courtready

# Ontario College of Teachers v Truelove, 2024 ONOCT 44

This decision forms part of Courtready.ca's Canadian Deepfake and Disputed Digital Evidence Database, which tracks Canadian court and tribunal decisions where the authenticity of a photo, video, audio recording or text message was disputed or decided. Inclusion in the database does not mean that any evidence in this decision was found to be fake. Courtready.ca obtained this decision from the Canadian Legal Information Institute (CanLII).

FULL DATABASE
https://courtready.ca/deepfake-evidence-in-canadian-courts/

**DISCIPLINE COMMITTEE**
**OF THE ONTARIO COLLEGE OF TEACHERS**

**Citation: Ontario College of Teachers v Truelove 2024 ONOCT 44**
**Date: 2024-09-26**

**DECISION, REASONS FOR DECISION AND ORDER**

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 Gregory Lyall Truelove, OCT, a member of the Ontario College of Teachers.

---

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

– and –

GREGORY LYALL TRUELOVE (REGISTRATION #473500)

---

PANEL: Hanno Weinberger, OCT, Chair
Irene Dembek, OCT
Emile Ramlochan

HEARD: September 29-30, 2021; July 25, 28-29, 2022; September 28, 2022; and November 17, 2022

Eli Mogil, for the Ontario College of Teachers

Gregory Lyall Truelove, self-represented

Julie Maciura, Independent Legal Counsel

**PUBLICATION BAN: Pursuant to subsections 32.1(3) of the *Ontario College of Teachers Act, 1996*, no person shall publish the identity of, or any information that could disclose the identity of any person who is under 18 years old and is a witness in a hearing or is the subject of evidence in a hearing.**

2024 ONOCT 44 (CanLII)

[1] This proceeding was heard electronically before a panel of the Discipline Committee (the "Panel") of the Ontario College of Teachers (the "College") on September 29-30, 2021; July 25, 28-29, 2022; September 28, 2022; and November 17, 2022 in accordance with rule 8.01 of the *Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee* (the "Rules").

[2] Gregory Lyall Truelove (the "Member") attended the hearing. He was represented by legal counsel at the start of the proceedings. As of July 25, 2022, the Member proceeded without legal representation.

[3] At the conclusion of the hearing, the Panel reserved its decision. For the reasons that follow, the Panel finds that the Member engaged in professional misconduct contrary to subsections 1(7), 1(7.2), 1(14), 1(15), 1(18) and 1(19) of Ontario Regulation 437/97. The Panel finds that the Member also engaged in sexual misconduct as defined in section 1 of the *Act*.

## A. PUBLICATION BAN

[4] The Panel ordered a publication ban pursuant to subsection 32.1(3) of the *Ontario College of Teachers Act, 1996* (the "*Act*"), which makes such an order mandatory. Accordingly, no person shall publish the identity of, or any information that could disclose the identity of, any person who is under 18 years old and is a witness in a hearing or is the subject of evidence in a hearing.

## B. THE ALLEGATIONS

[5] The allegations against the Member in the *Notice of Hearing* dated February 25, 2020 (Exhibit 1) are as follows:

2024 ONOCT 44 (CanLII)

**IT IS ALLEGED** that Gregory Lyall Truelove is guilty of professional misconduct as defined in 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);[1]

(b) he abused a student or students, verbally, contrary to Ontario Regulation 437/97, subsection 1(7);

(c) he abused a student or students psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7.2);

(d) he engaged in sexual misconduct as defined in section 1 of the *Act*;

(e) he failed to comply with the *Act* or the regulations or the by-laws, specifically section 32[2] of the by-laws, contrary to Ontario Regulation 437/97, subsection 1(14);

(f) he failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically subsection 264(1) thereof or the Regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);

(g) 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);

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

**PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS**

1. Gregory Lyall Truelove is a member of the Ontario College of Teachers.

2. At all material times, the Member was employed by the Upper Canada District School Board (the "Board") as a teacher at [XXX] Institute (the "School") in [XXX], Ontario.

[1] Allegation withdrawn at College Counsel's request.
[2] As of January 20, 2022, section 32 of the by-laws has been re-numbered to section 26.

2024 ONOCT 44 (CanLII)

3. At all material times, Student 1, Student 2 and Student 3 were [XXX] year old male students in the Member's class. Student 4 and Student 5 were [XXX] year old male students in the Member's class.

4. During the 2017-2018 academic year, the Member said to Student 1 that he would put his head "under the tire of his truck just as quick" or words to that effect.

5. In or around April 2017, the Member made inappropriate Facebook posts that related to an advertisement for women's underwear designed to prevent sexual assault. The Facebook posts included, but were not limited to:

   (a) [“]This is like the diet where you lock the fridge and then put the key in your own pocket. Hoe's gonna [sic] hoe. Looking like a [D]epends might work though";

   (b) " ... I will make as much fun of this crap bag product as humanly possible. They better make these in refrigerator size because the only people these are going to be popular with are the marching wildebeests [sic] yelling "look at my underwire ... "";

   (c) "The point is to relieve the social media sponges of their money";

   (d) "I didn't think the product needed an in depth explanation of how ridiculous it is. Maybe they will include one in the box, let us know";

   (e) "The person would have had to be physically assaulted before anyone would see that they had these on to begin with. They should sew a little pocket into them and fill it with common sense".

6. From in or about February to April 2018, the Member:

   (a) asked Student 2, "do you want that where the sun don't shine?", or words to that effect;

   (b) on one or more occasions, referred to students as "bums and that they won't go anywhere in life," or words to that effect;

   (c) on one or more occasions, referred to students as "idiots";

   (d) told his class that he receives "paid stress leave and should just take it," or words to that effect;

2024 ONOCT 44 (CanLII)

(e) referred to Student 3 as a "baby" in class;

(f) in response to the phrase "Mr. Truelove loves cunt," written on the blackboard, stated to the class, " ...and the person forgot the part about your mom and I don't give 'A's' for free," or words to that effect;

(g) telephoned the parent of Student 5 and asked her about the School Principal following "procedures" regarding a previous incident with Student 5;

(h) did not report to the School's administration an incident of bullying between students involving Student 3;

(i) did not notify the School's administration that Student 3 had left the classroom until the following day.

7. On or about April 27, 2018, while at a gas station after hours, the Member:

(a) told Student 4 that "Student 2 got his girlfriend pregnant. I am going to have to supply the whole class with condoms because I don't want more of those bad kids running around", or words to that effect;

(b) asked Student 4 and his male friend, "is that your little tampon car you're driving? Are you filling it full of tampons?", or words to that effect.

8. In or around October 2018, the Member engaged in electronic communications with members of the public, included, but not limited to:

(a) "If you can wire fog lights on the back of your truck you can make your brake lights work. He went full retard, never go full retard";

(b) "Your arse is? You'd better get that checked out son";

(c) "I think you're confusing me with your uncle";

(d) "How long have you held the record of longest surviving abortion? Somebody better call Ripley's before the coat hanger makes it to the brain stem";

(e) "What size do you usually take, same as your mom? Have a special on a double ended for you two";

2024 ONOCT 44 (CanLII)

(f) "That's what the Dr. told your mom when she tried to have you adopted. You and your brother can keep that [*laughing emoji*]. Priceless".

9. The Member was given a one day suspension without pay by the Board.

2024 ONOCT 44 (CanLII)

## C. THE MEMBER'S PLEA

[6] The Member denied the allegations set out in the *Notice of Hearing*.

## D. THE EVIDENCE

[7] The Panel heard from eight witnesses in total – five on behalf of the College and three on behalf of the Member. The Member did not testify. Relevant portions of this evidence will be set out in greater detail, as needed, in the Panel's reasons for decision below. What follows is a summary of the evidence that the Panel heard in this hearing.

### (1) The College

[8] The College called five witnesses to prove the allegations set out in the *Notice of Hearing*. Three witnesses – [XXX] ("Student 3"), [XXX] ("Student 4"), and [XXX] ("Student 5") – were students in the Member's class and were eyewitnesses to the alleged misconduct. Two witnesses – Diane Stroud and Kellie Weir-Burtt – were administrators at the School at the time of the misconduct and investigated the allegations against the Member.

#### (a) [XXX] (Student 3)

[9] At the time of the hearing, Student 3 was [XXX] years old. During the 2017-2018 school year, Student 3 was in Grade [XXX] or [XXX] and was in the Member's second semester [XXX] and [XXX] classes. Student 3 testified about his recollections of the

Member's comments and conduct in his [XXX] class in the second semester of the 2017-2018 academic year.

[10] Student 3 testified that the Member often referred to students as idiots if they made a mistake or did not know how to complete an assigned task. For example, the Member called students "idiots" while they were being tested on whether they could use the [XXX] in class in a safe manner. Student 3 testified this made him feel bad about himself at the time because it was his first time using the [XXX]. If students continually had trouble, the Member told them that they weren't going anywhere in life. Student 3 testified that these kinds of comments were made every couple of days or so. Student 3 did not have a good memory of the Member calling him a "baby". He remembered that the Member said the word "baby" in class, but he did not remember if it was directed at him or what the circumstances were surrounding this comment. Student 3 testified that he did not like the Member and did not enjoy the class because of the Member's behavior. He often skipped class for this reason. Overall, the Student 3 testified that the Member was a "complete dick" to him during class and that the Member often found reasons to kick him out of class.

**(b) [XXX] (Student 4)**

[11] Student 4 was a Grade [XXX] or [XXX] student in the Member's [XXX] class in the 2017-2018 academic year. At the time of the hearing he was [XXX] years old. He recalled being in the Member's [XXX] class at the same time as Student 2, but he could not recall with certainly whether Student 3 and Student 5 were also in that class, or if they had been in another of the Member's classes together. Student 4 was also a student in the Member's [XXX] class in Grade [XXX]. Student 4 testified about comments that he heard

2024 ONOCT 44 (CanLII)

the Member make in class, his interactions with the Member outside of school, and Facebook posts that he saw on the [XXX] Facebook group.

[12] Student 4 testified that the Member often called students “bums” and “idiots”, and that the Member told students that they “wouldn’t go anywhere in life”. He testified that this occurred about once a week and that it would happen whenever students did not meet the Member’s expectations of them. Additionally, the Member made comments along the lines of “I should take a stress leave” whenever the class got out of hand. He recalled that the Member told several students that they were the reason why teachers go on stress leave. The Member would tell the class on a weekly basis that he should just take stress leave and not have to deal with the class. Student 4 testified that, at times, these comments were directed at him. Student 4 also testified that he heard the Member refer to Student 3 as “babyface”.

[13] Student 4 testified about an encounter that he had with the Member at a gas station on April 27, 2018. Student 4 and two friends ran into the Member at a gas station in town. Student 4 was filling up his tank with gas, when the Member said to him “are you filling your car up full of tampons?” Student 4 testified that, at school, the Member would often ask him if he was driving his “tampon car” because his car was small. When Student 4 and his friends went inside the gas station, they were speaking with the cashier, who was a friend of theirs. The Member went inside and asked the students if they were buying condoms. The Member told the students that if they were not buying condoms, then they should, because the Member didn’t want more of them running around.

[14] In cross-examination, Student 4 admitted that he did not remember exactly when the Member made certain comments. He admitted that they could have been made either

2024 ONOCT 44 (CanLII)

in the 2017-2018 academic year or in the 2018-2019 academic year. He also agreed that he may have been enrolled in the Member's class in the 2018-2019 academic year, and not in February to April of 2018 – the time of the allegations. Overall, he did not remember when he was enrolled in the Member's class. However, he was steadfast that the Member made these comments frequently. Student 4 also admitted in cross-examination that he was a poorly behaved student; he testified about several incidents during which he was disruptive in the classroom.

[15] Student 4 testified that the Member also referred to him and other students as the "longest standing abortion" or the "load that should have been swallowed". The Member also told students that their moms were "hot". Student 4 thought these comments were shocking but did not report the Member's conduct to the vice-principal or to his mother. According to Student 4, he did not want to hurt his mother by telling her or the administration what the Member had said.

[16] Student 4 further testified that he was a member of a Facebook group called [XXX] – an Ottawa Valley group where members share trucks and "mechanic stuff". A few students were members of this group, but most were not. He testified that he saw a screen shot of a post on this group by the Member with a picture of a truck and the caption "he went full retard, never go full retard". In direct examination, Student 4 testified that he was not a member of the group at the time of the post, but in cross-examination, Student 4 admitted that he joined the group in November of 2017, prior to the post being made in May of 2018. Nevertheless, Student 4 testified that he did not see the post on Facebook but he saw it through a screenshot that was circulated among his group of friends.

2024 ONOCT 44 (CanLII)

**(c) [XXX] (Student 5)**

[17] Student 5 was in Grade [XXX] at the time of the alleged events. He attended the Member's [XXX] class for approximately one and a half months in the second semester of the 2017-2018 academic year. Student 5 testified about his observations of the Member during the class. Student 5 also testified about the Member's comments in the [XXX] Facebook group.

[18] Student 5 testified that he heard the Member refer to students as "idiots", "bums", "losers", and that the Member told students that they "wouldn't go anywhere in life". He heard the Member make comments like this at least twice. Student 5 further testified that he heard the Member call Student 3 a "crybaby" in one of the first three weeks of class. Student 5 also testified that when the Member was faced with opposition from students the Member would say that that he did not have to deal with the situation and could get paid for time off if he took stress leave.

[19] Student 5 testified that he dropped the Member's class in the middle of the semester. Student 5 made an arrangement with the school administration to pick up another class and do independent work so that he could achieve the required credit. Student 5 testified that his mother told him that the Member called her to question her about whether "proper procedures were followed" regarding Student 5 dropping the Member's class.

[20] Student 5 further testified that screenshots were circulated among his group of friends of some posts that the Member made in the [XXX] Facebook group. In particular, Student 5 remembered seeing a screenshot of a comment made by the Member about someone being "the longest living abortion", or something along those lines.

2024 ONOCT 44 (CanLII)

**(d) Vice-Principal Dianne Stroud**

[21] Dianne Stroud was a vice-principal at the School for approximately one and a half years starting in January 2018. Vice-Principal Stroud investigated some of the complaints that form the basis of the allegations in this hearing. As part of her investigation, she interviewed students in the Member's class, reviewed Facebook posts students had brought to her attention, and took notes of her interviews with students. She reported her findings to her principal.

[22] Vice-Principal Stroud testified that issues with the Member came to her attention when Student 3 came to her office in tears. Student 3 was not in control when he came to her office; he repeated several times that he hated the Member's class and claimed that he was not going back to the class. Vice-Principal Stroud felt that it would not be appropriate to interview Student 3 at that time because of his emotional state, and she provided him with some time to collect himself. She decided to interview some other students in the Member's class before interviewing Student 3. When she eventually interviewed Student 3, he told her that other kids in the Member's class were joking around about him, and that the Member did not stop them. Later, Student 3 heard from other students that the Member called him "such a baby". Student 3 also reported that whenever the class misbehaved, the Member had told the class that he gets paid stress leave and that he should take it.

[23] Vice-Principal Stroud interviewed Student 5 as part of her investigation. Student 5 reported to her that the Member told him to "shove a [XXX] where the sun don't shine", that he called students "bums", "stupid", and told students that they will never do things with their lives. Student 5 also reported that the Member contacted his mother and asked

2024 ONOCT 44 (CanLII)

if Principal Weir-Burtt had “followed protocol” regarding Student 5 dropping the Member’s class. Vice-Principal Stroud testified that she did not have much information about the latter report as Principal Weir-Burtt followed up on it. After interviewing Student 5, Vice-Principal Stroud was concerned that the Member might be speaking inappropriately to students in the class and decided that she would interview more students.

[24] Vice-Principal Stroud then went on to interview Student 4. Student 4 reported to her that there was an incident that had occurred at a gas station, where he and some friends ran into the Member. During this incident, the Member said “[Student 2] got his girlfriend pregnant. I am going to have to supply the whole class with condoms because I don’t want more of those bad kids running around.”. The Member also said to Student 4, “is that your little tampon car you’re driving? Are you filling it full of tampons?”. In addition to recalling this incident, Student 4 advised Vice-Principal Stroud that the Member had posted inappropriate things to the Facebook group [XXX]. Student 4 showed her a screen shot of a comment that the Member made in that group, which read “if you can wire fog lights on the back of your truck you can make your brake lights work. He went full retard, never go full retard.”

[25] Vice-Principal Stroud interviewed a number of other students in the Member’s class. [XXX] reported to her that the Member said to the class “that’s the biggest baby I’ve ever seen” on one occasion when Student 3 left the classroom, and also that he called Student 5 an “idiot” on at least one occasion. [XXX] also reported that the Member called Student 3 a “big baby” loud enough for others in the class to hear. Student 2 told her about an incident where some of the students were fooling around in the Member’s classroom. During this incident, Student 2 claimed that he accidentally dropped a [XXX]

2024 ONOCT 44 (CanLII)

into a [XXX], which stopped the [XXX] from working. Student 2 took the [XXX] out and the Member "freaked out" and said to Student 2, "do you want that where the sun don't shine". Student 2 told Vice-Principal Stroud that he did not get along with the Member and that he did not want to be in the class anymore. She also interviewed [XXX] ("Student 1") who reported that he made a joke about putting a light bar on the Member's truck, and the Member responded that "if I did that he would put my head under the tire just as quick."

[26] Vice-Principal Stroud testified that she asked open-ended questions when interviewing students. She did not get the sense that the students were "out to get" the Member, but she did notice that the students did not always seem engaged about what was being taught in the Member's class.

**(e) Principal Kellie Weir-Burtt**

[27] Kellie Weir-Burtt was the principal at the School in the 2017-2018 academic year. When she joined the School as its principal, there was an ongoing investigation regarding the Member making inappropriate posts on Facebook. Principal Weir-Burtt took over the oversight of this investigation. Additionally, Principal Weir-Burtt testified about overseeing the investigation into allegations that the Member had made inappropriate comments and engaged in inappropriate conduct in 2018.

[28] In August of 2017, the Member was on leave and was expected to return for the 2017-2018 academic year. Principal Weir-Burtt met with the Member on August 30, 2017 for a "return to work" meeting to complete the investigation that had started the previous year regarding the Member posting inappropriate comments on Facebook in response to a video titled "This Underwear Prevents Sexual Assault". In this meeting, Principal Weir-Burt's role was to determine what likely happened and to follow up with the Board as to

2024 ONOCT 44 (CanLII)

next steps. Principal Weir-Burtt testified that, in this meeting, the Member admitted that he made the comments from his Facebook account. In this interview, the Member also stated that none of his Facebook followers were current students but he was aware that there were some former students who may follow his Facebook page. When asked whether he was concerned that some students would see his comments on this post, he replied that he was under the impression that only people who were "on his list" (meaning people who follow him or are friends with him through Facebook) could see comments that he posted. As a result of the investigation, the Member was provided with a letter of expectation dated September 1, 2017 (Exhibit 12), reminding the Member to abide by the *Ethical Standards of the Teaching Profession* and the *Standards of Practice of the Teaching Profession* and to be professional in his activities online. The Member returned to work in the 2017-2018 academic year.

[29] In the spring of 2018, Principal Weir-Burtt became aware that a number of students had reported that the Member made inappropriate comments to them both in and out of the classroom. Principal Weir-Burtt testified that the investigation into these inappropriate comments was primarily handled by Vice-Principal Stroud, but that Principal Weir-Burtt also spoke to some students. Additionally, Vice-Principal Stroud advised Principal Weir-Burtt that some students brought forward screen shots of inappropriate Facebook posts made by the Member. As a result of these allegations, the Member was reassigned to work at home while the investigation was ongoing.

[30] On May 11, 2018, Principal Weir-Burtt interviewed the Member regarding these allegations. In this interview, the Member denied asking "do you want that where the sun don't shine?". The Member further denied calling students "bums", calling them "stupid",

2024 ONOCT 44 (CanLII)

telling students that they “won’t go anywhere in life”, calling a student a “baby”, and saying “if you did that I would put your head under the tire just as quick” in response to a student. The Member admitted that he might have said something along the lines that he “got paid stress leave and should just take that”. The Member admitted that he contacted Student 5’s mother to follow up about an incident that occurred in his classroom because he believed that Principal Weir-Burtt did not follow school procedure by allowing Student 5 to go back to class after the incident. The Member also denied making inappropriate comments to students at a Shell gas station. During the interview, the Member was shown screenshots of comments made in the [XXX] Facebook group by a profile with the name “Greg Truelove”. The Member admitted that the profile photo was a picture of him, however, he denied making the comments and suggested that the screenshots were photoshopped. Following this interview, the Board’s Human Resources department completed an investigation report, making findings regarding the allegations. However, the Member then went on a medical leave of absence and the investigation was halted until his return to work.

[31] The Member’s return to work was scheduled for early 2019. As such, Principal Weir-Burtt met with the Member on February 8, 2019 to discuss the Human Resources investigation report. During this meeting, Principal Weir-Burtt informed the Member that the Board investigation verified that he made numerous inappropriate comments to students, and that he made inappropriate comments on the [XXX] Facebook group. The Member was provided with a letter of discipline dated February 8, 2019 (Exhibit 17), confirming the Board’s findings, issuing a one-day suspension, and requiring the Member to attend training regarding professional boundaries.

2024 ONOCT 44 (CanLII)

[32] Principal Weir-Burtt left the School in June of 2019; she did not have any other notable interactions with the Member between February 8, 2019 and her departure in June.

[33] In cross-examination, Principal Weir-Burtt agreed with the Member that he reported [XXX] ("Student 2"), Student 4, Student 5 being disruptive and engaging in some unsafe behaviour in the Member's class, such as cutting a [XXX], among other things. This behavior led to the class being disrupted. The principal met with these students to address the unsafe behavior and advised them that if there are any further incidents, they may be removed from class or given written assignments to complete the credit. The Member also suggested to Principal Weir-Burtt that this group of students were "out to get" him and made suggestions that they photoshopped the Facebook posts. Principal Weir-Burtt had no knowledge of this and was not able to answer questions about such fabrication. She testified that she did not spend any time analyzing the screenshot provided by the students and comparing it to the Member's other posts in the [XXX] group. Principal Weir-Burtt also agreed with the suggestion that students could have communicated with each other about the Member in the weekend between when he was sent home and when many of the students were interviewed.

**(2) The Member**

[34] The Member called three witnesses in his defence – [XXX], [XXX], and [XXX]. The witnesses were students in the Member's class at the time of the alleged misconduct. The Member did not testify during this hearing.

2024 ONOCT 44 (CanLII)

**(a) [XXX]**

[35] [XXX] was a student in the Member's [XXX] class. At the time of the hearing, he worked as a [XXX] for [XXX]. Mr. [XXX] testified about his recollections of the Member's [XXX] class in the second semester of the 2017-2018 academic year and about his interview with Principal Weir-Burtt about that class.

[36] Mr. [XXX] testified that there were some incidents where students "got out of hand" during the Member's class. He recalled that there was one occasion on which a [XXX] was put into a [XXX] and another occasion during which a [XXX] was cut and the Member had to stop the class. Mr. [XXX] also testified about being interviewed by Principal Weir-Burtt. In his recollection, the questions that she asked were not open-ended, but rather specific about the Member's conduct and whether students were acting up in the classroom. However, at the time of testifying, Mr. [XXX] also could not recall any of the questions that Principal Weir-Burtt asked as part of his interview. Mr. [XXX] testified that the Member always went through the appropriate safety protocols and safety modules. Mr. [XXX] did not recall the Member making any inappropriate comments to students in the classroom, he did not recall the Member "calling people out" or "getting into verbal bickering". Mr. [XXX] was not aware of any Facebook posts that may have been made by the Member.

**(b) [XXX]**

[37] [XXX] was a student in the Member's [XXX] class during the second semester of the 2017-2018 academic year. She was not a student in the Member's [XXX] class, but she attended the classroom on occasion to collect scrap pieces of [XXX] for her [XXX]

2024 ONOCT 44 (CanLII)

projects. She testified about her recollections of the Member and of her interview with Principal Weir-Burtt regarding the Member's class.

[38] Ms. [XXX] testified that she did not hear the Member make any inappropriate comments or engage in inappropriate interactions in class or outside of the classroom.

[39] Ms. [XXX] testified that she had an interview with the principal regarding the Member's class. During this interview, the principal had asked her if there was anything strange going on in class and if the Member was a good teacher. She testified that the meeting lasted between five and ten minutes, and that the principal took notes in a notebook. Ms. [XXX] told the principal that she did not have any concerns with the Member.

**(c) [XXX]**

[40] [XXX] was a student at the School. He was in the Member's [XXX] class in the second semester of the 2017-2018 academic year. Mr. [XXX] testified about his recollections of the [XXX] class and the Member's conduct in that class.

[41] Mr. [XXX] testified that, during one of the Member's [XXX] classes, he saw Student 2 cut a [XXX] with a [XXX], so that it could no longer be used. Mr. [XXX] testified that he had never heard the Member call students "bums" or "babies". Additionally, he did not hear the Member ask any student if he wanted a [XXX] "where the sun don't shine". Furthermore, Mr. [XXX] did not hear the Member make any inappropriate comments or engage in inappropriate interactions in class or in the hallway.

[42] After the Member was sent home, Mr. [XXX] asked to meet with the principal because he was concerned about safety issues in the classroom – there were missing

2024 ONOCT 44 (CanLII)

[XXX], a cut [XXX], and students were being rowdy. He was concerned that students were not being safe and wanted to bring this to the attention of the principal.

## E. SUBMISSIONS OF COLLEGE COUNSEL

[43] College Counsel requested that the allegation of professional misconduct outlined in paragraph 1 of the *Notice of Hearing*, namely that the Member contravened section 1(5) of Ontario Regulation 437/97 be withdrawn. College Counsel stated that the Panel's permission to withdraw the allegations was being sought as it would be duplicative to pursue both this allegation and the allegation of breach of subsection 1(14) of Ontario Regulation 437/97. College Counsel also admitted that particular 6(f) had not been proven on a balance of probabilities.

[44] College Counsel submitted that the College had proven all the remaining factual and legal allegations as outlined in the *Notice of Hearing*. College Counsel acknowledged that Principal Weir-Burtt and Vice-Principal Stroud's evidence contained hearsay evidence from students at the School. However, College Counsel reminded the Panel that hearsay evidence is admissible in discipline proceedings pursuant to subsection 15(1)(b) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (the "*SPPA*") and submitted that the Panel could place great weight on the hearsay evidence before them.

[45] College Counsel noted that unlike a criminal proceeding, the Member did not have a right to silence (because a discipline hearing is a civil proceeding), and therefore, the Panel should draw an adverse inference from the Member's decision not to testify at the hearing. Once the College makes a *prima facie* case, the Member should call all material witnesses over whom he has control to testify at the hearing to provide counterevidence in support of the Member's position. According to College Counsel, the Member is in the

2024 ONOCT 44 (CanLII)

best position to refute the claims that he engaged in the conduct as testified to by the College's witnesses. However, he did not provide any evidence himself and the evidence of the witnesses that the Member called was of very little assistance to the Member's case. Therefore, the Panel should infer that the Member did not have anything to say that would have helped his defence, and that he indeed made the comments and engaged in the conduct alleged in the *Notice of Hearing*.

2024 ONOCT 44 (CanLII)

[46] College Counsel submitted that this would be an appropriate case for a finding of sexual misconduct for comments made outside of the classroom. According to College Counsel, the Member's online comments meet the definition of sexual misconduct in the *Act*. College Counsel provided the Panel with cases to demonstrate the types of comments (made by members at school) that have been found to constitute sexual misconduct in the past and submitted that the Member's comments were similar to ones found in these cases: *Ontario College of Teachers v. Baker*, 2021 ONOCT 59; *Ontario College of Teachers v. Tudor*, 2021 ONOCT 46; *Ontario College of Teachers v. Walker*, 2022 ONOCT 29; and *Ontario College of Teachers v. Bertucci*, 2022 ONOCT 68.

## F. MEMBER'S SUBMISSIONS

[47] In his closing submissions, the Member acknowledged that he made the 2017 Facebook comments. However, the Member noted that teachers are responsible for fostering and promoting a society that is open to debate and questioned whether they are prohibited from engaging in debates about sensitive and contentious topics. The Member also questioned how the comments he made impacted his teaching practice.

[48] With respect to the allegations in particulars 6 through 8, the Member submitted that the Panel should carefully consider the adequacy of Principal Weir-Burtt's and Vice-

Principal Stroud's investigations of his alleged comments and conduct and to the credibility of the College's witnesses. The Member questioned the timing of the student interviews conducted by Principal Weir-Burtt and Vice-Principal Stroud. He suggested that the interviews occurred shortly after Student 5 and Student 2 were found to have misbehaved in the Member's class. The Member noted that many of the students who were interviewed by Principal Weir-Burtt and Vice-Principal Stroud were friends and could have been motivated to assist each other or seek retribution against the Member for being strict about class safety. The Member noted that there was a weekend between the start and end of the student interviews and suggested that there could have been collusion or discussion between the students that weekend about the interviews about the Member's class and conduct.

[49] The Member reminded the Panel that Student 4 did not remember whether he was a student in his [XXX] class at the material time or during another academic year. The Member submitted that, if Student 4 was not a student during the material time, he would not have been able to hear any comments made in [XXX] class. The Member suggested that Student 4 was not a credible witness and that he was motivated to provide testimony that was not favourable to the Member, given their relationship outside of the classroom. The Member referred the Panel to the videos he showed to Vice-Principal Stroud during her testimony of students allegedly harassing him.

[50] The Member reminded the Panel that he had been able to create realistic Facebook posts (which he had shown to witnesses in the hearing) imitating actual posts and suggested that the posts in the [XXX] Facebook group at issue could have also been fabricated. The Member noted that [XXX] mentioned the posts to Vice-Principal Stroud

2024 ONOCT 44 (CanLII)

on April 30, 2018 and provided her with a copy of them a few days later on May 3, 2018. However, according to the Member, the posts are dated May 2. The Member submitted it would have been impossible for [XXX] to have known about these posts on April 30, 2018 and therefore the Panel should consider the possibility they were not real.

[51] The Member submitted that the investigation by Principal Weir-Burtt and Vice-Principal Stroud into the allegations were incomplete and unreliable. The Member reminded the Panel that Mr. [XXX] and Ms. [XXX] testified that they had been interviewed by the principal, however the Panel was not provided with the principal's notes of these interviews. As well, Principal Weir-Burtt and Vice-Principal Stroud did not interview every student in the Member's classes, but rather, were selective about who they interviewed. For example, Mr. [XXX], who had a favourable opinion of the Member, was not interviewed. The Member further suggested that Principal Weir-Burtt had been biased in her investigation because she did not like the Member's 2017 Facebook comments and did not like his contacting Student 5's mother about whether Principal Weir-Burtt had followed certain procedures.

[52] The Member made various suggestions about lack of fairness in the Board's and College's investigation, including that there had been an inordinate delay between the Board's investigation and referral to the College. He suggested that it was difficult for him to contact and find witnesses as several years have now past since the alleged incidents took place. The Member questioned as well, the poor image quality of some of the exhibits. The Member suggested this also compromised his abilities to present his defence.

2024 ONOCT 44 (CanLII)

## G. DECISION ON FINDING

[53] The College bears the burden of proving the allegations in accordance with the standard of proof set out in *F.H. v. McDougall*, 2008 SCC 53, [2008] 3 S.C.R. 41, which is proof on a balance of probabilities.

[54] The Panel granted the College's request to withdraw the subsection 1(5) allegation, as it was duplicative of the subsection 1(14) allegation.

[55] Having considered the evidence, onus and standard of proof, and the submissions of the parties, the Panel finds that the Member engaged in acts of professional misconduct as alleged, contrary to Ontario Regulation 437/97, subsections 1(7), 1(7.2), 1(14), 1(15), 1(18) and 1(19). The Panel also finds that the Member engaged in sexual misconduct as defined in section 1 of the *Act*.

## H. REASONS FOR DECISION

[56] The Panel has carefully reviewed the evidence and submissions presented in this hearing. In the reasons that follow, the Panel comments only on the portions of the evidence that are most relevant to the allegations contained in the *Notice of Hearing*. The Panel first sets out its factual findings and then explains why these facts give rise to a finding of professional misconduct, as alleged in the *Notice of Hearing*.

[57] As stated above, the College has the burden of proving the allegations. This means that first, the College must prove that the behaviour alleged in the *Notice of Hearing* occurred on a standard of the balance of probabilities – or that it is more likely than not that the Member acted as alleged. Second, the College has the burden of proving that any such behaviour constitutes professional misconduct.

2024 ONOCT 44 (CanLII)

[58] The Panel must assess the reliability and credibility of the witnesses who testified during the trial. In evaluating the evidence before it, the Panel recognizes that it can accept all, some, or none of any witness' evidence. When deciding how much of each witness' evidence to accept, the Panel has considered the following credibility factors: the witness' ability to observe and recall the events; whether the witness has an interest in the outcome of the hearing that may cloud their recollection; the plausibility or reasonability of the evidence; and the internal and external consistency (or inconsistency) of the evidence (see: *Re Pitts and Director of Family Benefits Branch of the Ministry of Community & Social Services*, 1985 CanLII 2053 (ON SC), "*Pitts*"). The Panel can also determine credibility based on logic, common sense, and its experience.

**(1) Factual Findings**

[59] In making its factual findings, the Panel first sets out its credibility assessments followed by its findings of fact. In making its findings of fact, the Panel has divided the allegations into three categories. The first category is "the classroom management allegations", which relate to comments made to student in the classroom, as alleged in particulars 4 and 6 of the *Notice of Hearing*. The second category is "the electronic communications", which include allegations of the Member posting comments on Facebook posts as alleged in particulars 5 and 8 of the *Notice of Hearing*. The third category is "the gas station incident", which includes allegations of the Member making inappropriate comments to students at a gas station as alleged in particular 7 of the *Notice of Hearing*.

2024 ONOCT 44 (CanLII)

**(a) Adverse Inference**

[60] The Member did not testify at this hearing. In a hearing before the Discipline Committee, the Member is not required to testify, and the onus is always on the College to prove the allegations on the balance of probabilities based on clear, cogent and convincing evidence. However, the Member does not have a right to silence as in a criminal case. Therefore, where the College's evidence has established *prima facie* proof of a fact and a member chooses not to testify to answer that evidence, it is open to the Committee to draw an adverse inference from a member's failure to testify. In other words, it is open to the Panel to find that the Member chose not to testify because his testimony would not support his case. In order for the Panel to be able to draw an adverse inference about certain facts, the College is required to make a *prima facie* case on those facts. A *prima facie* case is one in which the College has put forward evidence that, if accepted, could result in a finding against the Member. Where such a case is made out, the Panel may make an adverse inference and draw a conclusion based on missing evidence (i.e., on the failure of the Member to testify) that if it had been tendered, it would not have been favourable to the Member.

[61] In this case, the Panel would have benefitted from hearing the Member's sworn testimony regarding certain allegations. Specifically, the Member is particularly and uniquely qualified to testify as to whether or not he made the alleged comments in the classroom, whether or not he made certain comments to students at a gas station, and whether or not he wrote and posted the alleged Facebook posts. As such, the failure of the Member to testify in this case leads the Panel to draw an adverse inference in making

2024 ONOCT 44 (CanLII)

some of its findings. The Panel will specify below where it has relied on an adverse inference.

**(b) The Classroom Management Allegations**

**(i) Particular 4: During the 2017-2018 academic year, the Member said to Student 1 that he would put his head "under the tire of his truck just as quick" or words to that effect.**

[62] The Panel finds that the College has failed to prove on a balance of probabilities that during the 2017-2018 academic year the Member said to Student 1 that he would put his head "under the tire of his truck just as quick" or words to that effect.

[63] The evidence regarding this particular was comprised entirely of hearsay evidence, namely testimony from Vice-Principal Stroud that Student 1 reported hearing the Member say that he would put Student 1's head under the tire "just as quick". Vice-Principal Stroud testified that the Member made this comment after Student 1 had said he would put a light bar on the Member's truck. The Panel found Vice-Principal Stroud to be a credible and reliable witness, and the Panel recognizes that she took her notes as part of her duties as vice-principal. However, during her testimony, Vice-Principal Stroud could not recall how Student 1 came to tell her of this incident, nor could she recall any other circumstances surrounding it. Additionally, the Panel received evidence from Principal Weir-Burtt that the Member denied making this statement during his Opportunity to Respond interview. The Panel did not hear from Student 1 or from any eyewitness regarding the Member making this comment. Due to this inconsistent evidence, the Panel is of the view that the College has failed to show on a balance of probabilities that the Member said to Student 1 that he would put his head "under the tire of his truck just as quick" or words to that effect.

2024 ONOCT 44 (CanLII)

### (ii) Particular 6: Relating to the Member's comments and conduct from in or about February to April 2018

[64] The Panel finds that the College has proven on a balance of probabilities the particulars alleged in paragraphs 6(b), 6(c), 6(d), 6(e) and 6(g). The College has failed to prove on a balance of probabilities the particulars alleged in paragraphs 6(a), 6(f), 6(h) and 6(i). The Panel will address its findings regarding these allegations in the order that they appear in the *Notice of Hearing*.

[65] The Panel received a great deal of evidence regarding comments that the Member made in the classroom. In making its findings about the Member's classroom behaviour, the Panel placed the greatest weight on the testimony of the students who witnessed the incidents and gave evidence under affirmation at the hearing – Student 3, Student 4, and Student 5. The Panel finds that these students were generally credible as they tried their best to remember and accurately recount the events. These students' evidence displayed most of the markers of credibility in *Pitts*. The students had the opportunity to experience and observe the events to which they were testifying, their evidence was clear, they were measured in their testimony, and they did not seem to embellish their evidence. If any of the students' evidence was inconsistent with a prior recorded statement, the students had a reasonable explanation for this inconsistency. Additionally, the students were honest about any parts of the events that they did not remember, or if they were not sure about when certain events occurred. Where these students had issues remembering certain events, the Panel finds that these issues relate to incidental details. For example, the Panel notes that Student 3 did not remember with certainty whether he had been in the Member's [XXX] class in one or both semesters of the 2017-2018 school year, whether he had spoken to his friends about the Member's conduct, and whether certain individuals

2024 ONOCT 44 (CanLII)

had been in the Member's class with him. The Panel finds that these gaps in Student 3's memory are reasonable given the passage of time. Similarly, the Panel notes that Student 4 also did not remember the precise academic year that he was in the Member's class. However, he was honest about this gap in his memory and was steadfast in his recollection of the Member's comments to the class. The Panel did not receive any concrete evidence (i.e. attendance records) relating to precisely when either Student 3 or Student 4 were enrolled in the Member's class. The Panel notes that these issues were not related to the core of the allegations and deal with incidental details. Finally, the Panel finds that there is no merit to the Member's submission that any of the students were motivated to fabricate allegations about him. While the Panel accepts that the students may not have liked the Member as their teacher, they testified at this hearing years after they were students in the Member's class. At the time of the hearing, the students had not been taught by the Member for several years, and the Panel did not hear any evidence about any animus that these students held regarding the Member at the time of the hearing.

[66] The Panel further finds that the students that testified on behalf of the Member – [XXX], [XXX], and [XXX] – were similarly credible witnesses. They were able to observe the events they testified to, they testified to the best of their ability, they appeared to be truthful about the events to which they were testifying, and they were honest when they could not remember details. However, the Panel finds there are significant limitations to their evidence as they were not able to testify regarding the majority of the allegations against the Member. They were not aware of the Member's alleged Facebook posts, and so were not able to testify regarding particulars 5 and 8; they were not present at the gas

2024 ONOCT 44 (CanLII)

station on April 27, 2018, and so were not able to testify regarding particular 7; and Ms. [XXX] was not a student of the Member's class so she could not testify to any of the classroom allegations in particulars 4 and 6. Additionally, Mr. [XXX] and Mr. [XXX]'s observations were limited to events that occurred in the Member's [XXX] class. Both students admitted in their testimony that the [XXX] class was larger and noisier than a regular classroom, and that it was not always possible to hear everything that was going on in the classroom. As such, it is possible that comments made by the Member were not heard by Mr. [XXX] and Mr. [XXX], especially as these comments were directed at other students. Overall, while the Panel found Mr. [XXX], Ms. [XXX], and Mr. [XXX] to be credible witnesses, their testimonies did not assist in determining whether the Member committed professional misconduct as alleged.

[67] The Panel finds that the College has failed to prove on a balance of probabilities that the Member asked Student 2 "do you want that where the sun don't shine?", or words to that effect, as alleged in Particular 6(a). The evidence regarding this particular was tendered by the College and was made up entirely of hearsay evidence. The Panel received notes from Vice-Principal Stroud that Student 2 and Student 5 reported to her that the Member made these comments in the context of a [XXX] (Exhibit 19). Additionally, the Panel received notes from Principal Weir-Burt showing that the Member denied making these comments during his Opportunity to Respond meeting (Exhibit 14). During his testimony, Student 5, who was a credible eyewitness, could not recall whether the Member made this comment. Overall, the Panel has received conflicting information regarding whether this comment was made and, as such, finds that the College has failed to prove that the Member made this comment on a balance of probabilities.

2024 ONOCT 44 (CanLII)

[68] The Panel finds that the College has proven on a balance of probabilities that, on one or more occasions, the Member referred to students as "bums and that they won't go anywhere in life," or words to that effect; that the Member referred to students as “idiots”; that the Member told his class that he receives “paid stress leave and should just take it”, or words to that effect; and that the Member referred to Student 3 as “baby” in class, as alleged in particulars 6(b), 6(c), 6(d), and 6(e). The Panel received direct evidence from three students who heard the Member making such comments in his class. Student 3, Student 4, and Student 5 testified that the Member regularly called students “bums”, “idiots”, and told them that they would not go anywhere in life. These students also testified that the Member made a comment in class that he receives paid stress leave and should just take it, in reply to opposition from students. There was minor inconsistency from the students regarding the allegation that the Member called Student 3 a “baby”. The Panel heard evidence from Student 4 that the Member referred to Student 3 as either “baby” or “baby face”. In contrast, Student 5 testified that the Member told Student 3 that he was a “crybaby” or “such a baby”. While these accounts are slightly different, they are similar enough to make the conclusion that the Member referred to Student 3 as a “baby” in some way during the class. The Panel has found that these witnesses were credible and that their evidence about these comments the Member made in class was overall reliable. Additionally, the Panel accepts that during his Opportunity to Respond interview on May 11, 2018, the Member admitted that “he might have said that [he should just take stress leave]”, in hopes that the students would not “wreck” the School’s [XXX] anymore (Exhibit 14).

