

**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  
N.W., a member of the Ontario College of Teachers.

PANEL: Nancy Hutcheson, Chair  
George Merrett  
Karen Mitchell

BETWEEN:	)	
	)	
	)	Awanish Sinha, McCarthy
ONTARIO COLLEGE OF TEACHERS	)	Tétrault, for Ontario College of
	)	Teachers, assisted by Trevor Evans,
- and -	)	Senior Law Clerk
	)	
N.W.	)	Maurice Green, Green & Chercover
(CERTIFICATE #265553)	)	for N.W.
	)	
	)	
	)	Christopher Wirth, Stockwoods,
	)	Independent Legal Counsel
	)	
	)	Heard: February 24, 2004

**REASONS FOR DECISION, DECISION AND ORDER(S)**

This matter came before a panel of the Discipline Committee for a hearing on February 24, 2004 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing*, dated February 27, 2003 was served on N.W., requesting attendance before the Discipline Committee of the Ontario College of Teachers on March 20, 2003 to set a date for a hearing, and specifying the charges.

N.W. was in attendance at the hearing. Proof of service of the *Notice of Hearing* was presented and accepted by the Panel. **(Exhibit 1)**

### **The Allegations**

The allegations against N.W. in the *Notice of Hearing*, dated February 27, 2003, are as follows:

**IT WAS ALLEGED** that N.W. is guilty of professional misconduct as defined in section 30(2), and/or is incompetent as defined in section 30(3) of 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 particularly section 264(1)(c) thereof, and 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 displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the member is either unfit to carry out his professional responsibilities or that the member's certificate should be made subject to terms, conditions or limitations.

### **Publication Ban**

On February 24, 2004, the Discipline Panel made an order that the student(s) involved in this matter be identified by initials only.

### **Agreed Statement of Facts**

Counsel for the College advised the Panel that agreement had been reached on the facts and introduced as **Exhibit 3**, an *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty*.

The *Agreed Statement of Facts* provides as follows:

1. N.W., (the "Member"), is a Member of the Ontario College of Teachers.
2. The Member was employed by the Halton District School Board ("the Board"), and was, at all times material hereto, assigned to teach at [REDACTED] Secondary School ("[REDACTED]") from in or about November 1998 until February, 2000, and [REDACTED] High School ("[REDACTED]") following February 1, 2000, until his resignation from the Board effective June 30, 2000.

3. [ ] was a [ ] year old male Grade [ ] student at [ ] during the 1999/2000 academic year and was a student in [ ].
4. The Member had been teaching for the Halton Board of Education from approximately 1993 - 1999 as an occasional teacher without incident. The Member had also worked as an instructional assistant at [ ] from November 1998 to January 1999, without incident. In the fall of 1999, the Member obtained a long term occasional position at [ ] Secondary School ([ ]).
5. The Member first came into contact with a student [ ] in April 1999, after the student was placed in a grade [ ] [ ] class, having been transferred from another school. Shortly after his arrival in the [ ], [ ] commenced an attachment to the Member, which the Member reported to [ ]' social worker. The Member reciprocated and formed a friendship with [ ] outside of the normal teacher /student relationship.
6. The Member made various inquiries about the student's problems in order to be better able to assist him. The profile, which the student presented, clearly should have resulted in the Member attempting to withdraw from any involvement with the student. However, as he perceived that there was little or no support from administration for the student or the Member, the Member involved himself with the student's personal problems.
7. Thus, beginning in late April 1999, the Member began to engage in what he acknowledges were unwise and inappropriate activities relating to [ ], that created a relationship of reliance outside of the appropriate teacher/student dynamic, which involved him in the student's family affairs. These activities included, *inter alia*:
  - (a) the giving of small amounts of money to [ ];
  - (b) buying small gifts for [ ];

- (c) meeting with [REDACTED] during lunch breaks at [REDACTED].
  - (d) engaging in inappropriate personal conversations with [REDACTED], including, but not limited to advising [REDACTED] on his personal and family problems.
8. By this document the Member states that:
- (a) he understands the nature of the allegations that have been made against him;
  - (b) he voluntarily decided to plead guilty to the allegations made against him;
  - (c) he understands that by pleading guilty to the allegations, he is waiving the right to require the College to prove the case against him and understands that the Discipline Committee can dispose of the issue of what finding ought to be made without a hearing;
  - (d) he understands that the Discipline Committee can accept as correct the facts alleged against him in paragraphs 5, 6 and 7 above, for the purposes of this proceeding only;
  - (e) he understands that the Discipline Committee can accept that those facts constitute conduct unbecoming a Member for the purposes of this proceeding only; and
  - (f) he understands that any agreement entered into by him with the College respecting the penalty proposed does not bind the Discipline Committee panel.
9. By this document, the Member accepts that the matters referred to in paragraph 5, 6 and 7 above constitute conduct which fails to meet the standards of the profession, and more specifically, a failure to maintain the proper teacher/student boundaries, and pleads guilty to the allegations of conduct unbecoming a Member, being more particularly, breaches of Ontario Regulation 437/97, subsection 1 (19).

