders the Member to appear in person before the Discipline Committee immediately following the hearing in this matter in order for the Committee to impose a verbal reprimand. The fact of the reprimand shall be recorded on the public register. The notation on the College public register shall be withdrawn on the second anniversary of the Agreement ratification date;
- 2) The Committee directs the Registrar of the College to impose the following terms, conditions or limitations on the Member's Certificate of Qualification:
 - a) that within six (6) months of the date of this order, the Member, at his own expense, enrol in Module 1 of the course of instruction entitled "Connaître les barrières, Respecter les limites" ("Knowing Barriers, Respecting Limits") offered by Mr. Donat Boulerice, which was pre-approved by the Registrar on the date this Agreement was signed;
 - b) the Member shall deliver directly to the Registrar proof of the successful completion of the course within thirty (30) days of its completion.
- 3) the public register maintained by the Registrar, in accordance with section 23 of the Act, shall include the following notation, and this note shall be automatically withdrawn from the College public register on the second anniversary of the Agreement ratification date:

The Member pleaded guilty to professional misconduct on December 16, 2008 (the Agreement ratification date).

- 4) Pursuant to section 30(5)(iii) of the Act, a summary of the findings and order of the Committee, including the Member's full name, shall be published in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR DECISION ON PENALTY

It is the opinion of the Committee that the reprimand of the Member for his conduct by his peers will be a specific deterrent for him.

The Committee acknowledges that the Member co-operated with the College by admitting that he engaged in inappropriate conduct. The Committee is satisfied that, in these circumstances, the Member is required to successfully complete the course entitled "Connaître les barrières, Respecter les limites – Module I" ("Knowing Barriers, Respecting Limits" – Module 1). The course will help to fill in certain gaps in the Member's knowledge in terms of his interactions with students. It is the opinion of the Committee that this course will serve the interests of the public and of the Member.

The Committee endorses the joint proposal with respect to the specific penalty that calls for a summary of the decision and order of the Committee, including the Member's full name, to be published in the official publication of the College, *Professionally Speaking/Pour parler profession*. Publication of his name indicates to the public that the College treats such matters very seriously.

The Committee is confident that these penalties, taken as a whole, will both serve the public interest and have a deterrent effect on the Member.

Date: December 16, 2008

Dean Favero
Chair, Discipline Panel

Gabrielle Blais
Member, Discipline Panel

Jacques Tremblay
Member, Discipline Panel