2024 ONOCT 44 (CanLII)

[69] The Panel is satisfied that the College has made a *prima facie* case regarding the comments the Member made in class, as alleged in particulars 6(b), 6(c), 6(d), and 6(e) (i.e. presented evidence that, if accepted, would lead to a finding of fact against the Member). The Member was in a unique position to testify whether he made comments like these in class. However, he chose not to testify during the hearing. Instead, he relied on the testimony of two other students from his [XXX] class, [XXX] and [XXX]. They testified that he did not hear the Member make inappropriate comments. However, this is not evidence that the comments were not made, but simply that the students did not hear any such comments. This is reasonable since the [XXX] where the Member taught was a large space that was often very loud. The Panel makes an adverse inference from the Member's decision not to testify about these particulars and finds that the College has successfully proven on a balance of probabilities that the Member made the comments alleged in particulars 6(b), 6(c), 6(d), and 6(e).

[70] The Panel finds that the College has failed to prove on a balance of probabilities that in response to the phrase "Mr. Truelove loves cunt," written on the blackboard, the Member stated to the class, "…and the person forgot the part about your mom and I don't give A's for free," or words to that effect, as alleged in particular 6(f). The College admitted in its final submissions that there was insufficient evidence for the Panel to make a finding regarding this particular. The Panel accepts the College's submission and makes no finding.

[71] The Panel finds that the College has successfully proven on a balance of probabilities that the Member telephoned the parent of Student 5 and asked her about the School Principal following "procedures" regarding a previous incident with Student 5,

2024 ONOCT 44 (CanLII)

as alleged in particular 6(g). In making this finding, the Panel relies on Student 5's evidence, as well as the evidence of Principal Weir-Burtt, who testified that the Member admitted to contacting Student 5's mother during his Opportunity to Respond interview.

[72] The Panel finds that the College has failed to prove on a balance of probabilities that the Member did not report an incident of bullying between students involving Student 3 to the school administration, and that the Member did not notify the School's administration that Student 3 had left the classroom until the following day, as alleged in particulars 6(h) and 6(i). The evidence regarding these particulars can be found in the notes of Vice-Principal Stroud. Specifically, the notes state that Student 3 reported that "kids in the class were joking around at me and [the Member] didn't stop them. They went a little too far. I left the room upset. He tried to talk to me but I walked away. I heard after that he said I was such a baby." (Exhibit 19) However, when Student 3 testified at the hearing, he did not testify to this and did not remember the circumstances that led the Member to call him a "baby". Additionally, some evidence relating to these particulars can be found in a discipline letter to the Member, in which the Board notified the Member that they have verified both of these allegations (Exhibit 17). Finally, during the Member's Opportunity to Respond Interview dated May 11, 2018, Principal Weir-Burtt recorded that the Member reported speaking to Vice-Principal Stroud about the incident the following day (Exhibit 14). However, none of the witnesses testified about their recollection regarding this incident. The Panel finds that, overall, this is not sufficient evidence to find that the College has made out these allegations. The Panel does not have sufficient detail to determine what happened during this alleged incident, whether this was indeed an incident of bullying, how long Student 3 left the classroom for, and other details that would

2024 ONOCT 44 (CanLII)

be necessary for the Panel to make an appropriate finding regarding these particulars. In the absence of fulsome sworn evidence regarding these particulars, the Panel is not certain as to what occurred and what the Member's obligations were. As such, the Panel finds that the College has failed to prove these particulars on the balance of probabilities.

2024 ONOCT 44 (CanLII)

**(c) The Electronic Communications**

**(i) Particular 5: In or around April 2017, the Member made inappropriate Facebook posts that related to an advertisement for women's underwear designed to prevent sexual assault.**

[73] The Panel finds that the College has proven on a balance of probabilities that the Member made inappropriate Facebook posts that related to an advertisement for women's underwear designed to prevent sexual assault, as alleged in particular 5.

[74] The Panel considered images submitted by the College of screen shots of the following comments posted by a Facebook user with the name "Greg Truelove" (Exhibit 44):

1. "This is like the diet where you lock the fridge and then put the key in your own pocket. Hoe's gonna [sic] hoe. Looking like a depends might work though" (particular 5a);

2. "This is fear profiteering at it's worst, it's unrealistic, and I will make as much fun of this crap bag product as humanly possible. They better make these in refrigerator size because the only people these are going to be popular with are the marching wildebeests [sic] yelling "look at my underware" [sic]. So tired of fake culture." (particular 5b);

3. "The point is to relieve the social media sponges of their money" (particular 5c);

4. "I didn't think the product needed an in depth explanation of how ridiculous it is. maybe [sic] they will include one in the box, let us know." (particular 5d); and

5. "The person would have had to be physically assaulted before anyone would see that they had these on to begin with. They should

> sew a little pocket into them and fill it with common sense" (particular 5e).

[75] The Panel also considered the evidence of Principal Weir-Burtt relating to this allegation, which included testimony about meeting with the Member on August 30, 2017 during which the Member admitted making these comments on Facebook. Most significantly, the Member admitted in his final submissions to the Panel that he made the comments above from his Facebook account in April 2017. The Panel therefore finds that the Member made the Facebook comments above.

[76] The Panel finds that these comments can be appropriately characterized as inappropriate. The comments include sexist and demeaning language (i.e. "Hoe's gonna hoe") and suggest that this product would only be effective for conventionally unattractive women (i.e. individuals who are "refrigerator size" and "marching wildebeests [sic]") as they would not get sexually assaulted in the first place. The Panel finds these comments to be disrespectful and degrading to women and to victims of sexual assault. The Panel will discuss this further in the "Legal Conclusions" section of the decision.

### (ii) Particular 8: The Member engaged in electronic communications with members of the public in the [XXX] Facebook Group

[77] The Panel finds that the College has proven on a balance of probabilities that the Member engaged in electronic communications with members of the public, as alleged in particular 8.

[78] As a preliminary matter, the Panel notes that the *Notice of Hearing* alleges that the Member engaged in these electronic communications in or around October 2018. Given the evidence tendered at the hearing, the Panel finds that these comments could not have been made in or around October 2018, as these comments were brought to the attention

2024 ONOCT 44 (CanLII)

of Vice-Principal Stroud in the spring of 2018. According to the Board Investigation Report dated May 22, 2018 (Exhibit 15), in May of 2018, the screen shot of the post and comments indicated that the comments were posted “33 weeks ago”. However, the Panel finds that the date on which the comments were made is not a central element of the allegations. Additionally, the Panel finds that the Member was given fair notice about the particulars relating to this allegation, including images of screen shots, and notes of interviews with students that were dated. As such, the Panel finds that the Member was not prejudiced by the fact that the date on the *Notice of Hearing* appears to be incorrect, and that the Member was given an opportunity to respond to these allegations in full.

2024 ONOCT 44 (CanLII)

[79] The Panel has received screen shots of the following comments posted by a Facebook user with the name “Greg Truelove” in a Facebook group titled [XXX] (Exhibit 20):

1. "If you can wire fog lights on the back of your truck you can make your brake lights work. He went full retard, never go full retard” (particular 8a);
2. "Your arse is? You'd better get that checked out son” (particular 8b);
3. "I think you're confusing me with your uncle” (particular 8c);
4. "How long have you held the record of longest surviving abortion? Somebody better call Ripley's before the coat hanger makes it to the brain stem” (particular 8d);
5. "What size do you usually take, same as your mom? Have a special on a double ender for you two” (particular 8e); and
6. “That's what the Dr. told your mom when she tried to have you adopted. “You and your brother can keep that”. [*laughing emoji*]. Priceless.” (particular 8f).

[80] The Panel also heard evidence from Student 4 that he saw the Facebook post and these comments because they were circulated through a screenshot of the post in a group

chat. Student 4 testified that the screenshots were circulated to lots of people in the School. However, Student 4 did not remember seeing the post on Facebook directly, despite the fact that he was a member of the [XXX] group when the post was made. The Panel also heard from Student 5, who testified that he remembered seeing this post through a screenshot in a group chat. However, Student 5 did not see the post on Facebook directly as he joined the [XXX] group after the post was taken down. The Panel found these students to be generally consistent in their evidence regarding the comments seen in the screenshot of the post in the [XXX] group. Their evidence was clear, they were measured in their testimony, and they did not seem to embellish their evidence. They were also all consistent in the fact that they saw these comments through a screen shot in a group chat. While some of them may have been members of the [XXX] group, none of the students claimed to have seen the comments directly on Facebook.

