

**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 Votskos, a member of the Ontario College of Teachers.

PANEL: Ted Coulson, Chair
 Janet Cornwall
 Paul Charron

BETWEEN:)	
	)	Eric Block,
	)	McCarthy Tétrault,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
MICHAEL VOTSKOS)	)	Gary Hopkinson,
(CERTIFICATE #159879)	)	Green & Chercover,
	)	for Michael Votskos
)	
	)	Christopher Wirth,
	)	Stockwoods,
	)	Independent Legal Counsel
)	
	)	Heard: February 14, 2005

REASONS FOR DECISION, DECISION AND ORDER (S)

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on February 14, 2005 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated November 23, 2004 was served on Michael Votskos, requesting attendance before the Discipline Committee of the Ontario College of Teachers on December 8, 2004 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for February 14, 2005.

Michael Votskos was not in attendance at the hearing.

The Allegations

The allegations against Michael Votskos in the *Notice of Hearing*, (*Exhibit 1*) dated November 23, 2004 are as follows:

IT IS ALLEGED that Michael Votskos 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 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);
- (e) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (f) 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

On February 14, 2005 the Discipline Committee made an order that there be no publication of any information that may disclose the identity of the victims or any other persons named in the exhibits involved in this matter.

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. Michael Votskos (the “Member”) is a Member of the Ontario College of Teachers. Attached hereto is a copy of the Ontario College of Teachers Registered Member Information of the Member. (*ASF-Exhibit 2, Tab A*)
2. At all material times the Member was employed by the Toronto District School Board and its predecessor, the North York Board of Education (“the Board”), as a teacher of cosmetology.
3. During the 1994-1995 academic year, while the Member was a teacher at [REDACTED], he acted unprofessionally in that he engaged in sexual intercourse with a 28 year old adult student of that school, but who was not in the Member’s class, on two occasions, once in approximately November or December 1994 and again in late 1994

or early 1995.

4. As a result of that activity, the Member received a written reprimand from the Board and was suspended from his teaching duties for one day without pay. Attached is a copy of memorandum dated 18 May 1995, from Superintendent of Schools of the Board to the Member along with signed details containing information with respect to the incident which was signed by the Member. (*ASF-Exhibit 2, Tab B*)

5. During 1999, while he was a teacher at Bathurst Secondary School, the Member acted unprofessionally in that he :
 - (a) repeatedly used a school computer to access pornography or similar material of an adult nature, particularly photographs of nude women, on the Internet; and
 - (b) left printouts of e-mails of a personal nature beside a school computer.

6. As a result of the matters referred to in paragraph 5 above coming to the attention of the School Board, the Member received a written reprimand for using a school computer to access “pornography” on the Internet and for leaving “e-mail of a personal nature”, beside the computer. Further, the Member was provided with a warning that any repetition of that behaviour would subject him to the full range of disciplinary proceedings. Attached is a copy of letter of reprimand dated 10 June 1999, from the principal of Bathurst Heights Secondary School to the Member. (*ASF-Exhibit 2, Tab C*)

7. During the 2001-2002 school year while teaching at Central Technical School (“the School”), the Member acted unprofessionally in that he used computers of the School, which he accessed with his own user name and the user names of various other teachers, to:
 - (a) view photographs of nude women;
 - (b) view sexually explicit websites;
 - (c) solicit sex partners; and
 - (d) receive sexually explicit e-mails from a woman.

8. On or about 17 September 2001, the Member admitted to:
 - (a) using the identification password of another teacher in order to use a computer of the School so as to access pornography; and
 - (b) leaving pornography which he had viewed, visible to others on the computer screen in the technical office of the School.

9. As a result of this matter coming to the attention of the Board, a verbal admonishment was shortly thereafter given to the Member by the technical director of the School and the Member was warned that the computers of the School were not to be used to access “pornography” on the Internet.

10. That activity which had been carried on under the user name of the Member significantly decreased after he was admonished by the technical director, but continued under the user names of other teachers.

11. An investigation was conducted by the Board and it was determined that computers in the technical office of the School were repeatedly used in various teachers’ users

names to access two e-mail accounts in the Member's name as well as an e-mail account which he shared with a female person. Attached hereto is a copy of the investigation report which gives details of the Member's inappropriate conduct and inappropriate use of the School's computers. (ASF-Exhibit 2, Tab D)

12. Tab D of Exhibit 2 includes a number of materials which were viewed through the accounts of the Member and were of a sexually explicit nature. The material included photographs of nude women and websites displaying sexually explicit items. The Member also received and viewed sexually explicit e-mails from [REDACTED], who is now the common-law spouse of the Member.