### **Member's Plea**

The Member, N.W., accepts that the matters referred to in paragraphs 5, 6 and 7 above constitute conduct which fails to meet the standards of the profession, and more specifically, a failure to maintain the proper teacher/student boundaries, and pleads guilty to the allegations of conduct unbecoming a Member, being more particularly, breaches of Ontario Regulation 437/97, subsection 1 (19).

### **Joint Submission as to Resolution and Penalty**

1. In light of the above guilty plea, the Ontario College of Teachers and the Member submit that the Discipline Committee may accordingly treat the matters referred to in paragraphs 5, 6 and 7 as constituting conduct unbecoming a Member, and may find the Member guilty of such conduct unbecoming, being more particularly breaches of Ontario Regulation 437/97, subsection 1(19).
2. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this case would be that the Committee:
  - a. require the Member to appear before the Committee to be admonished with respect to the importance of maintaining appropriate boundaries with students, and the fact of the admonishment to be recorded on the Register of the College for a period of two (2) years;
  - b. direct the Registrar to impose the following terms and conditions on the Member's certificate of qualification and registration, said terms and conditions to be recorded on the Register until said conditions are met, or until such time as the Discipline Committee has imposed an alternative penalty:

- i. the Member agrees and undertakes to continue to undergo counselling on teacher/student boundary issues from Jessie Matheson ("Ms Matheson"), social worker/therapist of Jessie Matheson & Associates Ltd., and Employee Assistance Program Coordinator for the Dufferin-Peel Catholic District School Board, as required by her, which counselling is designed to ensure that the Member is suitable to return to teaching and poses no risk to students or the school community. Such counselling is to be at the Member's own expense and is to continue for as long as Ms Matheson deems it necessary;
- ii. the Member undertakes to instruct Ms Matheson to provide periodic reports directly to the Registrar respecting the Member's participation in and his progress towards completion of such counselling, if it takes place, which reports are to be received by the Registrar on, at the very least, a semi-annual basis, or until such time as Ms Matheson advises that the Member has successfully completed the counselling, as set out below;
- iii. the Member agrees and undertakes not to return to teaching or to commence employment at any school or with any school Board until such time as the Registrar receives a final report from Ms Matheson detailing the completion of the therapy, the duration of therapy, a summary of the therapy and the boundary issues addressed, together with explicit confirmation that, in her professional opinion, the Member is fit to return to teaching and poses no risk of harm to students or the school community;
- iv. the Member agrees and accepts that, following the receipt by the Registrar of a report as set out in paragraph (iii) above, the Registrar will provide confirmation to the Member in writing that the imposed terms and conditions have been satisfied and will be removed from the Register;

- v. the Member agrees and accepts that, if for any reason the issuance of the report of Ms Matheson referred to in paragraph (iii) above is delayed through no fault of his own, such delay will be communicated to the College and addressed co-operatively by the College and the Member to ensure that the terms of this Agreement are met in the spirit of co-operation into which they are being entered;
- vi. the Member agrees and accepts that, if the said terms and conditions set forth in paragraphs (i) to (v) above are not met, this matter will be referred back to the Discipline Committee, or any panel thereof, on notice to the Member, for the imposition of an appropriate penalty.

#### **Decision as to Finding**

Having examined the Exhibits filed, and based on the guilty plea, 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. In particular, the Committee finds that N.W. committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsection 1(19).

#### **Decision as to Penalty**

The Committee accepts the Joint Submission as to Penalty and makes an order in accordance with the terms of the Joint Submission as to Penalty as set out above.

The parties were not in agreement respecting publication of the name of the member.

The College sought an order for publication of the findings and order of the Discipline

Committee in the official publication of the College, *Professionally Speaking/Pour parler profession*, with identification of the School Board and the Member by full name. Counsel for the Member sought publication of the findings but with the Member's initials only.

The Committee orders that, pursuant to Section 30 (5) (iii) of the Ontario College of Teachers Act, the findings and order of the Committee be published in summary, with the Member's initials only and the name of the School Board, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

#### **Reasons for Decision and Order**

The Committee had concerns about the discrepancies between the information contained in the *Notice of Hearing* and the evidence presented in the *Agreed Statement of Facts*. However, given that both counsel agreed that the proposed penalty was appropriate, and the Committee finds there were no extenuating circumstances that would make it reasonable to disagree with their recommendations, the Committee accepts the joint submission on penalty.

Based on the evidence provided and given that the Member had already been suspended from his employment for more than a year pending the outcome of this matter before the Discipline Committee, and that he had undergone counselling specific to the issue of the boundaries of the teacher/student relationship, the Committee finds that the penalty is acceptable and will serve as a specific deterrent to the Member.

The Committee finds that the publication of the summary of this case, with the Member's initials, serves to protect the public interest and serves as a general deterrent

to the profession. The Committee finds that specific deterrence to the Member has been addressed both in the actions taken by his school board and in the penalty ordered by the Committee.

Date: February 25, 2004

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Nancy Hutcheson  
Chair, Discipline Panel

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George Merrett  
Member, Discipline Panel

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Karen Mitchell  
Member, Discipline Panel