[81] The Panel also received evidence about the comments in the [XXX] group from Principal Weir-Burtt and Vice-Principal Stroud. Vice-Principal Stroud testified that she was approached by a student named [XXX] (who was not the subject of these allegations and who did not testify in this hearing) who showed her screenshots of these posts. Principal Weir-Burtt testified that she became aware of these comments through Vice-Principal Stroud's investigation. The Panel finds that Vice-Principal Stroud and Principal Weir-Burtt were credible and reliable witnesses. They had a good memory of the events that they testified to and were honest if they could not recall details. Vice-Principal Stroud's and Principal Weir-Burtt's evidence was reasonable and was clear and consistent throughout. The Panel also accepts the hearsay notes made by Vice-Principal Stroud regarding these allegations as admissible for the truth of their contents pursuant to subsection 15(1)(b) of

2024 ONOCT 44 (CanLII)

the *SPPA.* Vice-Principal Stroud and Principal Weir-Burtt's notes were contemporaneous to the interviews held with students and with the Member. Additionally, much of the information obtained from the other students, including [XXX], was consistent with the testimony from Student 4 and Student 5. Overall, Vice-Principal Stroud and Principal Weir-Burtt's notes constitute reliable documentary evidence of the events described therein.

[82] The Panel accepts that the notes from the Member's interview with Principal Weir-Burtt on May 11, 2018 (Exhibit 14), indicate that the Member confirmed that he was part of the [XXX] Facebook group, but he denied making the posts in question. During the interview and again during the hearing, the Member noted that the profile picture of the individual who made the posts (which was a picture of the Member) is different from his sign-in photo at the time of the interview (which did not have a picture of the Member) and suggested that someone could have used photoshop to impersonate him or could have hacked into his account. According to Principal Weir-Burtt, the Member indicated that the posts were created by students who "had it out" for the Member. In cross-examination, the Member also suggested to Student 4, Student 5, Vice-Principal Stroud, and Principal Weir-Burtt that the comments could have been photoshopped. The Member also put forward example images of photoshopped Facebook posts that he created, and suggested that any student could have similarly photoshopped screenshots of Facebook posts. The Panel was not persuaded by the Member's submission that the posts at issue were photoshopped by students who disliked the Member. While there was some evidence that the student witnesses did not like the Member as a teacher, there was no evidence that they had such strong animosity towards him as to photoshop Facebook

2024 ONOCT 44 (CanLII)

posts to deliberately get the Member in trouble with the administration. In fact, the students testified about problematic behaviour by the Member (not alleged in the *Notice of Hearing* and was therefore not relied on in this decision) which they did not report to administration or to their parents because they did not want their parents to worry. This is inconsistent with the Member's submission that some of the students had so much animosity against him that they would photoshop Facebook posts. While the Panel accepts that it is possible to photoshop Facebook posts, the Panel did not have any reliable evidence before it that these particular posts were altered or photoshopped. Furthermore, the Panel can find no evidence that Principal Weir-Burt and Vice-Principal Stroud's investigation in any way unfairly targeted the Member.

[83] In addition to the evidence noted above, the Panel relies on the adverse inference to make the finding regarding this particular. The College has put forward a *prima facie* case that the Member posted these comments – the Panel has seen screen shots of the comments and has received credible evidence that students saw screen shots of the comments. If accepted, this evidence is sufficient to make a finding that the Member posted these comments in the [XXX] Facebook group. Additionally, the Member was in the unique position to be able to testify as to whether he authored the post and comments. In the absence of the Member's testimony that he did not post the comments to the [XXX] Facebook group, the Panel relies on the adverse inference to find that the College has proven on a balance of probabilities that the Member made the post and comments as alleged.

2024 ONOCT 44 (CanLII)

### (d) The Gas Station Incident

#### (i) Particular 7: On or about April 27, 2018, while at a gas station after school hours, the Member made inappropriate comments to students

[84] The Panel finds that the College had proven that on or about April 27, 2018, while at a gas station after school hours, the Member told Student 4 that "[Student 2] got his girlfriend pregnant. I am going to have to supply the whole class with condoms because I don't want more of those bad kids running around", or words to that effect, and that the Member asked Student 4 and his male friend, "is that your little tampon car you're driving? Are you filling it full of tampons?", or words to that effect, as alleged in particulars 7(a) and 7(b).

[85] In coming to this conclusion, the Panel relied primarily on the testimony of Student 4. Student 4 testified that, on or around April 27, 2018, he and two other male students were at a gas station filling up his car when they encountered the Member. The Member asked them if they were filling up the car with tampons. Student 4 understood this to be a reference to the size of his car (a [XXX]). They went inside the gas station and the Member asked Student 4 and his friends if they were buying condoms. The Member then suggested that he should buy condoms for the class because the Member did not want a bunch of them (i.e., Student 4 and his friends) running around in the future. Student 4 testified that Vice-Principal Stroud called him into her office to discuss this incident at the gas station shortly after it occurred. He could not recall when exactly this meeting took place and who else was present. He was not aware how the administration came to know of this incident. Student 4 was presented with and affirmed the accuracy of his report to Vice-Principal Stroud (Exhibit 4). He also testified that the Member would often ask him in class about his "tampon car" and filling up his car up with tampons not only in the 2017-

2024 ONOCT 44 (CanLII)

2018 school year but also the following year. Student 4 also testified that the Member made a statement in class about Student 2's girlfriend being pregnant. Student 4 could not recall when this comment was made but testified that it did not occur at a gas station and that he told the principal about these comments in 2019. As stated previously in this decision, the Panel found Student 4 to be generally credible and reliable, and his testimony was consistent with his previous report to administration. As such, the Panel relies on Student 4's testimony, as well as Vice-Principal Stoud's testimony and notes to make this finding.

[86] In addition to the evidence, the Panel makes an adverse inference regarding this particular. The College has put forward a *prima facie* case that the Member has made the comments in question. If accepted, the evidence noted above is sufficient to make a finding that the Member made these comments to students at the gas station. The Member was in the unique position to be able to testify as to whether he made these comments to students. However, he did not do so. In the absence of the Member's testimony, the Panel relies on the adverse inference to find that the College has proven on a balance of probabilities that the Member made these inappropriate comments as alleged.

[87] The Panel notes that the Board did not verify that these comments were made on a balance of probabilities (Exhibit 15). However, the Panel has not relied on Board findings in making this or any other finding of fact in this hearing. It is up to the Panel to make its own findings of fact based on evidence presented to it during the hearing and not to rely on other bodies, such as school boards, to make its findings.

2024 ONOCT 44 (CanLII)

**(2) Legal Conclusions**

[88] The Panel accepted that it would be duplicative to make findings under both subsections 1(5) and 1(14) of Ontario Regulation 437/97. The Panel granted the College's request to withdraw the allegation that the Member had contravened subsection 1(5) of Ontario Regulation 437/97 and therefore did not make any findings under this head of professional misconduct.

[89] The Panel found that the Member's conduct set out above gives rise to a finding of professional misconduct. In particular, the Member abused a student or students verbally contrary to Ontario Regulation 437/97, subsection 1(7); he abused a student or students psychologically or emotionally contrary to Ontario Regulation 437/97, subsection 1(7.2); he engaged in sexual misconduct as defined in section 1 of the *Act*; he failed to comply with the *Act* or the regulations or the by-laws, contrary to Ontario Regulation 437/97, subsection 1(14); he failed to comply with section 264(1) of the *Education Act*, contrary to Ontario Regulation 437/97, subsection 1(15); 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); and he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

[90] The Panel finds that the Member abused students verbally, contrary to subsection 1(7) of Ontario Regulation 437/97, by making derogatory and offensive comments to and about students. When students had trouble with their work in the Member's class, the Member called them "bums" and "idiots", and told students that they wouldn't go anywhere in life. This was an entirely inappropriate response to students who are having

2024 ONOCT 44 (CanLII)

difficulty in class. Teachers must provide constructive feedback to students who need additional support in class and must always maintain their composure when dealing with disruptive students. It is abusive for teachers to repeatedly make demeaning comments to students during class. The Member failed to maintain a respectful environment in his classroom by making insensitive, mocking, and disparaging remarks to his students. The Member's conduct therefore amounts to verbal abuse.

