



DISCIPLINE CASE SUMMARY

a. A Respondent (A-02-05)

b. Professional misconduct

c. The hearing was held on November 23, 2004, at the College's offices in Vancouver, B.C. The report and recommendations of the Hearing Sub-Committee (the "Committee") were presented to Council on February 11, 2005. This matter originated as a report under section 16(1) of the *School Act*.

d. The Respondent, who was a coach of a swim team, admitted that he engaged in unnecessary and inappropriate touching of female students but denies that any of the touching had a sexual intent or context. The Respondent further admitted that on a number of occasions he drove students in his car to swimming practice without a parent or other adult present.

The Respondent acknowledged that these actions constitute professional misconduct and expressed regret for his actions and their impact on the victims and the teaching profession.

e. The Committee accepted the Respondent's admission of guilt and found him guilty of professional misconduct. The Committee found that the Respondent abused his position of authority. The Committee noted that a teacher is in a privileged position of authority and is expected to treat all students with respect and dignity at all times. The member's physical contact with students violated appropriate boundaries and standards of conduct.

f. The Committee considered the submissions presented by counsel on penalty, publication and costs. The Committee agreed that the Respondent receive a three-month suspension of his Certificate of Qualification. The College did not seek an order of costs against the Respondent as he cooperated throughout the process. In the matter of publication, the Committee concluded that the name of the Respondent be withheld from publication. The Committee made this determination as the College Bylaws make the matter of publication discretionary. The Committee concluded that there is no legal presumption in favour of publication of a member's name. Notification pursuant to Section 36 of the *Teaching Profession Act* satisfies the concerns of the College to protect the public interest. The Committee believed that publication is separate from penalty and concluded that, given the particulars of the offending conduct, publication of the member's name would serve a purely punitive purpose. In this case, publication might satisfy a public curiosity, but is not needed for a public interest.

Council considered the report and recommendations of the Committee as well as counsel submissions. Council unanimously determined that the appropriate penalty be a three-month suspension of the Respondent's Certificate of Qualification. Council also agreed that no costs be assessed to the Respondent. With respect to publication, five Council members dissented with the majority and issued separate dissenting reasons relating to this matter. These members felt that, while there was no presumption operating in favour of publication, the College has a responsibility to protect public interest and ensure public confidence in the College and in the transparency of its processes.