

Aitcheson Discipline Report 2019-02-06 PDF-A 1
Aitcheson Discipline Report 2019-02-06 PDF-A 2
Aitcheson Discipline Report 2019-02-06 PDF-A 3
Aitcheson Discipline Report 2019-02-06 PDF-A 4
Aitcheson Discipline Report 2019-02-06 PDF-A 5
Aitcheson Discipline Report 2019-02-06 PDF-A 6
Aitcheson Discipline Report 2019-02-06 PDF-A 7
Aitcheson Discipline Report 2019-02-06 PDF-A 8
Aitcheson Discipline Report 2019-02-06 PDF-A 9
Aitcheson Discipline Report 2019-02-06 PDF-A 10
Aitcheson Discipline Report 2019-02-06 PDF-A 11
Aitcheson Discipline Report 2019-02-06 PDF-A 12
Aitcheson Discipline Report 2019-02-06 PDF-A 13
Aitcheson Discipline Report 2019-02-06 PDF-A 14
Aitcheson Discipline Report 2019-02-06 PDF-A 15
Aitcheson Discipline Report 2019-02-06 PDF-A 16
Aitcheson Discipline Report 2019-02-06 PDF-A 17
Aitcheson Discipline Report 2019-02-06 PDF-A 18
Aitcheson Discipline Report 2019-02-06 PDF-A 19
Aitcheson Discipline Report 2019-02-06 PDF-A 20
Aitcheson Discipline Report 2019-02-06 PDF-A 21
Aitcheson Discipline Report 2019-02-06 PDF-A 22
Aitcheson Discipline Report 2019-02-06 PDF-A 23
Aitcheson Discipline Report 2019-02-06 PDF-A 24
Aitcheson Discipline Report 2019-02-06 PDF-A 25
Aitcheson Discipline Report 2019-02-06 PDF-A 26
Aitcheson Discipline Report 2019-02-06 PDF-A 27
Aitcheson Discipline Report 2019-02-06 PDF-A 28
Aitcheson Discipline Report 2019-02-06 PDF-A 29
Aitcheson Discipline Report 2019-02-06 PDF-A 30
Ambrose Discipline Report 2001 03 22 PDF-A 1
Ambrose Discipline Report 2001 03 22 PDF-A 2
Ambrose Discipline Report 2001 03 22 PDF-A 3
Ambrose Discipline Report 2001 03 22 PDF-A 4
Amerongen Discipline Report 1999-06-09 PDF-A 1
Amerongen Discipline Report 1999-06-09 PDF-A 2
Amerongen Discipline Report 1999-06-09 PDF-A 3
Amerongen Discipline Report 1999-06-09 PDF-A 4
Andrews Discipline Report 2006 03 16 PDF-A 1
Andrews Discipline Report 2006 03 16 PDF-A 2
Andrews Discipline Report 2006 03 16 PDF-A 3
Andrews Discipline Report 2006 03 16 PDF-A 4
Andrews Discipline Report 2006 03 16 PDF-A 5
Arias Discipline Decision 2021 08 05 PDF-A 1
Arias Discipline Decision 2021 08 05 PDF-A 2
Arias Discipline Decision 2021 08 05 PDF-A 3
Arias Discipline Decision 2021 08 05 PDF-A 4
Arias Discipline Decision 2021 08 05 PDF-A 5
Asaph Discipline Report 2002-03-22 PDF-A 1
Asaph Discipline Report 2002-03-22 PDF-A 2

Asaph Discipline Report 2002-03-22 PDF-A 3
Asaph Discipline Report 2002-03-22 PDF-A 4
Asaph Discipline Report 2002-03-22 PDF-A 5
Asaph Discipline Report 2002-03-22 PDF-A 6
Asaph Discipline Report 2002-03-22 PDF-A 7
Bain Discipline Report 2016-07-18 PDF-A 1
Bain Discipline Report 2016-07-18 PDF-A 2
Bain Discipline Report 2016-07-18 PDF-A 3
Bain Discipline Report 2016-07-18 PDF-A 4
Bain Discipline Report 2016-07-18 PDF-A 5
Barth Discipline Report 2005-03-22 PDF-A 1
Barth Discipline Report 2005-03-22 PDF-A 2
Barth Discipline Report 2005-03-22 PDF-A 3
Barth Discipline Report 2005-03-22 PDF-A 4
Barth Discipline Report 2005-03-22 PDF-A 5
Begrاند Discipline and Appeal Reports 2010-02-05 and 2010-05-31 PDF-A 1
Begrاند Discipline and Appeal Reports 2010-02-05 and 2010-05-31 PDF-A 2
Begrاند Discipline and Appeal Reports 2010-02-05 and 2010-05-31 PDF-A 3
Begrاند Discipline and Appeal Reports 2010-02-05 and 2010-05-31 PDF-A 4
Begrاند Discipline and Appeal Reports 2010-02-05 and 2010-05-31 PDF-A 5
Begrاند Discipline and Appeal Reports 2010-02-05 and 2010-05-31 PDF-A 6
Belke Decision Report 2020-12-01 PDF-A 1
Belke Decision Report 2020-12-01 PDF-A 2
Belke Decision Report 2020-12-01 PDF-A 3
Belke Decision Report 2020-12-01 PDF-A 4
Belke Decision Report 2020-12-01 PDF-A 5
Belke Decision Report 2020-12-01 PDF-A 6
Belke Decision Report 2020-12-01 PDF-A 7
Belke Decision Report 2020-12-01 PDF-A 8
Belke Decision Report 2020-12-01 PDF-A 9
Belke Decision Report 2020-12-01 PDF-A 10
Bererton Discipline Report 2002-01-04 PDF-A 1
Bererton Discipline Report 2002-01-04 PDF-A 2
Bererton Discipline Report 2002-01-04 PDF-A 3
Bererton Discipline Report 2002-01-04 PDF-A 4
Bererton Discipline Report 2002-01-04 PDF-A 5
Bererton Discipline Report 2002-01-04 PDF-A 6
Bererton Discipline Report 2002-01-04 PDF-A 7
Bererton Discipline Report 2002-01-04 PDF-A 8
Borer Discipline Report 2006-05-12 PDF-Apdf 1
Borer Discipline Report 2006-05-12 PDF-Apdf 2
Borer Discipline Report 2006-05-12 PDF-Apdf 3
Bostrom Discipline Report 2015-03-26 PDF-A 1
Bostrom Discipline Report 2015-03-26 PDF-A 2
Bostrom Discipline Report 2015-03-26 PDF-A 3
Breakey Discipline Decision 2019-07-12 PDF-A 1
Breakey Discipline Decision 2019-07-12 PDF-A 2
Breakey Discipline Decision 2019-07-12 PDF-A 3
Breakey Discipline Decision 2019-07-12 PDF-A 4
Breakey Discipline Decision 2019-07-12 PDF-A 5

Breakey Discipline Decision 2019-07-12 PDF-A 6
Breakey Discipline Decision 2019-07-12 PDF-A 7
Breakey Discipline Decision 2019-07-12 PDF-A 8
Breakey Discipline Decision 2019-07-12 PDF-A 9
Breakey Discipline Decision 2019-07-12 PDF-A 10
Breakey Discipline Decision 2019-07-12 PDF-A 11
Breakey Discipline Decision 2019-07-12 PDF-A 12
Buckley Discipline Decision 2017-11-24 PDF-A 1
Buckley Discipline Decision 2017-11-24 PDF-A 2
Buckley Discipline Decision 2017-11-24 PDF-A 3
Buckley Discipline Decision 2017-11-24 PDF-A 4
Buckley Discipline Decision 2017-11-24 PDF-A 5
Buckley Discipline Decision 2017-11-24 PDF-A 6
Buckley Discipline Decision 2017-11-24 PDF-A 7
Buckley Discipline Decision 2017-11-24 PDF-A 8
Buckley Discipline Decision 2017-11-24 PDF-A 9
Buckley Discipline Decision 2017-11-24 PDF-A 10
Buckley Discipline Decision 2017-11-24 PDF-A 11
Buckley Discipline Decision 2017-11-24 PDF-A 12
Buckley Discipline Decision 2017-11-24 PDF-A 13
Buckley Discipline Decision 2017-11-24 PDF-A 14
Buckley Discipline Decision 2017-11-24 PDF-A 15
Buckley Discipline Decision 2017-11-24 PDF-A 16
Buckley Discipline Decision 2017-11-24 PDF-A 17
Burnett Discipline Report 1998-01-22 PDF-A 1
Burnett Discipline Report 1998-01-22 PDF-A 2
Burnett Discipline Report 1998-01-22 PDF-A 3
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 1
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 2
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 3
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 4
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 5
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 6
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 7
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 8
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 9
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 10
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 11
Chilton Discipline and Appeal Reports 2013-08-16 and 2014-03-27 PDF-A 12
Clark Discipline Decision 2020-02-28 PDF-A 1
Clark Discipline Decision 2020-02-28 PDF-A 2
Clark Discipline Decision 2020-02-28 PDF-A 3
Clark Discipline Decision 2020-02-28 PDF-A 4
Clark Discipline Decision 2020-02-28 PDF-A 5
Clark Discipline Decision 2020-02-28 PDF-A 6
Clark Discipline Decision 2020-02-28 PDF-A 7
Clark Discipline Decision 2020-02-28 PDF-A 8
Clark Discipline Decision 2020-02-28 PDF-A 9
Clark Discipline Decision 2020-02-28 PDF-A 10
Clark Discipline Decision 2020-02-28 PDF-A 11

Clark Discipline Decision 2020-02-28 PDF-A 12
Clark Discipline Decision 2020-02-28 PDF-A 13
Clark Discipline Decision 2020-02-28 PDF-A 14
Clark Discipline Decision 2020-02-28 PDF-A 15
Clark Discipline Decision 2020-02-28 PDF-A 16
Clark Discipline Decision 2020-02-28 PDF-A 17
Clark Discipline Decision 2020-02-28 PDF-A 18
Clark Discipline Decision 2020-02-28 PDF-A 19
Clark Discipline Decision 2020-02-28 PDF-A 20
Clark Discipline Decision 2020-02-28 PDF-A 21
D R Discipline Report 2013-01-10 PDF-A 1
D R Discipline Report 2013-01-10 PDF-A 2
D R Discipline Report 2013-01-10 PDF-A 3
Daigle Discipline Decision 2020-02-26 PDF-A 1
Daigle Discipline Decision 2020-02-26 PDF-A 2
Daigle Discipline Decision 2020-02-26 PDF-A 3
Daigle Discipline Decision 2020-02-26 PDF-A 4
Dandurand Discipline Decision 2021-01-18 PDF-A 1
Dandurand Discipline Decision 2021-01-18 PDF-A 2
Dandurand Discipline Decision 2021-01-18 PDF-A 3
Dandurand Discipline Decision 2021-01-18 PDF-A 4
Dandurand Discipline Decision 2021-01-18 PDF-A 5
Dandurand Discipline Decision 2021-01-18 PDF-A 6
Dandurand Discipline Decision 2021-01-18 PDF-A 7
Dandurand Discipline Decision 2021-01-18 PDF-A 8
Davies Discipline Report 2011-11-21 PDF-A 1
Davies Discipline Report 2011-11-21 PDF-A 2
Davies Discipline Report 2011-11-21 PDF-A 3
Davies Discipline Report 2011-11-21 PDF-A 4
Davis Discipline Report 2000-10-10 PDF-A 1
Davis Discipline Report 2000-10-10 PDF-A 2
Davis Discipline Report 2000-10-10 PDF-A 3
Davis Discipline Report 2000-10-10 PDF-A 4
Deering Discipline Decision 2020-05-22 PDF-A 1
Deering Discipline Decision 2020-05-22 PDF-A 2
Deering Discipline Decision 2020-05-22 PDF-A 3
Deering Discipline Decision 2020-05-22 PDF-A 4
Deering Discipline Decision 2020-05-22 PDF-A 5
Deering Discipline Decision 2020-05-22 PDF-A 6
Deering Discipline Decision 2020-05-22 PDF-A 7
Deering Discipline Decision 2020-05-22 PDF-A 8
Deering Discipline Decision 2020-05-22 PDF-A 9
Deering Discipline Decision 2020-05-22 PDF-A 10
Deering Discipline Decision 2020-05-22 PDF-A 11
Deering Discipline Decision 2020-05-22 PDF-A 12
Deering Discipline Decision 2020-05-22 PDF-A 13
Deering Discipline Decision 2020-05-22 PDF-A 14
Deering Discipline Decision 2020-05-22 PDF-A 15
Deering Discipline Decision 2020-05-22 PDF-A 16
Deering Discipline Decision 2020-05-22 PDF-A 17

Deering Discipline Decision 2020-05-22 PDF-A 18
Deering Discipline Decision 2020-05-22 PDF-A 19
Desjardins Discipline 2006-07-05 PDF-A 1
Desjardins Discipline 2006-07-05 PDF-A 2
Desjardins Discipline 2006-07-05 PDF-A 3
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 1
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 2
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 3
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 4
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 5
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 6
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 7
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 8
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 9
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 10
Dunlop Discipline and Appeal Reports 2000-04-27 and 2000-09-13 PDF-A 11
Eszczuk Discipline Report 2010-05-12 PDF-Apdf 1
Eszczuk Discipline Report 2010-05-12 PDF-Apdf 2
Eszczuk Discipline Report 2010-05-12 PDF-Apdf 3
Eszczuk Discipline Report 2010-05-12 PDF-Apdf 4
Fayad Discipline Report 2013-03-18 PDF-A 1
Fayad Discipline Report 2013-03-18 PDF-A 2
Fayad Discipline Report 2013-03-18 PDF-A 3
Fayad Discipline Report 2013-03-18 PDF-A 4
Fayad Discipline Report 2013-03-18 PDF-A 5
Fayad Discipline Report 2013-03-18 PDF-A 6
Finnie Discipline and Appeal Reports 2002-10-02 and 2003-01-13 PDF-A 1
Finnie Discipline and Appeal Reports 2002-10-02 and 2003-01-13 PDF-A 2
Finnie Discipline and Appeal Reports 2002-10-02 and 2003-01-13 PDF-A 3
Finnie Discipline and Appeal Reports 2002-10-02 and 2003-01-13 PDF-A 4
Finnie Discipline and Appeal Reports 2002-10-02 and 2003-01-13 PDF-A 5
Finnie Discipline and Appeal Reports 2002-10-02 and 2003-01-13 PDF-A 6
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 1
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 2
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 3
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 4
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 5
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 6
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 7
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 8
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 9
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 10
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 11
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 12
Fritzke Discipline and Appeal Reports 2011-02-04 to 2011-10-26 PDF-A 13
Ghent Discipline Report 2002-10-01 PDF-A 1
Ghent Discipline Report 2002-10-01 PDF-A 2
Ghent Discipline Report 2002-10-01 PDF-A 3
Ghent Discipline Report 2002-10-01 PDF-A 4
Glenn Discipline Report 2013-10-07 PDF-A 1

Glenn Discipline Report 2013-10-07 PDF-A 2
Glenn Discipline Report 2013-10-07 PDF-A 3
Glenn Discipline Report 2013-10-07 PDF-A 4
Glenn Discipline Report 2013-10-07 PDF-A 5
Gregory UPDATED 2021 11 30 Written Decision 1
Gregory UPDATED 2021 11 30 Written Decision 2
Gregory UPDATED 2021 11 30 Written Decision 3
Gregory UPDATED 2021 11 30 Written Decision 4
Gregory UPDATED 2021 11 30 Written Decision 5
Gregory UPDATED 2021 11 30 Written Decision 6
Hansen Discipline Report 2008-11-28 PDF-A 1
Hansen Discipline Report 2008-11-28 PDF-A 2
Howes Discipline Decision 2020-11-02 PDF-A 1
Howes Discipline Decision 2020-11-02 PDF-A 2
Howes Discipline Decision 2020-11-02 PDF-A 3
Howes Discipline Decision 2020-11-02 PDF-A 4
Howes Discipline Decision 2020-11-02 PDF-A 5
Jaster Discipline Report 1999-06-23 PDF-A 1
Jaster Discipline Report 1999-06-23 PDF-A 2
Jewan Discipline Report 2005-09-19 PDF-A 1
Jewan Discipline Report 2005-09-19 PDF-A 2
Jewan Discipline Report 2005-09-19 PDF-A 3
Kirk Discipline Report 2005-12-06 PDF-A 1
Kirk Discipline Report 2005-12-06 PDF-A 2
Kirk Discipline Report 2005-12-06 PDF-A 3
Kirk Discipline Report 2005-12-06 PDF-A 4
Kirk Discipline Report 2005-12-06 PDF-A 5
Kirkland Discipline Report 2002-03-15 PDF-A 1
Kirkland Discipline Report 2002-03-15 PDF-A 2
Kirkland Discipline Report 2002-03-15 PDF-A 3
Kirkland Discipline Report 2002-03-15 PDF-A 4
Kirkland Discipline Report 2002-03-15 PDF-A 5
Kirkland Discipline Report 2002-03-15 PDF-A 6
Kozens Discipline Report 2002-12-05 PDF-A 1
Kozens Discipline Report 2002-12-05 PDF-A 2
Kristian Discipline Report 2017-03-29 PDF-A 1
Kristian Discipline Report 2017-03-29 PDF-A 2
Kristian Discipline Report 2017-03-29 PDF-A 3
Lang Discipline Decision 2021-08-05 PDF-A 1
Lang Discipline Decision 2021-08-05 PDF-A 2
Lang Discipline Decision 2021-08-05 PDF-A 3
Lang Discipline Decision 2021-08-05 PDF-A 4
Lang Discipline Decision 2021-08-05 PDF-A 5
Lang Discipline Decision 2021-08-05 PDF-A 6
Lang Discipline Decision 2021-08-05 PDF-A 7
Lang Discipline Decision 2021-08-05 PDF-A 8
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 1
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 2
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 3
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 4

Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 5
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 6
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 7
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 8
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 9
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 10
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 11
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 12
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 13
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 14
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 15
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 16
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 17
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 18
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 19
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 20
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 21
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 22
Laprade Discipline and Appeal Reports 2015-06-03 and 2016-05-06 PDF-A 23
Lethbe Discipline Report 2010-02-25 PDF-A 1
Lethbe Discipline Report 2010-02-25 PDF-A 2
Lethbe Discipline Report 2010-02-25 PDF-A 3
Lim Discipline Report 2013-05-27 PDF-A 1
Lim Discipline Report 2013-05-27 PDF-A 2
Lim Discipline Report 2013-05-27 PDF-A 3
Lim Discipline Report 2013-05-27 PDF-A 4
Lim Discipline Report 2013-05-27 PDF-A 5
Lim Discipline Report 2013-05-27 PDF-A 6
Lim Discipline Report 2013-05-27 PDF-A 7
Lim Discipline Report 2013-05-27 PDF-A 8
LK Discipline Decision 2021-11-17 PDF-A 1
LK Discipline Decision 2021-11-17 PDF-A 2
LK Discipline Decision 2021-11-17 PDF-A 3
LK Discipline Decision 2021-11-17 PDF-A 4
LK Discipline Decision 2021-11-17 PDF-A 5
LK Discipline Decision 2021-11-17 PDF-A 6
LK Discipline Decision 2021-11-17 PDF-A 7
LK Discipline Decision 2021-11-17 PDF-A 8
LK Discipline Decision 2021-11-17 PDF-A 9
Martens Discipline Report 2001-12-19 PDF-A 1
Martens Discipline Report 2001-12-19 PDF-A 2
Martens Discipline Report 2001-12-19 PDF-A 3
Martens Discipline Report 2001-12-19 PDF-A 4
Mastel Discipline Report 2014-03-05 PDF-A 1
Mastel Discipline Report 2014-03-05 PDF-A 2
Mastel Discipline Report 2014-03-05 PDF-A 3
Mazutinec Discipline Report 2016-04-19 PDF-A 1
Mazutinec Discipline Report 2016-04-19 PDF-A 2
Mazutinec Discipline Report 2016-04-19 PDF-A 3
Mazutinec Discipline Report 2016-04-19 PDF-A 4

Mazutinec Discipline Report 2016-04-19 PDF-A 5
Mazutinec Discipline Report 2016-04-19 PDF-A 6
Mazutinec Discipline Report 2016-04-19 PDF-A 7
Mazutinec Discipline Report 2016-04-19 PDF-A 8
Mazutinec Discipline Report 2016-04-19 PDF-A 9
Mazutinec Discipline Report 2016-04-19 PDF-A 10
Mazutinec Discipline Report 2016-04-19 PDF-A 11
Mazutinec Discipline Report 2016-04-19 PDF-A 12
McCrackin Discipline Report 2004-05-26 PDF-A 1
McCrackin Discipline Report 2004-05-26 PDF-A 2
McCrackin Discipline Report 2004-05-26 PDF-A 3
McCrackin Discipline Report 2004-05-26 PDF-A 5
McCrackin Discipline Report 2004-05-26 PDF-A 6
McKerrall Discipline Report 2017-03-30 PDF-A 1
McNally Discipline Report 2008-10-23 PDF-A 2
McNally Discipline Report 2008-10-23 PDF-A 3
McNally Discipline Report 2008-10-23 PDF-A 4
McNally Discipline Report 2008-10-23 PDF-A 6
McNally Discipline Report 2008-10-23 PDF-A 7
McNally Discipline Report 2008-10-23 PDF-A 8
McNally Discipline Report 2008-10-23 PDF-A 9
McNally Discipline Report 2008-10-23 PDF-A McNally Discipline Report 2008-10-23
PDF-A
McNally Discipline Report 2008-10-23 PDF-A McNamee Discipline Report 2000-10-06
PDF-A
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 1
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 2
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 3
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 4
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 5
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 6
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 7
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 8
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 9
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 10
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 11
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 12
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 13
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 14
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 15
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 16
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 17
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 18
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 19
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 20
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 21
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 22
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 23
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 24
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 25

Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 126
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 127
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 128
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 129
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 130
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 131
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 132
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 133
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 134
Mennes Discipline and Appeal Reports 2019-01-24 and 2020-01-06 PDF-A 135
Miller Discipline Report 2014-07-03 PDF 1
Miller Discipline Report 2014-07-03 PDF 2
Miller Discipline Report 2014-07-03 PDF 3
Miller Discipline Report 2014-07-03 PDF 4
Miller Discipline Report 2014-07-03 PDF 5
Miller Discipline Report 2014-07-03 PDF 6
Mittelsteadt Discipline Report 2016-10-07 PDF-A 1
Mittelsteadt Discipline Report 2016-10-07 PDF-A 2
Neudecker Discipline Decision 2020-05-29 PDF-A 1
Neudecker Discipline Decision 2020-05-29 PDF-A 2
Neudecker Discipline Decision 2020-05-29 PDF-A 3
Neudecker Discipline Decision 2020-05-29 PDF-A 4
Neudecker Discipline Decision 2020-05-29 PDF-A 5
Neudecker Discipline Decision 2020-05-29 PDF-A 6
Neudecker Discipline Decision 2020-05-29 PDF-A 7
Neudecker Discipline Decision 2020-05-29 PDF-A 8
Neudecker Discipline Decision 2020-05-29 PDF-A 9
Neudecker Discipline Decision 2020-05-29 PDF-A 10
Neudecker Discipline Decision 2020-05-29 PDF-A 11
Neudecker Discipline Decision 2020-05-29 PDF-A 12
Neudecker Discipline Decision 2020-05-29 PDF-A 13
Neudecker Discipline Decision 2020-05-29 PDF-A 14
Nickel Discipline Report 2010-02-04 PDF-A 1
Nickel Discipline Report 2010-02-04 PDF-A 2
Nickel Discipline Report 2010-02-04 PDF-A 3
Nickel Discipline Report 2010-02-04 PDF-A 4
Ostapiw Discipline Report 2005-05-26 PDF-A 1
Ostapiw Discipline Report 2005-05-26 PDF-A 2
Ostapiw Discipline Report 2005-05-26 PDF-A 3
P A Discipline Decision 2020-10-19 PDF-A 1
P A Discipline Decision 2020-10-19 PDF-A 2
P A Discipline Decision 2020-10-19 PDF-A 3
P A Discipline Decision 2020-10-19 PDF-A 4
P A Discipline Decision 2020-10-19 PDF-A 5
P A Discipline Decision 2020-10-19 PDF-A 6
P A Discipline Decision 2020-10-19 PDF-A 7
Paolinelli Discipline Report 2013-12-16 PDF-A 1
Paolinelli Discipline Report 2013-12-16 PDF-A 2
Paolinelli Discipline Report 2013-12-16 PDF-A 3
Paolinelli Discipline Report 2013-12-16 PDF-A 4

Paolinelli Discipline Report 2013-12-16 PDF-A 5
Paolinelli Discipline Report 2013-12-16 PDF-A 6
Paul Discipline Report 2006-01-10 PDF-A 1
Paul Discipline Report 2006-01-10 PDF-A 2
Paul Discipline Report 2006-01-10 PDF-A 3
Paul Discipline Report 2006-01-10 PDF-A 4
Paul Discipline Report 2006-01-10 PDF-A 6
Paul Discipline Report 2006-01-10 PDF-A 7
Paul Discipline Report 2006-01-10 PDF-A 8
Paul Discipline Report 2006-01-10 PDF-A 9
Peglar Discipline Report 2002-02-08 PDF-A 1
Pelletier Discipline Report 2016-06-01 PDF-A 1
Pelletier Discipline Report 2016-06-01 PDF-A 2
Pelletier Discipline Report 2016-06-01 PDF-A 3
Pelletier Discipline Report 2016-06-01 PDF-A 4
Penner Discipline and Appeal Reports 2003-05-09 and 2003-09-15 PDF-A 1
Penner Discipline and Appeal Reports 2003-05-09 and 2003-09-15 PDF-A 2
Penner Discipline and Appeal Reports 2003-05-09 and 2003-09-15 PDF-A 3
Penner Discipline and Appeal Reports 2003-05-09 and 2003-09-15 PDF-A 4
Penner Discipline and Appeal Reports 2003-05-09 and 2003-09-15 PDF-A 5
Penner Discipline and Appeal Reports 2003-05-09 and 2003-09-15 PDF-A 6
Penner Discipline and Appeal Reports 2003-05-09 and 2003-09-15 PDF-A 7
Pickup Discipline Report 1998-01-13 PDF-A 1
Pickup Discipline Report 1998-01-13 PDF-A 2
Pickup Discipline Report 1998-01-13 PDF-A 3
Pickup Discipline Report 1998-01-13 PDF-A 4
Pickup Discipline Report 1998-01-13 PDF-A 5
Pickup Discipline Report 1998-01-13 PDF-A 6
Pickup Discipline Report 1998-01-13 PDF-A 7
Pickup Discipline Report 1998-01-13 PDF-A 8
Pickup Discipline Report 1998-01-13 PDF-A 9
Routier Discipline report 2000-02-03 PDF-A 1
Routier Discipline report 2000-02-03 PDF-A 2
Routier Discipline report 2000-02-03 PDF-A 3
Routier Discipline report 2000-02-03 PDF-A 4
RS Discipline Decision 2018-03-16 PDF-A 1
RS Discipline Decision 2018-03-16 PDF-A 2
RS Discipline Decision 2018-03-16 PDF-A 3
RS Discipline Decision 2018-03-16 PDF-A 4
RS Discipline Decision 2018-03-16 PDF-A 5
RS Discipline Decision 2018-03-16 PDF-A 6
RS Discipline Decision 2018-03-16 PDF-A 7
RS Discipline Decision 2018-03-16 PDF-A 8
RS Discipline Decision 2018-03-16 PDF-A 9
RS Discipline Decision 2018-03-16 PDF-A 10
RS Discipline Decision 2018-03-16 PDF-A 11
RS Discipline Decision 2018-03-16 PDF-A 12
RS Discipline Decision 2018-03-16 PDF-A 13
RS Discipline Decision 2018-03-16 PDF-A 14
RS Discipline Decision 2018-03-16 PDF-A 15

RS Discipline Decision 2018-03-16 PDF-A 16
RS Discipline Decision 2018-03-16 PDF-A 17
RS Discipline Decision 2018-03-16 PDF-A 18
RS Discipline Decision 2018-03-16 PDF-A 19
RS Discipline Decision 2018-03-16 PDF-A 20
RS Discipline Decision 2018-03-16 PDF-A 21
RS Discipline Decision 2018-03-16 PDF-A 22
Sametz Discipline Decision 2014-06-20 PDF-A 1
Sametz Discipline Decision 2014-06-20 PDF-A 2
Sametz Discipline Decision 2014-06-20 PDF-A 3
Sametz Discipline Decision 2014-06-20 PDF-A 4
Sametz Discipline Decision 2014-06-20 PDF-A 5
Sametz Discipline Decision 2014-06-20 PDF-A 6
Schnapp Discipline Report 2012-12-11 PDF-A 1
Schnapp Discipline Report 2012-12-11 PDF-A 2
Schnapp Discipline Report 2012-12-11 PDF-A 3
Schnapp Discipline Report 2012-12-11 PDF-A 4
Schnapp Discipline Report 2012-12-11 PDF-A 5
Schnapp Discipline Report 2012-12-11 PDF-A 6
Schnapp Discipline Report 2012-12-11 PDF-A 7
Schnapp Discipline Report 2012-12-11 PDF-A 8
Schnell Discipline Decision 2020-02-04 PDF-A 1
Schnell Discipline Decision 2020-02-04 PDF-A 2
Schnell Discipline Decision 2020-02-04 PDF-A 3
Schnell Discipline Decision 2020-02-04 PDF-A 4
Schnell Discipline Decision 2020-02-04 PDF-A 5
Scott Discipline Report 2017-06-16 PDF-A 1
Scott Discipline Report 2017-06-16 PDF-A 2
Scott Discipline Report 2017-06-16 PDF-A 3
Scott Discipline Report 2017-06-16 PDF-A 4
Shewchuk Discipline Report 2003-12-11 PDF-A 1
Shewchuk Discipline Report 2003-12-11 PDF-A 2
Snowden Discipline Appeal Report 2000-12-21 PDF-A 1
Snowden Discipline Appeal Report 2000-12-21 PDF-A 2
Stagg Discipline Report 1998-12-16 PDF-A 1
Stagg Discipline Report 1998-12-16 PDF-A 2
Stagg Discipline Report 1998-12-16 PDF-A 3
Stagg Discipline Report 1998-12-16 PDF-A 4
Sturgeon Discipline Report 2007-01-25 PDF-A 1
Sturgeon Discipline Report 2007-01-25 PDF-A 2
Sturgeon Discipline Report 2007-01-25 PDF-A 3
Sturgeon Discipline Report 2007-01-25 PDF-A 4
Sturgeon Discipline Report 2007-01-25 PDF-A 5
Sturgeon Discipline Report 2007-01-25 PDF-A 6
Taylor Discipline Report 2003-04-30 PDF-A 1
Taylor Discipline Report 2003-04-30 PDF-A 2
Taylor Discipline Report 2003-04-30 PDF-A 3
Teacher X-Discipline Report 2004-09-30 PDF-A 1
Teacher X-Discipline Report 2004-09-30 PDF-A 2
Teacher X-Discipline Report 2004-09-30 PDF-A 3

Thai Discipline Report 2011-07-07 PDF-A 1
Thai Discipline Report 2011-07-07 PDF-A 2
Thai Discipline Report 2011-07-07 PDF-A 3
Tolman Discipline Report 2006-07-06 PDF-A 1
Tolman Discipline Report 2006-07-06 PDF-A 2
Tranter Discipline Report 2015-01-23 PDF-A 1
Tranter Discipline Report 2015-01-23 PDF-A 2
Tranter Discipline Report 2015-01-23 PDF-A 3
Tranter Discipline Report 2015-01-23 PDF-A 4
Tranter Discipline Report 2015-01-23 PDF-A 5
Tranter Discipline Report 2015-01-23 PDF-A 6
Tranter Discipline Report 2015-01-23 PDF-A 7
Wagner Discipline and Appeal Reports 2011-06-09 and 2011-12-16 PDF-A 1
Wagner Discipline and Appeal Reports 2011-06-09 and 2011-12-16 PDF-A 2
Wagner Discipline and Appeal Reports 2011-06-09 and 2011-12-16 PDF-A 3
Wagner Discipline and Appeal Reports 2011-06-09 and 2011-12-16 PDF-A 4
Wagner Discipline and Appeal Reports 2011-06-09 and 2011-12-16 PDF-A 5
Wagner Discipline and Appeal Reports 2011-06-09 and 2011-12-16 PDF-A 6
Wagner Discipline and Appeal Reports 2011-06-09 and 2011-12-16 PDF-A 7
Wagner Discipline and Appeal Reports 2011-06-09 and 2011-12-16 PDF-A 8
Zaloba Discipline Report 2016-05-31 PDF-A 1
Zaloba Discipline Report 2016-05-31 PDF-A 2
Zaloba Discipline Report 2016-05-31 PDF-A 3

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST MARK AITCHESON

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Mark Aitcheson of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, December 12, 2018, commencing at 0900.

Professional Conduct Committee members present as the hearing committee were Wendy Maltais (chair), Craig DeJong and Barrie Chivers. Richard Rand and Andrew Wood of Rand Kiss Turner LLP were counsel to the hearing committee; Cory Schoffer was secretary, assisted by Jonathan Teghtmeyer; and Leslie Kaun and Sudeep Dua were recorders. Keith Hadden presented the case against the investigated member. The investigated member, Mark Aitcheson, was not present and was not represented by counsel.

COMPOSITION/JURISDICTION

There were no objections to the composition or the jurisdiction of the hearing committee.

PRELIMINARY MATTER

The committee heard an application by the presenting officer to close the hearing to the public. The presenting officer requested this out of primary concern for the witnesses because they or their family members could be detrimentally affected if the hearing was not held in private. The committee made a decision as per section 33(b) of the *Teaching Profession Act* to close the hearing to protect the identity and interests of the vulnerable parties. The committee determined that protecting the anonymity of the witnesses outweighed any public interest in an open hearing.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Mark Aitcheson is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, in or about the 2009/10 school year, did inappropriately touch a student, [Student A], contrary to section 23(1) of the *Teaching Profession Act*.

5. Parent A said she was angry and sad, and she wanted to call the police immediately.
6. Parent A wanted Student A to speak to the police and to the principal at [*School 7*].
7. Parent A said that Student A did not want to speak to the principal.
8. Parent A said that Student A did not want to speak to the police.
9. Parent A stated that behaviour issues were already happening with Student A. Parent A described the behaviour issues as being more severe than just pre-teen issues.
10. Parent A testified that this period was difficult for the family.
11. Parent A testified that Student A had always been boisterous and opinionated, but that Student A was no longer as happy.
12. Parent A observed that Student A underwent dramatic changes. She was secretive, began using marijuana and ran away from home.
13. Parent A noted that the behaviours exhibited by Student A were restricted to Student A. Similar behaviours were not noted in her other children.
14. Looking back, Parent A noted that the timeline of Student A's behaviour changes were a marked departure from her former self, that manifested after, or around, the June 2010 incident between Student A and Aitcheson.
15. Parent A testified that Student A saw Aitcheson at a junior high band concert at [*School 11*] during Student A's Grade 12 year.
16. Parent A commented that Student A had a severe anxiety attack after seeing Aitcheson.
17. Parent A testified that Aitcheson was the person responsible for sound and audio at the concert, thereby ensuring his presence at the concert.
18. Parent A stated that Student A broke down after seeing Aitcheson. Student A went to the bathroom, and then walked home alone.
19. The committee felt that Parent A's testimony supported the testimony provided by Student A. Parent A appeared calm and straightforward, honestly recounting what she both heard from her daughter and observed and experienced in the behavioural changes of her daughter.

