

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

REASONS FOR DECISIONS AND ORDERS

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

AND IN THE MATTER OF discipline proceedings against Thomas Uhlig

The Discipline Committee held a hearing on December 6, 7, 8, and 9, 1999

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

THOMAS UHLIG

PRESENT:

Members of the Panel

Kathleen McFadyen (Chair)

Donna Marie Kennedy

Marilyn Laframboise

The Honourable Patrick Galligan, Independent Counsel to the Panel

L. Thomas Forbes, Q.C. McCarthy Tétrault, Counsel for the Prosecution assisted by Trevor Evans, Senior Law Clerk

William Markle, and Stephanie Carey, Markle May Phibbs, Defense Counsel

Thomas Uhlig was present

A Notice of Hearing, dated May 10, 1999 was served on Thomas Uhlig, requesting attendance before the Discipline Committee of the Ontario College of Teachers on May 10, 1999 to set a date, and specifying the charges. The hearing was scheduled for December 6, 1999. It is alleged that Thomas Uhlig is guilty of professional misconduct in that:

- a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, section 1, subsection (5);
- b) he abused a student or students physically, sexually, verbally, psychologically, or emotionally, contrary to Ontario Regulation 437/97, section 1, subsection (7);
- c) he failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, c. E.2 and the Regulations made under that Act, contrary to Ontario Regulation 437/97, section 1, subsection (15);
- d) he performed acts or omissions that, having regard to all of the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, section 1, subsection (18);
and
- e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, section 1, subsection (19).

The Notice of Hearing states that Thomas Uhlig is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers (Exhibit #1).

On December 6, 1999, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Thomas Uhlig was guilty of professional misconduct. The Discipline Committee made an order that the identity of the students not be disclosed. In compliance with that order, the identity of the school is not given.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in Exhibit #1, alleging that Thomas Uhlig is guilty of professional misconduct in that his 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, sections 1 (5), (7), (15), (18) and (19). Particulars of the alleged misconduct are set out in Exhibit #1 and they are to the effect that:

1. Thomas Uhlig is a member of the Ontario College of Teachers
2. At all material times, Thomas Uhlig was employed as an elementary teacher within the jurisdiction of the Durham Catholic District School Board.
3. At all materials times, [] and [] were students of the Board and attended the said school in the Durham Catholic District School Board.
4. On April 16, 1998, Mr. Uhlig grabbed [], a grade 3 student in his class, by the wrist, pulled him from the rear of the classroom, dragged him across the floor, and then pushed him down on the carpet in the classroom.
5. On the same date and in the same classroom, Mr. Uhlig stepped on the foot of [], a grade 3 student in his class, and pushed the student over on to the floor in the classroom.

6. During the school year of 1996 to 1997, Mr. Uhlig screamed at students, used unprofessional language in addressing the students, and exhibited inappropriate outbursts of anger in relation to the students.

Counsel presented evidence that Thomas Uhlig is a member of the Ontario College of Teachers, (Exhibit #1).

Exhibit #2 is a drawing of Mr. Uhlig's grade 3 classroom layout for the 1997-1998 school year.

Exhibit #3 is a journal of [REDACTED]'s from the 1996-1997 school year sent between Mr. Uhlig and [REDACTED]'s parents.

Exhibit #4 for Identification, is a Statement of Claim between [REDACTED], her children and Mr. Uhlig and the Durham Catholic District School Board.

Exhibit #5 is a psychological report prepared by Doctor Angela Fountain dated November 30, 1999 on [REDACTED].

Exhibit #6 for Identification B, is a police statement taken from Ms Maureen Hawkins.

Joanne Prentice was called as a witness by the College. Ms Prentice is a parent volunteer. Ms Prentice testified that she was volunteering in the class next to Mr. Uhlig and heard Mr. Uhlig yelling at the children on numerous occasions and use words such

as “stupid”, “retard”, “useless” and “incapable of learning”. Ms Prentice alleges that on different occasions she found a child from Mr. Uhlig’s class, in the hall, upset and crying. Ms Prentice testified that she reported her concerns to both the principal and vice-principal on more than one occasion.

[] was called as a witness by the College. [] is a parent of one of Mr. Uhlig’s students and a parent volunteer. While volunteering in a senior kindergarten class, [] testified that she heard Mr. Uhlig yelling a lot but could not hear what he said. When she volunteered in Mr. Uhlig’s class she did not hear Mr. Uhlig raise his voice. Mr. Uhlig did not call anyone names during the time she volunteered. [] testified that her son [] started crying daily while in Mr. Uhlig’s class and had observed [] demonstrating behaviour problems in the classroom while she was there. However, since leaving the school [] had no further problems.

Further testimony from []’s current principal indicates that [] has ongoing behavior problems.

[] was called as a witness by the College. [] is a ten-year-old former student of Mr. Uhlig. [] gave unsworn testimony that on April 16, 1998 he went to speak to Mr. Uhlig and Mr. Uhlig stepped on his foot and [] fell to the floor. He believed it to be an accident. [] stated that he told his father it was an accident but his father didn’t believe it was an accident and was angry.

█ reported to the vice-principal immediately after the incident that Mr. Uhlig had stepped on his foot but that it was an accident. █ gave the same testimony to the police investigating the occurrence and this committee, although he now believes it may have been on purpose. He also testified that there has been a lot of talk at home about the incident and █ now believes Mr. Uhlig may have stepped on his foot on purpose.

█ was called as a witness by the College. █ is the father of █. █ testified that █ came home distraught saying he didn't want to go to school, crying periodically and saying he felt stupid while in Mr. Uhlig's class. To find out what was going on in Mr. Uhlig's class, █ took leave from work and went to the school. █ testified that he heard Mr. Uhlig constantly yelling and screaming and using inappropriate language. He complained to the principal and vice-principal but not to Mr. Uhlig. █ is doing much better in his new school. █ testified that Mr. Uhlig constantly criticized █.

█ was called to testify by the College. █ is a parent of █, who was in Mr. Uhlig's grade 3 class in 1996-1997. █ testified that █ told her Mr. Uhlig was always screaming and shouting at him and █ didn't like going to school anymore. On the occasion that █ was in the classroom, she observed that there was no control and that Mr. Uhlig was very loud and abrupt.

█ was called to testify by the College. She is the mother of █. █ had ongoing difficulties in school. She had concerns that Mr. Uhlig complained about █'s behaviour. She testified that on April 16, 1998 at about 3:00 p.m., she received a telephone call from Mr. Uhlig, asking her to come to the school so that he could

apologize for an incident in which he had acted inappropriately. Her husband, [REDACTED], was unable to attend the meeting, therefore [REDACTED] intended to listen to the teacher and to arrange for a meeting for the next morning when [REDACTED] could also be in attendance. Upon her arrival, [REDACTED] found [REDACTED] with a bunch of kids at the locker. His face was red and it appeared as if he had been crying for a long time. She and [REDACTED] went into the classroom and met with Mr. Cauley, the principal, and Mr. Uhlig. The incident was described, Mr. Uhlig apologized to [REDACTED] and [REDACTED] left the room. Mr. Uhlig told [REDACTED] that [REDACTED] was borrowing a marker and Mr. Uhlig pulled [REDACTED] by the wrist and took him to the carpet. Mr. Uhlig told [REDACTED] that what he had done was inappropriate. [REDACTED] testified that, after the incident, [REDACTED]'s behaviour changed. He'd cry a lot, acted out and was unapproachable. She finally requested a referral to a psychologist who told her that [REDACTED] had been traumatized. She also testified that she did not ask [REDACTED] what had actually happened until December and that [REDACTED] only talked to the police about the incident. Mr. Cauley advised [REDACTED] that Mr. Uhlig had used inappropriate force. [REDACTED] stated that she knew [REDACTED] was having difficulty in school. When asked if she had contacted the principal, vice-principal or the teacher, she said no.

The next witness was [REDACTED] who gave unsworn testimony that on April 16, 1998, Mr. Uhlig walked over to him, grabbed him by the wrist and pulled him over to the carpet where he sat crying until Ms Hawkins came to get him. Mr. Uhlig apologized to [REDACTED]. [REDACTED]'s parents asked about the incident, there was lots of talk, his parents were upset for a long time about the incident and are still upset that Mr. Uhlig continued to teach. [REDACTED] was crying in the classroom, in the hall and in the other room. Mr. Cauley examined [REDACTED]'s wrist after school for any marks. Later on in his testimony, he said he was colouring

when Mr. Uhlig came to his desk, put his hand on his wrist, pulled him out of the chair to the front of the room and let him go on the carpet.

Paddy Cauley was called as a witness by the College. Mr. Cauley testified that he was Principal of the school in the 1996/97 and 1997/98 school years. He also testified that he believed Mr. Uhlig had classroom management difficulties. Mr. Uhlig had difficulty with delivery of the curriculum and classroom management which led to stress and some anger which was manifested by an occasional loud tone of voice. When asked whether or not he had heard Mr. Uhlig shout at students, Mr. Cauley took a long pause before responding yes. Mr. Cauley recommended that Mr. Uhlig take the Fred Jones Positive Classroom Discipline course. In the following school year, 1997/98, classes were rearranged so that Mr. Uhlig would have 21 students in a Grade 3 class as well as two 40 minute art periods per week with 34 students in his class. Mr. Cauley felt Mr. Uhlig was able to handle the larger class for a short period of time as it was an enjoyable class and students would be less disruptive. Up until the time of the incident, Mr. Cauley reported that Mr. Uhlig had had a good year. Mr. Cauley further testified that Mr. Uhlig was a contributing member of staff. He was excellent at teaching computers and he suggested he get his specialist's certificate in that area.

On April 16, 1998, Ms Hawkins, the Vice-Principal, brought to Mr. Cauley's attention an incident between Mr. Uhlig and [REDACTED]. While Mr. Cauley indicated that the action was inappropriate, it did not constitute professional misconduct. He also spoke to other students in the class to verify the story. Three of the students had seen the incident and Mr. Cauley interviewed this separately. While speaking to [REDACTED] about the incident, [REDACTED]

was calm and composed and was not crying. During his investigation of the incident, Mr. Cauley asked Mr. Uhlig “did you grab his arm, did you use undue force?” Mr. Uhlig replied “I guess you could say that.” Mr. Cauley suggested to Mr. Uhlig that he telephone the parents and apologize and Mr. Cauley felt that this would conclude the incident. He examined [REDACTED]’s arm and there was no mark. Mr. Cauley did not believe that the incident warranted his contacting the Children’s Aid Society or the police.

Mr. Cauley had suggested Mr. Uhlig look for another profession but later on in his testimony, when the Board was thinking of transferring Mr. Uhlig out of the school, Mr. Cauley wanted him to remain in his school. Mr. Cauley also testified that he had received no complaints about Mr. Uhlig’s loud tone of voice or inappropriate language.

Dr. Angela Fountain, psychologist, testified that [REDACTED] had been referred to her by his paediatrician for a psychological assessment of his intellectual, academic and socio-emotional functioning. Specifically addressed were concerns related to his academic weaknesses and a possible traumatic stress disorder associated with the teacher incident. [REDACTED] was assessed in the summer of 1998 and was in treatment for a period of 15 months. Her testimony was that she diagnosed [REDACTED] with post-traumatic stress disorder currently remitting, reading disorder and written expression disorder. “ [REDACTED]” is extremely sensitive to social input and has only recently begun to develop some coping strategies.” Dr. Fountain also realized that numerous other factors contributed to [REDACTED]’s fragility, including his learning disability.

The Committee heard testimony from Ms Maureen Thomas, formerly Ms Hawkins, Vice-Principal of the school in 1996/97 and 1997/98. She testified that she was a half-time teacher, half-time librarian/vice-principal. In the school years 1996-98, Ms Thomas found [REDACTED] to have difficulty focussing and staying on task, and with his reading, writing and spelling. She was responsible for providing program support for [REDACTED]. She received a concern from an educational assistant about the noise level in Mr. Uhlig's class. Ms Thomas had heard Mr. Uhlig use a raised voice in the past, but she never heard Mr. Uhlig refer to the students in a demeaning manner. When asked about the relationship with the students, Ms Thomas testified that two students became very upset when learning that Mr. Uhlig would not be returning to the classroom after the incident. In Ms Thomas's testimony, on April 16, 1998 [REDACTED] had reported to her that he had tripped over Mr. Uhlig's foot but he did not want to go back to the classroom. Ms Thomas took [REDACTED] to the program support classroom and left him working on a computer with another adult in attendance and returned to the classroom. Upon her return to the classroom, she found [REDACTED] sitting on the carpet quietly and calmly and he came out of the classroom quietly. Once outside of the classroom, [REDACTED] started crying and said that Mr. Uhlig had "grabbed me and threw me on the carpet". She led [REDACTED] into the program support room where she put him on a computer. [REDACTED] settled down and was not crying when she left him. Ms Thomas reported the incident Mr. Cauley and then returned to Mr. Uhlig's classroom. Ms Thomas, accompanied by Mr. Uhlig, proceeded to the program support room where [REDACTED] confirmed with Ms Thomas in front of Mr. Uhlig that the incident with [REDACTED] and Mr. Uhlig was an accident. [REDACTED] felt fine by that time and returned to class. [REDACTED] told the same story about his interaction with Mr. Uhlig. Mr. Uhlig replied, "I didn't grab you, I didn't throw you." [REDACTED] did not want to return to the class and he started

crying again. Ms Thomas and Mr. Uhlig left [REDACTED] and returned to their duties. Other than from [REDACTED]'s father, Ms Thomas testified that she had never received any complaints regarding Mr. Uhlig.

Two parents who volunteered in Mr. Uhlig's class testified that they had never heard Mr. Uhlig use demeaning words and said he only raised his voice when it was necessary.

Lois Parkinson, an educational assistant working with [REDACTED] on a regular basis for remediation, testified that Mr. Uhlig has a loud voice and she never heard him use demeaning words. Ms Parkinson did not see any change in [REDACTED]'s demeanor after the incident.