13. On or about 27 August 2002, the Board suspended the Member with pay.

14. On or about 31 October 2002, the Member wrote to the Board admitting that he had used computers at the School to access his personal e-mail account but there was never any intention on his part to have his home life interfere with his work at the School or to offend anyone with the content. The Member recognized that his behaviour was inappropriate and that his personal sexual life was something that he should not allow to intrude on his professional affairs. The Member however stated that he had not intentionally accessed any pornographic sites nor did he knowingly use anyone else's user identification on a School computer. Attached is a copy of a letter dated 31 October 2002, from the Member to Thomas Payne, Central Co-ordinating Principal of the Employee Services department of the Board. (ASF-Exhibit 2, Tab E)

15. On or about 15 April 2003, Mr. Payne wrote to the Member providing him with a report recommending the termination of his employment with the Board. Attached is a copy of that letter with the dismissal report. (*ASF-Exhibit 2, Tab F*)
16. By letter dated 1 May 2003, a copy of which is attached, the Member's counsel responded to Mr. Payne and enclosing a copy of *ASF-Exhibit 2, Tab E*. (*ASF-Exhibit 2, Tab G*)
17. By letter dated 5 May 2003, a copy of which is attached, Mr. Payne wrote to the Member advising that his termination, effective 2 May 2003 had been approved. (*ASF-Exhibit 2, Tab H*)
18. By this document, the Member, Michael Votskos, pleads no contest to the facts referred to in paragraphs 1 to 17 above.
19. By this document, the Member, Michael Votskos, pleads no contest to the allegations that the facts referred to in paragraphs 3, 5 and 7 above relating to the conduct of the Member, is conduct which is disgraceful, dishonourable and unprofessional and pleads no contest to the allegations of professional misconduct against him being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), (7), (14), (15), (18) and (19) as set out in the Notice of Hearing which is attached hereto. 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 *Ontario College of Teachers Act, 1996*. (*ASF-Exhibit 2, Tab I*)

20. By this document, the Member states that:

- (a) he understands fully the nature of the allegations that have been made against him; and
- (b) he understands that by pleading no contest to the allegations against him, he is waiving the right to require the College to prove the case against him and the right to have a hearing; and
- (c) he voluntarily decided to plead no contest to the allegations against him.
- (d) this plea of no contest was made voluntarily, unequivocally and with the benefit of independent legal counsel.

21. In light of the above facts and circumstances to which the Member has pleaded no contest, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct, being more particularly breaches of Ontario Regulation 437, subsections 1(5), (7), (14), (15), (18) and (19), and that he engaged in sexual abuse of a student of a nature defined in sections 1 and 40(1.1) of the *Ontario College of Teachers Act, 1996*.

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.

Member's Plea

By this document, the Member, Michael Votskos, pleads no contest to the facts referred to in paragraphs 1 to 17 above and to the allegations that the facts referred to in paragraphs 3, 5 and 7 above relating to the conduct of the Member, is conduct which is

disgraceful, dishonourable and unprofessional and pleads no contest to the allegations of professional misconduct against him being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), (7), (14), (15), (18) and (19) as set out in the Notice of Hearing which is attached hereto. 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 *Ontario College of Teachers Act, 1996*. (ASF-Exhibit 2, Tab I)

Joint Submission as to Finding

In light of the above facts and circumstances to which the Member has pleaded no contest, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct, being more particularly breaches of Ontario Regulation 437, subsections 1(5), (7), (14), (15), (18) and (19), and that he engaged in sexual abuse of a student of a nature defined in sections 1 and 40(1.1) of the *Ontario College of Teachers Act, 1996*.

Decision as to Finding

Having examined the Exhibits filed, and based on the plea of no contest in 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 Michael Votskos committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsection 1(5), 1(7), 1(14), 1(15), 1(18) and 1(19), and that he engaged in sexual abuse of

a student of a nature defined in sections 1 and 40(1.1) of the *Ontario College of Teachers Act, 1996*.

Joint Submission as to Penalty

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
- (a) direct that the findings and Order of the Committee, including the Member's full name, be published in summary, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

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 immediately 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*, the findings and order of the Committee shall be published in summary, with the Member's full name, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

Reasons for Decision

The Committee finds that the Member's conduct was unbecoming a member of the profession.

The Member had sexual relations with an adult student at his school.

Further, the Member accessed pornographic sites on the Internet, using school computers, during school hours, using his name and other teachers' user names. Some of the material he accessed was left in plain view of others. This behaviour continued despite warnings and reprimands.

Accordingly, the Committee is satisfied that revocation of the Member's certificate of qualification and registration is the appropriate penalty and meets the objective of specific deterrence to the Member. The Committee is also satisfied that publication meets the objective of general deterrence to members of the profession.

The Committee concludes that this penalty serves and protects the public interest.

Date: February 14, 2005

Ted Coulson
Chair, Discipline Panel

Janet Cornwall
Member, Discipline Panel

Paul Charron
Member, Discipline Panel