Witness Student B

1. Student B is a current student at [*name of post-secondary institution redacted (PSI)*]. She works two part-time jobs while attending school. She is 21 years old. Student B graduated high school from [*School 8*] in 2015. Student B attended [*School 7*] from Kindergarten to Grade 6. Student B attended [*School 11*] from Grade 7 to Grade 9 and [*School 8*] from Grade 10 through Grade 12.
2. During her Grade 5 and Grade 6 years, Student B had Aitcheson as her homeroom teacher.
3. Student B said that she liked Aitcheson as he made classes fun.
4. Student B said that things changed between her and Aitcheson at the end of Grade 6.
5. At the end of Grade 6, Student B didn't want to be around Aitcheson any more.
6. Student B said that she avoided Aitcheson as he made her uncomfortable.
7. Student B described physical contact between herself and Aitcheson.
8. Student B said that Aitcheson rubbed her back above her shirt on an ongoing basis, and occasionally Aitcheson would rub her under her shirt.
9. Student B described that Aitcheson moved his hands from her back towards her front and touched her breast. Student B said that Aitcheson did this a few times when Student B was in Grade 6.
10. Student B described that Aitcheson touched her from the middle and lower back, specifically described as from her shoulder blades down and in a circular manner.
11. Student B was clear that Aitcheson never touched her on the buttocks.
12. Student B said that she would freeze when Aitcheson touched her.
13. Student B commented that she found it weird that Aitcheson would do this.
14. Student B was clear that she never spoke to Aitcheson about any of his actions.
15. Student B said that Aitcheson would always begin touching her outside of her shirt and that he would then slide his hand under her shirt. Student B testified that this happened on multiple occasions.
16. Student B commented that Aitcheson would continue rubbing her back and would slide his hand to the side, occasionally touching her breast.

17. Student B said that this would happen at Aitcheson's desk.
18. Student B described the classroom set up. Aitcheson's desk was situated in the rear right corner of the class (aligned to be looking toward the front of the classroom).
19. Student B said that no other students were present at Aitcheson's desk when the contact occurred but that if other students were present at Aitcheson's desk, no physical contact would occur.
20. Student B described Aitcheson's contact with her breast as rubbing and caressing.
21. Student B said that she reported this behaviour to Student A at Student A's house.
22. Student B described the conversation with Student A as brief, and that Student A confirmed that Aitcheson had also touched her. This conversation occurred when Student B was in Grade 6 and Student A was in Grade 5. This was the only conversation that took place between Student A and Student B on this issue.
23. Student B spoke to counting down to the end of the school year after these incidents.
24. Student B never spoke to this matter again until the school district investigator contacted her.
25. Student B spoke about why she did not tell anyone about the physical interactions with Aitcheson.
26. Student B said that she had repressed her memory of the events. She wanted to pretend that these things didn't happen.
27. Student B felt that it was very difficult to remain quiet.
28. Student B was not confident that her parents would have believed her.
29. Student B spoke of the school district's investigation.
30. Student B felt that it was difficult to relive these events and to have to tell people about what had happened to her.
31. Student B said that she told her parents after she was contacted by the school district. She told her mother first. Student B then told her father.
32. Student B described her mother's reaction as "angry" and her father's as "feeling guilty."
33. Student B discussed the impact that this experience had on her.

34. Student B said that this has and still does have an impact on her.
35. Student B described herself as closed off. She doesn't have fun. She has engaged in self-harm (cutting) since Grade 6.
36. Today, Student B doesn't like being touched. She said that she has trust issues.
37. Student B said that she had brief contact with Student A at a Christmas concert for their siblings.
38. Student B testified with respect to Aitcheson and the issue of Aitcheson engaging in favouritism toward female students in general and certain female students in particular.
39. Student B described a class gift exchange which made Student B feel uncomfortable, as it occurred after Aitcheson was touching Student B.
40. Aitcheson had Student B's name in the gift exchange, meaning that Aitcheson was to purchase a gift for Student B.
41. Aitcheson gave Student B gum and candy all the time. Aitcheson did not pay attention to other students.
42. Student B commented about an incident in a student line up where a student inadvertently made physical contact with her.
43. Student B said that she bristled when this happened and commented to the student that she didn't like to be touched. Aitcheson overheard this event.
44. Student B further testified that the next day Aitcheson apologized to her after overhearing her interaction with the other student. Student B said nothing to Aitcheson in response. Student B did not recall Aitcheson touching her again after this day.
45. During Student B's Grade 9 year at [School II], Aitcheson transferred to the same school.
46. Student B testified that she actively avoided the hallway near Aitcheson's classroom in an effort to avoid him. Student B also said that she would make alternate routing decisions as she moved about the school in an effort to avoid any interaction with Aitcheson.
47. Around the same time as Aitcheson began teaching at [School II], he requested to add her as a friend on Facebook. Student B commented that this made her feel gross.
48. To close her testimony, Student B was asked about a possible assertion that Aitcheson's physical contact with her may have occurred by accident. Student B responded that if the contact was an accident, why did it occur more than once?

49. The committee felt that Student B was straightforward in providing her testimony. While somewhat emotional during her testimony, this did not appear to impact her testimony. Student B was clear and concise in responding to questions. Her testimony was consistent with the testimony of other witnesses.

Witness Stephanie Rip

1. Rip is a teacher at [School 2]. Student C was a student in Rip's Drama 30 class. She acted in two plays that Rip directed.
2. Rip described Student C as outgoing, positive, confident and articulate.
3. Rip said that in March 2018, during Drama 30, Student C was working on a project. Student C was writing a play about teachers and students, during which Student C relayed her prior experience of a teacher being inappropriate.
4. Rip testified to what Student C had told her: (a) that Aitcheson had students sit on his lap, (b) that Aitcheson would rub their backs and (c) that Aitcheson had personal photos of students on his laptop.
5. Rip said she had received authorization from Student C to speak to the current principal at [School 2]
6. Rip commented that she did a search of school district e-mail and discovered there was no e-mail address for Aitcheson.
7. Rip said that she reported her conversation with Student C to the school principal.
8. Rip testified that she believed Student C. Rip added that there was no reason not to believe Student C. Rip felt that Student C had nothing to gain from this situation.
9. Rip commented that the discussion of the teacher-student relationship was integral to the project that Student C was working on.
10. Rip said that the discussion of the teacher-student relationship in Student C's project came to her very naturally and organically.
11. The committee felt that Rip was very credible. Rip had nothing to gain by reporting on Student C's comments to her. It was clear that Rip acted responsibly and appropriately when presented with the information directly from Student C. Rip's testimony was straightforward and not embellished.

