

**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
Michael Travers, a member of the Ontario College of Teachers.

PANEL: Marilyn A. Laframboise, Chair
 Janet Cornwall
 Rosemary Fontaine

BETWEEN:)	
)	
	)	Nadine Carpenter,
ONTARIO COLLEGE OF TEACHERS	)	Dispute Resolutions Administrator,
	)	for Ontario College of Teachers
- and -)	
)	
Michael Travers	)	Michael Travers was not present,
(CERTIFICATE #223176)	)	nor was he represented
)	
)	
	)	Paul Le Vay,
	)	Stockwoods,
	)	Independent Legal Counsel
)	
	)	Heard: October 25, 2004 &
	)	January 13, 2005

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on October 25, 2004 and January 13, 2005 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing* dated August 24, 2004 was served on Michael Travers, requesting attendance before the Discipline Committee of the Ontario College of Teachers on October 25, 2004 to hold a hearing, and specifying the charges.

Michael Travers was not in attendance at the hearing, nor was he represented.

The Allegations

The allegations in the *Notice of Hearing* dated August 24, 2004 are as follows:

IT WAS ALLEGED that Michael Travers is guilty of professional misconduct as defined in subsections 30(2) and 40(1.1) of the *Ontario College of Teachers Act* (the “Act”), 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 physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) he failed to comply with the Act, the regulations or the bylaws, contrary to Ontario Regulation 437/97, subsection 1(14);
- (d) he failed to comply with the *Education Act*, R.S.O. 1990, c. E.2 and specifically paragraph 264(1)(c) thereof or the regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);
- (e) 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 437/87, subsection 1(18); and
- (f) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. Michael Ernest Travers (the “member”) is a member of the Ontario College of Teachers (Registry number 223176).
2. At all material times, the member was employed by the District School Board of Niagara (the “board”) as an English teacher at Niagara Falls Collegiate and Vocational Institute (the “school”).
3. During the 1973/1974 academic school year and the summer preceding that year, the member engaged in an inappropriate relationship with [■], a grade 13 female student at the school, which included, inter alia:
 - a) engaging in sexual relations with her, including kissing and oral sex;
 - b) discussing the possibility of marriage with her; and
 - c) telling her that he was attracted to her.
4. During the 1973/1974 academic school year, the member told another male teacher of the board about his sexual relationship with [■].

Member’s Plea

The Member Michael Travers admits that the matters referred to in paragraph 3 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(7), 1(14), 1(15), 1(18) and 1(19) of the *Act*, as set out in the *Notice of Hearing* dated August 24, 2004.

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.
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. By this document, the Member pleads guilty to professional misconduct as alleged in the *Notice of Hearing*, issued on August 24, 2004, and marked as Exhibit 1, 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*.
5. The Member agrees that he voluntarily admitted to the allegations contained in the *Notice of Hearing*.
6. 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.
7. 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 revoke his certificate of qualification and registration immediately.

8. The Member agrees and understands that upon ratification of this *MOA* by the Discipline Committee, he will surrender his certificate of qualification and registration to the Registrar.
9. 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.
10. The Member agrees and understands that for the purpose of considering this matter, the Discipline Committee will be provided with a summary of the matter including the allegations contained in the Registrar's complaint and the *Notice of Hearing*.
11. 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 October 25, 2004, Michael Travers pleaded guilty to professional misconduct which involved a sexual relationship with a female student and the Discipline Committee directed the Registrar to revoke his certificate of qualification and registration.

12. The Member agrees and undertakes that upon ratification of this *MOA* by the Discipline Committee, he shall not apply to the College for reinstatement and for a new certificate of qualification and registration for a period of two years from the date of the ratification of this *MOA*.

13. The Member agrees and understands that should he apply for reinstatement and a new certificate of qualification and registration, pursuant to section 33 of the *Ontario College of Teachers Act, 1996*, the Registrar shall review this MOA in considering the member's application.
14. Subject to paragraph 12 of the MOA, the Member agrees and undertakes not to seek or engage in employment where a certificate of qualification and registration is required.
15. The Member agrees and understands that upon ratification of this MOA by the Discipline Committee, the College will publish the Member's name 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.
16. 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, including this MOA, in the College's Margaret Wilson Library. The Decision and Reasons will be available for review by the public.
17. The Member agrees and understands that upon ratification of this MOA by the Discipline Committee, the College will provide notice of the revocation 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.
18. The parties agree and understand that if any phrase or paragraph of this MOA is deemed 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.

19. The Member agrees and understands that he freely elected not to obtain representation from independent legal counsel;
20. 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*.
21. 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, the College may provide a copy of this *MOA* to any employer, licensing body, or education authority who inquires about the Member's record with the College.
22. 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.
23. 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 fulfil its statutory mandate.
24. 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 complaint 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*, the guilty plea therein, and the submissions made by counsel, the majority of the Committee (the "Majority") finds that the facts support a finding of professional misconduct. In particular, the Majority finds that Michael Travers committed acts of professional misconduct as alleged, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 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. On October 25, 2004, the Majority asked the parties to consider a modification to the penalty. It was the Majority's opinion that, due to the egregious nature of the misconduct, a ten year period should be imposed before the Member could seek application for reinstatement.

The Member did not agree to vary the terms of the *Memorandum of Agreement*.

Penalty Decision

The Majority accepts the joint submission as to penalty as set out in the *Memorandum of Agreement* and accordingly makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Member's certificate of qualification and registration, which the Member is to surrender immediately to the Registrar.
2. Pursuant to Section 30 (5) (3) of the *Ontario College of Teachers Act*, orders 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*.
3. Pursuant to section 30(7) of the *Ontario College of Teachers Act*, the Committee orders that the Member may not apply for reinstatement for a period of two years following the date of this order.

Reasons for Decision and Order

The Member's response dated October 29, 2004 (*Exhibit 4*) states: "...I have a made written statement to the College that I will not return to Canada to teach or live..." The

Majority is therefore satisfied that this commitment by the Member and the penalty serve and protect the public interest.

Date: February 3, 2005

Janet Cornwall
Member, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel