

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

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

and

DUSTIN ARTHUR NICHOLS EPP

NOTICE OF HEARING

THE INVESTIGATION COMMITTEE OF THE ONTARIO COLLEGE OF TEACHERS, pursuant to section 26, subsection (5) of the *Ontario College of Teachers Act, 1996* (the "*Act*"), Statutes of Ontario, 1996, chapter 12, has directed that the matter hereinafter described regarding the conduct or actions of Dustin Arthur Nichols Epp, Certificate No. 427957, be referred to the Discipline Committee of the Ontario College of Teachers.

IT IS ALLEGED that Dustin Arthur Nichols Epp is guilty of professional misconduct as defined in 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, contrary to Ontario Regulation 437/97, subsection 1(7.1);

- (c) he abused a student or students psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7.2);
- (d) he abused a student or students sexually, contrary to Ontario Regulation 437/97, subsection 1(7.3) and/or engaged in sexual abuse of a student or students as defined in section 1 of the *Act*;
- (e) he contravened a law, the contravention of which is relevant to the member's suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (f) he contravened a law, the contravention of which has caused or may cause a student who is under the member's professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17);
- (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);
- (i) he engaged in sexual abuse of a student as defined in section 1 of the *Act*;
- (j) he engaged in prohibited acts involving child pornography as defined in section 1 of the *Act*.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. Dustin Arthur Nichols Epp (the "Member") is a member of the Ontario College of Teachers.
2. On May 28, 2021, the Member's membership status with the College was changed to "Inactive – Non-Practising."
3. The Member obtained a Bachelor of Education degree from Lakehead University in 1999 and received a Certificate of Qualification and Registration from the College on July 16, 1999.

4. At all material times, the Member was employed by the Thames Valley District School Board as a teacher at [XXX] School (the "School") in London, Ontario.
5. In the 2019-2020 academic year, Student 1 was a [XXX]-year-old Grade [XXX] female student at the School.
6. During the fall of 2019, Student 1 developed a "crush" on the Member and shared her feelings with the Member by email on or around November 20, 2019.
7. Following that email, the Member engaged in an inappropriate relationship with Student 1 which included:
 - (a) exchanging emails with Student 1 using his personal email address daily; and
 - (b) having occasional meetings outside of school with Student 1, including at the Member's residence.
8. On December 22, 2019, the Member engaged in sexual activities at his residence with Student 1, including kissing and cuddling.
9. On December 26, 2019, the Member engaged in sexual activities at his residence with Student 1, including "strip chess" and mutual oral sex.
10. On December 29, 2019, the Member engaged in sexual activities at his residence with Student 1, including vaginal intercourse.
11. In January 2020, Student 1 confided in her friend, Student 2, that she was involved in a sexual relationship with the Member. Student 2 was concerned for Student 1's well-being and shared the relationship details with their mother, who reported the relationship to London Middlesex Children's Aid Society.
12. On January 17, 2020, the Member was arrested and a cellular device was seized on search incident to arrest. Student 1 made a statement to the London Police

Service the same evening. As part of the Police investigation after this statement, a search warrant was issued to search the Member's residence.

13. As part of the search warrant, a number of the Member's electronic devices were seized. After the data on these devices was reviewed, it was determined that several of the devices contained images of child pornography and voyeuristic images.
14. Police were also able to determine that certain of the voyeuristic images found on the cellular device belonging to the Member had been taken in one of the classrooms at the School. Three of the young females depicted in the images were identified as Student 3, Student 4, and Student 5. Student 3, Student 4, and Student 5 were under the age of 18 at the time that the images were recorded, during classes that they had with the Member as the teacher. Student 3, Student 4, and Student 5 did not know that the Member was taking photos of them during class, and they did not consent to such images being captured, recorded, or saved by the Member.

Criminal Proceedings/Convictions

15. On January 17, 2020, the Member was charged by the London Police Service with:
 - 1) Between the 1st day of December in the year 2019 and the 16th day of January in the year 2020 at the City of London in the Southwest Region, did, being a person who was in a position of trust or authority toward a young person, with a part of his body, for a sexual purpose, directly or indirectly touch the body of that young person, namely Student 1, contrary to Section 153, subsection (1.1) of the Criminal Code of Canada;
 - 2) Between the 1st day of January in the year 2019 and the 17th day of January in the year 2020 at the City of London in the Southwest Region, did, by means of a telecommunication, communicate with a person, namely Student 1 who

- was or was believed to be under the age of eighteen years, for the purpose of facilitating the commission of an offence under subsection 153(1) of the Criminal Code with respect to that person, contrary to Section 172.1, subsection (2) of the Criminal Code of Canada;
- 3) Between the 1st day of January in the year 2016 and the 17th day of January in the year 2020 at the City of London in the Southwest Region, did, without lawful excuse, for a sexual purpose surreptitiously make a visual recording of a person who was in circumstances that gave rise to a reasonable expectation of privacy and thereby commit an offence under Section 162, subsection (1), clause (c) of the Criminal Code, contrary to Section 162, subsection (5) of the Criminal Code of Canada;
 - 4) Between the 1st day of January in the year 2012 and the 17th day of January in the year 2020 at the City of London in the Southwest Region, did, without lawful excuse possess child pornography in the form of a photograph or digital image, contrary to Section 163.1 subsection (4) of the Criminal Code of Canada;
 - 5) Between the 1st day of January in the year 2012 and the 17th day of January in the year 2020 at the City of London in the Southwest Region, did, without lawful excuse, make child pornography in the form of a film and digital image, contrary to Section 163.1, subsection (2) of the Criminal Code of Canada;
 - 6) Between the 1st day of January in the year 2012 and the 17th day of January in the year 2020 at the City of London in the Southwest Region, did, without lawful excuse, access child pornography in the form of a photograph and photographic video, contrary to section 163.1 subsection (4.1) of the Criminal Code of Canada;
 - 7) Between the 1st day of January in the year 2012 and the 16th day of January in the year 2020 at the City of London in the Southwest Region, did, without lawful

excuse, make child pornography in the form of a picture, contrary to Section 163.1, subsection (2) of the Criminal Code of Canada;

- 8) Between the 1st day of January in the year 2012 and the 17th day of January in the year 2020 at the City of London in the Southwest Region, did, without lawful excuse, possess child pornography in the form of a digital image, contrary to Section 163.1, subsection (4) of the Criminal Code of Canada.
16. On October 12, 2022, the Member pleaded guilty to, and was convicted of, counts 1, 3, 4, and 5 on the information: the offences of sexual exploitation (Section 153, subsection (1.1) CC), voyeurism (Section 162, subsection (5) CC), possessing child pornography (Section 163.1 subsection (4) CC), and making and/or producing child pornography (Section 163.1, subsection (2) CC) before the Honourable Justice McHugh in the Ontario Court of Justice. The remaining charges were withdrawn by the Crown Prosecutor.
17. On February 22, 2023, the Member was sentenced to four and a half years in custody. The Member was also made subject to a number of ancillary orders.

THE DISCIPLINE COMMITTEE WILL HOLD A HEARING pursuant to sections 30, 30.2, 32 and 32.1 of the *Act* to decide whether the allegations are true and whether Dustin Arthur Nichols Epp is guilty of professional misconduct. A copy of the *Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee* (the “*Rules of Procedure*”) will be provided upon request and is also available on the College’s website.

THE DISCIPLINE COMMITTEE WILL HEAR THIS MATTER on a date to be determined after consultation between College Counsel and you or your counsel and fixed by the Tribunals Office.

YOU ARE ENTITLED TO BE PRESENT AT THE HEARING AND TO BE REPRESENTED BY LEGAL COUNSEL. The hearing will be held electronically using audio or video conferencing equipment, pursuant to the *Rules of Procedure* and the *Statutory Powers Procedure Act*, R.S.O. 1990, c.S.22 (the “SPPA”).

IF YOU DO NOT ATTEND ON THE SCHEDULED HEARING DATE, THE DISCIPLINE COMMITTEE MAY PROCEED WITH THE HEARING IN YOUR ABSENCE AND YOU WILL NOT BE PROVIDED WITH ANY FURTHER NOTICE OF PROCEEDINGS.

IF YOU BELIEVE THAT AN ELECTRONIC HEARING OR ELECTRONIC SET DATE HEARING IS LIKELY TO CAUSE YOU SIGNIFICANT PREJUDICE, you must notify the Tribunals’ Office at 101 Bloor Street West, Toronto, Ontario, M5S 0A1. The Discipline Committee will then determine whether the hearing will proceed in person, electronically, in writing, or by a combination of these formats.

IF A DATE FOR THE HEARING AND/OR THE FORMAT OF THE HEARING ARE NOT AGREED UPON, THE DISCIPLINE COMMITTEE WILL CONVENE TO DEAL WITH THE PROCEDURAL MATTER OF SETTING A DATE AND/OR ESTABLISHING THE FORMAT FOR THE HEARING. The procedural hearing will be held electronically using audio or video conferencing equipment, pursuant to the *Rules of Procedure* and the *SPPA*.

YOU ARE ENTITLED TO BE PRESENT WHEN THE COMMITTEE CONVENS TO SET A DATE AND/OR FORMAT FOR THE HEARING AND TO BE REPRESENTED BY LEGAL COUNSEL. IF YOU DO NOT ATTEND BEFORE THE COMMITTEE TO SET A DATE AND/OR FORMAT FOR THE HEARING, THE DISCIPLINE COMMITTEE MAY

PROCEED IN YOUR ABSENCE TO SET THE DATE AND/OR FORMAT. NOTICE OF THE HEARING DATE AND/OR FORMAT SET BY THE COMMITTEE WILL BE PROVIDED TO YOU IN WRITING AT YOUR LAST KNOWN EMAIL ADDRESS AS SHOWN IN THE RECORDS OF THE COLLEGE.

IF THE DISCIPLINE COMMITTEE FINDS YOU GUILTY of professional misconduct, you are liable to the penalties set out in sections 30 and 30.2 of the *Act*.

A MEMBER whose conduct is being investigated in proceedings before the Discipline Committee may examine before the hearing any written or documentary evidence that will be produced or any report, the contents of which will be given as evidence at the hearing.

You or your representative may contact the office of Dominic Bell of the Ontario College of Teachers, at 101 Bloor Street West, Toronto, ON M5S 0A1, telephone 437-880-3057.

Date: 28 November 2023

Registrar's Signature

Linda Lacroix, OCT, M. Ed.
Registrar and Chief Executive Officer
Ontario College of Teachers
101 Bloor Street West
Toronto, ON M5S 0A1

TO: Dustin Arthur Nichols Epp
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[XXX]
[XXX]
[XXX]

B E T W E E N :

ONTARIO COLLEGE OF TEACHERS

- and -

DUSTIN ARTHUR NICHOLS EPP

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

NOTICE OF HEARING

Ontario College of Teachers
101 Bloor Street
Toronto ON M5S 0A1

Dominic Bell
Tel. 437-880-3057
dbell@oct.ca

Legal Counsel for the
Ontario College of Teachers