[91] The Panel finds that the Member abused students psychologically or emotionally contrary to subsection 1(7.2) of Ontario Regulation 437/97. By calling students "bums" and "idiots" when they had trouble with class work, the Member engaged in psychological and emotional abuse. In particular, Student 3 was negatively emotionally affected by the Member's comments in the classroom. Through his comments, the Member made Student 3 feel bad about himself and, as a result, Student 3 often skipped the Member's class. Therefore, the Member's actions had an adverse impact both on Student 3's self-esteem, emotional wellness, and his education. Aside from the actual negative effects on Student 3, the Panel finds that the Member's comments towards students in class were unnecessarily aggressive, and had the ability to negatively impact students' cognitive, psychological, or emotional development. The Panel therefore finds that the Member psychologically or emotionally abused students.

[92] The Panel finds that the Member engaged in sexual misconduct as defined in section 1 of the *Act*. "Sexual misconduct" is defined in the *Act* as:

> inappropriate behaviour or remarks of a sexual nature by the member that is not sexual abuse of a student, where,

2024 ONOCT 44 (CanLII)

> (a) one or more students are exposed to the behaviour or remarks, or the member knows or ought to know that one or more students are likely to be exposed to the behaviour or remarks, and
>
> (b) a reasonable person would expect the behaviour or remarks to have the effect of,
>
> > (i) causing distress to a student exposed to the behaviour or remarks,
> >
> > (ii) being detrimental to the physical or mental well-being of a student, or
> >
> > (iii) creating a negative environment at a school for a student exposed to the behaviour or remarks.

[93] The Panel finds that the Member's comments both in the [XXX] Facebook group and those in response to an advertisement for women's underwear constitute sexual misconduct. The Panel will address each set of posts separately.

[94] The Member made Facebook posts in or around April 2017 in response to an advertisement for women's underwear that were designed to prevent sexual assault. In these posts, the Member mocked the product, and suggested that a product like this would not work because "Hoe's gonna [sic] hoe", suggesting that women who engaged in sex were "hoes" and that women who were sexually active were to blame if they were assaulted. The Member also suggested that these products would only be popular with larger women ("refrigerator size" and "the marching wildebeests [sic]") who were drawing attention to themselves or "asking for it" in some other way ("yelling 'look at my underware [sic]…'"). These comments are self-evidently sexual in nature, they relate to women's underwear, sexual assault, and alleged sexual promiscuity of women. The Panel finds that the Member ought to know that students are likely to be exposed to comments that he makes on Facebook. The Member teaches in a high school in a small town with a

2024 ONOCT 44 (CanLII)

close-knit community. In fact, one of the commenters on the same post pointed out that he should not make such comments because he was a high school teacher.

[95] The Panel notes that, during his interview on August 30, 2017, the Member explained that he made these comments in response to a post by his friend sharing a video titled “This Underwear Prevents Sexual Assault”. The Member indicated that he did not believe that the video was truly a rape prevention method, but instead was advertising. The Member did not know for certain whether he was posting publicly to the video but indicated that he thought that he was commenting on his friend’s feed. The Member believed that the only people who would be able to see his comments were people on his friend list, which did not include any students. He indicated that he did not think many people read the post but was unsure of his friend’s privacy settings. Regardless of the Member’s assumptions, the posts were public and could have been viewed by any Facebook user who accessed the post. None of the student witnesses at this hearing testified that they saw these particular posts. The Panel did not hear any evidence about whether or not other students in the School saw the post.

[96] However, the Panel heard evidence that the Member was in the same Facebook groups as some of his students. As such, regardless of the Member’s assumptions, he ought to have known that he shares a digital space with many of his students, and that his students are likely to be exposed to comments that he makes on public social media posts. The Panel finds it irrelevant that the Member believed that he was making the comments on his own profile and that only his followers would be able to see the post. Individuals are responsible for their own social media behaviour and the Member ought to have been mindful that he was responding to a public post, and not posting on his own

2024 ONOCT 44 (CanLII)

private profile. Finally, the Panel finds that a reasonable person would expect the remarks to cause distress to a student exposed to the remarks or to be detrimental to the mental well-being of a student exposed to the remarks. This is particularly true for female students. It is reasonable to expect that a student would be negatively impacted by seeing their teacher make derogatory, demeaning, and sexualized comments about women; refer to women as “hoes”; diminish the gravity of sexual assault; and refer to larger women as “refrigerator size” and “the marching wildebeests [sic]”.

[97] Similarly, the Member’s comments in the [XXX] Facebook constitute sexual misconduct. In particular, in response to a comment about a dildo, the Member’s comment “what size do you usually take, same as your mom? Have a special on a double ender for you two” clearly meets the definition for sexual misconduct. This is a comment that relates to a sex toy and is therefore a remark of a sexual nature made by the Member. It is also sexist in nature as it comments in a derogatory manner about the commenter’s mother. Additionally, in another comment the Member referenced an abortion being performed by a coat hanger. Students were exposed to these comments through a screenshot. Even if students would not have been exposed, the Member ought to have known that he was making these comments in a community Facebook group where students were also members and therefore were likely to be exposed to the comments. Finally, the Panel finds that a reasonable person would expect the remarks to create a negative environment at a school for a student (or students) exposed to the remarks. These kinds of inappropriate and disrespectful comments, particularly comments that are so flippant and graphic about the subject of abortion, set a negative example for students and contribute to a toxic school and classroom setting that is particularly hostile for female

2024 ONOCT 44 (CanLII)

students. Indeed, students testified in this hearing that they believed that the Member's classroom was a negative environment, partly due to inappropriate comments made by the Member both in the classroom and online. Overall, the Panel finds that the Member's comments in the [XXX] Facebook group constitute sexual misconduct.

[98] The Panel finds that the Member failed to comply with the *Act* or the regulations or the by-laws, contrary to subsection 1(14) of Ontario Regulation 437/97, and in particular that the Member failed to comply with section 26 (formerly section 32) of the by-laws, which outlines the professional and ethical standards for the teaching profession. The Member's conduct clearly breached the *Ethical Standards for the Teaching Profession*, which are set out in section 26.02 of the by-laws. The ethical standard of "Care" requires members to, among other things, demonstrate a commitment to students' well-being through positive influence and professional judgment. The ethical standard of "Respect" requires members to honour human dignity, emotional wellness, and cognitive development. The Member demonstrated poor professional judgment and disregarded students' human dignity, well-being, and emotional wellness when he referred to students as "idiots", "bums", and other demeaning language during class. The Member's conduct in the classroom was contrary to the ethical standards required of members of the teaching profession.

[99] The Member contravened subsection 1(15) of Ontario Regulation 437/97 by failing to comply with section 264(1) of the *Education Act*, which sets out the duties of a teacher. In particular, teachers are expected to act as positive role models and to conduct themselves morally and with integrity, as described at subsection 264(1)(c) of the *Education Act*. This duty extends to the Member's actions outside of school. By making

2024 ONOCT 44 (CanLII)

inappropriate comments to students, using demeaning language during class, and through his inappropriate Facebook posts, the Member failed to act as a positive role model and to conduct himself in accordance with the morals and values described in subsection 264(1)(c) of the *Education Act*.

[100] The Panel finds that the Member's conduct is disgraceful, dishonourable, and unprofessional contrary to subsection 1(18) of Ontario Regulation 437/97. Members are expected to be inclusive in their professional practice and to demonstrate sound professional judgment when using social media. The Member did the opposite by his inappropriate conduct in class and on social media. Such behaviour demonstrates significant moral and professional failing by the Member. There is no place for the promotion of intolerance by members of Ontario's teaching profession. Moreover, the Member's behaviour when he saw his students at a gas station was entirely unprofessional and represents poor professional judgement. Teachers should always be courteous to their students, including out of the classroom. Overall, the Member's misconduct can be characterized by all three terms - disgraceful, dishonourable, and unprofessional.

[101] The Member's misconduct, as described above, is clearly unbecoming a member, contrary to subsection 1(19) of Ontario Regulation 437/97. The public's trust in the teaching profession is eroded when teachers abuse their position of trust and authority to bully students in class and to make inappropriate sexualized comments online. The Member's misconduct reflects poorly not only on himself but on the profession as a whole.

2024 ONOCT 44 (CanLII)

## I. PENALTY

[102] The Tribunals' Office will schedule a subsequent date on which the Panel will hear the parties' submissions with respect to penalty.

Date: September 26, 2024

Hanno Weinberger, OCT
Chair, Discipline Panel

Irene Dembek, OCT
Member, Discipline Panel

Emile Ramlochan
Member, Discipline Panel

2024 ONOCT 44 (CanLII)