Witness Student C

1. Student C is 17 years old. She is a first year [*subject redacted*] student at [*name of post-secondary institution redacted (PS3)*]. She graduated from [*School 2*] in June 2018. Student C attended [*Schools 4 and 5*] from Kindergarten through Grade 4. She attended [*School 11*] for Grade 5 and Grade 6 and [*School 6*] from Grade 7 through Grade 9. Student C attended [*School 2*] from Grade 10 through Grade 12.
2. Student C said that Aitcheson taught her drama and humanities during Grade 5 and Grade 6. Student C had no prior knowledge of Aitcheson before he was her teacher.
3. Student C said that she liked Aitcheson as a teacher.
4. Student C testified that throughout her Grade 6 year, Aitcheson engaged in arm touching, touching on the back, and pulling her onto his knee.
5. Student C described the classroom configuration. Aitcheson's desk was located in the back right corner of the classroom.
6. Student C described that Aitcheson would grab her shoulder and her arm from behind.
7. Student C said that Aitcheson would touch her arm and move from touching her arm to touching her upper and mid back. This would occur at Aitcheson's desk.
8. Student C described a slight rubbing motion.
9. Student C was clear that Aitcheson's contact with her never moved to her lower back or lower on her body.
10. Student C described that as Aitcheson was touching her arm, he would pull her in closer to him and direct her to his knee. She described this as a natural movement.
11. Student C said that she would lean on his knee and not sit on his knee. She described this as partially sitting.
12. Student C stated that she never sat on Aitcheson's lap. Student C differentiated between leaning on Aitcheson's knee and sitting on his lap.
13. Student C testified that she saw this type of interaction with other students, but not all students.
14. Student C testified that the physical contact was with girls only.

15. Student C felt that Aitcheson was more lenient towards girls and more strict towards the boys.
16. Student C felt that she was a favourite of Aitcheson.
17. Student C was involved in the school play and was a highly engaged student.
18. Student C was asked if Aitcheson had ever made contact with her buttocks. She replied that he did not.
19. Student C was asked if Aitcheson had ever made contact with her breasts. She replied that he did not.
20. Student C said that at the time, these incidents did not bother her. Looking back, she now feels weird about it.
21. Student C does not believe that these were life-changing events for her.
22. Student C felt that Aitcheson was too close to her.
23. When asked about what changed between Grade 6 and Grade 12, Student C said that she had a better understanding of the world. She experienced really good relationships with male teachers in high school and this highlighted how the relationship with Aitcheson was different. No other teacher had ever touched her.
24. When asked about her current perceptions, Student C said that Aitcheson's actions were weird. Student C felt that students shouldn't be having their backs rubbed by a teacher in class and that they shouldn't be leaning on a teacher's knee.
25. Student C said that after she left [*School 11*] she had very little contact with her peers from there. Whenever she did run into former students from the school, she discovered that Aitcheson had been labelled "the creepy one."
26. Student C spoke of her disclosure to Rip. Student C was writing a play where she was discussing her own experience.
27. Student C said that Rip was willing to talk with her about her prior experiences. Student C needed to give some additional thought to whether she would speak with Rip.
28. Later that day, Student C posted on her social media a request for people who went to [*School 11*], to identify themselves to her.
29. Ultimately, a group of about eight students reached out to Student C and confirmed that they had observed or experienced Aitcheson engaging in physical contact with students.

30. Student C said that during her social media conversations, she would sometimes be reminded of the incidents with Aitcheson and that sometimes she wants to cry. She commented that she had been reflecting on her time in Grade 5 and Grade 6 and that she didn't realize the significance of the events as they were occurring at the time.
31. Student C stated that she had never experienced touching with other teachers.
32. Student C said that when she was in Grade 7, she and Aitcheson mutually followed one another on Instagram.
33. Student C created a new Instagram account when she was in Grade 11. Aitcheson followed her on this new account, but he unfollowed her after she provided her statement to the school district investigator.
34. The committee felt that Student C was confident and outgoing in her testimony. Student C offered testimony that was clear and concise and consistent with the evidence of other former students of Aitcheson.

Witness Student F

1. Student F is 17 years old. In January 2018, she will begin as a student at the [*name of post-secondary institution redacted (PS4)*]. Student F attended [*School 3*] from Kindergarten through Grade 4. She attended [*School 11*] from Grade 5 through Grade 9. Student F attended [*School 8*] from Grade 10 through Grade 12.
2. Student F said that Aitcheson taught her English, Social Studies and Math in Grade 5. Aitcheson taught her English and Social Studies in Grade 6.
3. Student F testified that there was nothing noteworthy about Aitcheson as a teacher.
4. When asked about physical contact by Aitcheson, Student F said that Aitcheson would tap her on the back, but that Aitcheson never rubbed her back and never guided her to his knee.
5. Student F said that Aitcheson would touch Student D on her back.
6. Student F said that Student D was in Aitcheson's class when Student D was in Grade 5 and Grade 6.
7. Student F stated that Aitcheson would rub Student D's back and would have her sit on his lap.
8. Student F commented that Student D would be sitting on Aitcheson's lap while Student D was playing games on the computer. The rest of the class would be at their desks during this time.

9. Student F stated that the other students were jealous that Student D got to play games while everyone else had to do work. It was clear to everyone that Student D was Aitcheson's favourite and that she received preferential treatment.
10. Student F described the classroom set up. Aitcheson's desk was situated in the back right corner of the class. The computer desk was situated closer to the front of the room, but on the right side of the room.
11. Student F described sitting on the lap as meaning sitting on one leg.
12. When asked about her reaction as this was happening, Student F said that she didn't overthink it, but that she was mad that Student D got to play games.
13. When asked about the change in her perception, Student F said that looking back, this all seemed weird and inappropriate. No other teacher in her Kindergarten through Grade 12 years had ever engaged in this sort of physical contact. This was unique in her experience.
14. Student F commented that Aitcheson was always rude to boys. Boys always got in trouble. Girls got away with everything. There was no physical contact between Aitcheson and boys. The only physical contact was with girls.
15. Student F testified that Aitcheson had a giant cupboard with gum in it and that he would give girls access to it.
16. Student F said that she did not speak of this until she was contacted by Student C via social media.
17. Student F testified that she and Student D would talk about Aitcheson and they thought that Student D sitting on Aitcheson's lap was weird.
18. Student F stated that Aitcheson would creep students on their Facebook accounts when she was in Grade 6. Additionally, Aitcheson would look on their Facebook accounts when the students were in class. Student F would state that he could report them for being underage to have a Facebook account.
19. Student F stated that Aitcheson had a picture of Student D on his computer as the background photo.
20. Student F described Aitcheson as a scary guy. He was tall, loud, and had an overpowering voice. Student F commented that she wasn't scared of Aitcheson at the time, but that she would be scared of him now.

21. The committee felt that Student F was calm. She was honest when she didn't know the answer to a particular question. Student F's evidence was consistent with the testimony provided by other witnesses.

Witness Student E

1. Student E is 17 years old. She is a first year [*subject redacted*] student at [*name of post-secondary institution redacted (PSI)*]. She graduated from [*School 8*] in June 2018. Student E was a student at [*School 11*] from Grade 5 through Grade 9.
2. Student E testified that Aitcheson was her teacher for all subjects in Grade 5 and for Social Studies and Language Arts in Grade 6.
3. Student E felt that Aitcheson was a good teacher. She described having neutral feelings towards him.
4. Student E shared that Aitcheson would rub the entire length of her back and that he would do so in a circular pattern, on more than one occasion.
5. Student E described the physical layout of the classroom. Aitcheson's desk was situated in the back right corner of the classroom.
6. Student E said that she saw Aitcheson touch Student D in the exact same manner as with Student E.
7. When asked if Aitcheson ever touched her under her shirt, Student E responded that this never happened on the front, but that it may have happened on her back.
8. When asked if she was ever on Aitcheson's lap, Student E said that she was. She also said that Student D also was on Aitcheson's lap. Student E said that sometimes both Student E and Student D were together on Aitcheson's lap, with one of them on each leg. This happened more than once.
9. Student E stated that as she got older, she learned to have a greater understanding of these events.
10. Student E stated that she did not view these actions as sexual assaults but did view them as inappropriate.
11. Student E commented that she never observed this type of behaviour with other teachers.
12. Student E stated that she did not have close relationships with other teachers.