Jane Lacy, a teacher at the school, who sometimes had the classroom next door to Mr. Uhlig, testified that she could hear Mr. Uhlig call the class to focus, never heard any demeaning words. Ms Lacy believes that the students liked and respected Mr. Uhlig.

Helen Lanthier, Principal of [REDACTED], Mr. Uhlig's current assignment, testified that she had observed Mr. Uhlig informally on several occasions and had not heard him use any demeaning words or display any outbursts of anger, or receive any complaints of same. Ms Lanthier testified that Mr. Uhlig had requested a formal performance evaluation and early into the process, Ms Lanthier determined it was unnecessary to proceed as there were no obvious shortcomings. She had "not a single concern of Mr. Uhlig's professionalism." She also testified that a Board consultant also observed Mr. Uhlig for

input on improving positive classroom discipline and after one attendance decided any further visits were unnecessary.

FINDINGS OF FACT:

The Committee weighed the testimony given by Ms Prentice and found there was no corroboration with other testimony. Neither the principal nor vice-principal remembered Ms Prentice reporting her concerns. No other witness heard Mr. Uhlig use demeaning words to a student at any time.

Evidence provided by means of the journal (Exhibit #3) illustrated that Mr. Uhlig had regularly praised [] and acknowledged his daily efforts. During cross-examination, [] was challenged on his collaboration with [] and changed his testimony. The obvious hostility of [] compromised the credibility of his testimony.

While []'s testimony was credible, the behaviour described does not constitute misconduct.

There were some inconsistencies with []'s testimony and that the value of this testimony was weighed as it was unsworn testimony. [] testified that he told his mother and step-father immediately after the incident and many times after what took place. The police investigated the incident and found no grounds for charges. Also entered as an exhibit (Exhibit #4) was A Statement of Claim filed by [] on behalf of her children and herself against Mr. Uhlig and the Durham Catholic District School Board.

Mr. Cauley was Mr. Uhlig's direct supervisor and fully understands the obligation to report to the police and Children's Aid Society any suspected abuse of a child. At the conclusion of his investigation, Mr. Cauley felt that this did not warrant further investigation by the police or Children's Aid Society and believed that an apology was a reasonable resolution to the matter. We concurred with College counsel that Mr. Cauley was a reluctant witness.

The Committee acknowledges Dr. Fountain's opinion that there was an incident with the teacher involving [REDACTED] which upset him greatly. The Committee accepts that while the precipitating event for [REDACTED] may have been the incidence with Mr. Uhlig, that [REDACTED] had an overall sensitivity to being easily traumatized. The Committee believes [REDACTED]'s fragility may have led to his being unduly upset by an incident that other children would accept as due course in the classroom.

Ms Thomas presented as a reluctant witness. When asked if she had received any complaints about Mr. Uhlig, Ms Thomas indicated that she had not. It was necessary for Prosecution Counsel to present her with her Witness Statement taken April 21, 1998 by the police (marked as 'B' for identification, later to become Exhibit #6) to remind the witness of her earlier testimony. Ms Thomas, in her Statement, stated, "...I spoke with Mr. and Mrs. [REDACTED] and Thomas [Uhlig] on several occasions last year regarding [REDACTED]'s academic progress, Mr. and Mrs. [REDACTED] were concerned that Thomas [Uhlig] didn't affirm their son's strengths and that he was having a negative effect on [REDACTED]'s self-esteem. They complained that he was verbally loud."

The Committee accepted Ms Lanthier's testimony.

In the matter of the complaint involving [REDACTED] and Mr. Uhlig, the Committee finds consistency of testimony from the onset, supporting that the incident was an accident.

In the matter of the complaint involving [REDACTED] and Mr. Uhlig, the Committee received contradictory evidence about the degree of force used and the impact of the incident on [REDACTED].

REASONS:

The Committee has serious concerns regarding Mr. Uhlig's classroom management skills during the defined period. Furthermore, the Committee finds that Thomas Uhlig's behaviour on April 16, 1998, while not deemed to be professional misconduct was inappropriate and that the member should have used more appropriate strategies.

We are, however, encouraged to hear that the member has taken additional courses in classroom management. The Committee strongly suggests that he pursue courses in Special Education to better understand the needs of the wide range of children that he will encounter in his current and future classrooms.

DECISION AND ORDERS:

The Committee finds that there is not a preponderance of credible evidence to find the member guilty of professional misconduct as outlined in paragraphs 4, 5 and 6 of the Notice of Hearing.

The Committee, on the basis of its findings, is satisfied that the case has not been made that Thomas Uhlig is not guilty of professional misconduct as charged. Accordingly, the charges are dismissed.

**DATED AT TORONTO, THIS 21st DAY OF DECEMBER, 1999
BY ORDER OF THE DISCIPLINE COMMITTEE**

Kathleen McFadyen, **Chair**

Donna Marie Kennedy

Marilyn Laframboise