2. Mark Aitcheson is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, in or about the 2008/09 school year, did inappropriately touch a student, [Student B], contrary to section 23(1) of the *Teaching Profession Act*.
3. Mark Aitcheson is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, in or about the 2011/12 school year, did inappropriately touch a student, [Student C], contrary to section 23(1) of the *Teaching Profession Act*.
4. Mark Aitcheson is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, in or about the 2011/12 school year, did inappropriately touch a student, [Student D], contrary to section 23(1) of the *Teaching Profession Act*.
5. Mark Aitcheson is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, in or about the 2011/12 school year, did inappropriately touch a student, [Student E], contrary to section 23(1) of the *Teaching Profession Act*.

The chair directed a plea of not guilty to each of the charges on behalf of Aitcheson, in the absence of Aitcheson.

WITNESSES

There were nine witnesses called by the presenting officer:
Calvin Davies, area director, Area 7, Calgary School District No 19
Student A, former student
Parent A, parent of Student A
Student B, former student
Stephanie Rip, teacher
Student C, former student
Student D, former student
Student E, former student
Student F, former student

EXHIBITS FILED

- Exhibit 1—Letter to Aitcheson from the executive secretary, advising that a hearing has been ordered
Exhibit 2—Notice of hearing and e-mailed confirmation of receipt by Aitcheson, dated November 8, 2018
Exhibit 3—Proof of Aitcheson's membership in the Association

13. Student E testified she felt that Aitcheson had favourites and that she was the least of the favourites. Student E felt that Student C was the favourite.
14. Student E said that boys and girls were treated differently. Aitcheson was nicer to the girls.
15. Student E commented that Aitcheson followed her on Instagram. Student E blocked Aitcheson on Instagram once she was contacted by the school district investigator.
16. The committee noted that Student E was very matter-of-fact in her responses. Her answers were brief, but responsive. Student E was able to corroborate the testimony of other witnesses.

Witness Student D

1. Student D is 18 years old. She is a first-year student at [*name of post-secondary institution redacted (PS2)*]. Student D graduated from [*School 8*] in 2018. She attended [*School 11*] from Grade 5 through 9. She attended [*School 8*] from Grade 10 through Grade 12.
2. Student D had Aitcheson as a teacher for Grade 5 and Grade 6.
3. Student D described Aitcheson as a good teacher. She liked him.
4. The physical contact initiated by Aitcheson has negatively impacted how Student D feels about Aitcheson.
5. When asked to describe the nature of the contact initiated by Aitcheson, Student D said that he would rub her back frequently. This would take place anywhere on her back. Aitcheson would rub her to the top of her buttocks. This would occur at Aitcheson's desk.
6. Student D said that the physical contact occurred during both her Grade 5 and Grade 6 years.
7. Student D described the physical make-up of Aitcheson's classroom. The desk was located in the back right corner of the classroom.
8. Student D said that Student F and some of the boys witnessed the physical contact. They would talk about it.
9. Student D described her perception of her time in Aitcheson's classroom. She felt that she was the teacher's pet, but that this was harmless. She came to realize that this wasn't harmless.
10. Student D said that she was silent prior to the school district investigation. She was embarrassed.

11. Student D told her older sister that Aitcheson would rub her back and have her sit on his lap. Student D's older sister told Student D to tell her mom.
12. Student D said that as she became older, it became clearer to her that this was inappropriate.
13. Student D recalled playing computer games, with Aitcheson on his chair and Student D on Aitcheson's lap. This was less frequent than the back rubs, but did happen more than once.
14. Student D also recalled Student E on Aitcheson's lap, but had no recollection of both Student D and Student E on Aitcheson's lap at the same time.
15. Student D detailed that both she and Student E would be fully on Aitcheson's lap (both legs) and also at times only on one leg.
16. Student D testified that Aitcheson never touched her buttocks.
17. Student D testified that Aitcheson touched the side of her breast but that he never fully touched her breast. Contact with her breast was limited to his fingers only.
18. Student D testified that Aitcheson only ever touched her with one hand, never both hands simultaneously.
19. Student D said that she never reacted to Aitcheson.
20. Student D testified that there was no massaging by Aitcheson.
21. Student D testified that she observed Aitcheson engaging in the same behaviour with Student E.
22. Student D said that in high school, she and Student E would discuss Aitcheson. This made Student D feel gross.
23. Student D expressed that if the same thing happened to her today, she would handle the matter differently.
24. Student D stated that Aitcheson had a shorter temper with boys than he had with girls.
25. Student D commented that when she was in high school, Aitcheson started following her on Instagram.
26. Student D testified that Aitcheson commented on a Halloween photo of her on her Instagram.
27. Student D said that she unfollowed Aitcheson and eventually blocked him on Instagram.

28. Student D stated that while Aitcheson had access to her Instagram profile, he liked multiple photos of hers. They never engaged in any conversations on Instagram. Occasionally Aitcheson commented on Student D's Instagram posts but Student D never replied to any of those comments.
29. Student D commented that she is currently experiencing stress from having to revisit these incidents. It also bothers her knowing that there are multiple people involved.
30. Student D stated that she has a better understanding of things now.
31. Student D confirmed that Aitcheson used a photo of her as his computer background when she was in Aitcheson's class.
32. Student D stated that she never wants to see Aitcheson again.
33. Student D testified that she felt that Aitcheson was able to take advantage of them because he knew that they wouldn't really understand what was happening to them.
34. The committee felt that Student D was a credible witness. She appeared confident and had strong recollection of events. She was straightforward. When minor details were not clear, she was honest in stating that she could not recall. Student D did not embellish. Student D provided testimony that corroborated testimony of other witnesses.

Mark Aitcheson's Written Submissions

1. Aitcheson submitted multiple documents, through the secretary to the hearing committee, as his testimony and representation. The committee reviewed each document with care.
2. The committee accepted the documents labelled as Exhibit 35, Exhibit 37 and Exhibit 39. The committee considered, but did not accept, documents labelled as Exhibit 36 and Exhibit 38.
3. Exhibit 36 was not accepted by the committee because it is a response solely to the school district's investigation as it pertained to procedural matters. This document was not germane to this proceeding.
4. Exhibit 38 was not accepted by the committee because it consists solely of Aitcheson's application to the Board of Reference. This document was not germane to this proceeding.
5. Aitcheson's documents that were accepted by the hearing committee consisted of his opening statement, his work history, and his closing statement. The hearing committee noted it was limited in its ability to assess the credibility of the testimony in a manner parallel to that of the testimony provided by the witnesses in person. The committee could assess the contents of the document only; it did not have the ability to observe sworn testimony being delivered

under oath. The committee reviewed Aitcheson's unsworn testimony guardedly, noting that the presenting officer would not have the ability to cross examine and the committee would be unable to ask questions for clarification.

6. In his opening statement, Aitcheson stated that he has been working as a teacher for 29 years, having taught children from Kindergarten to Grade 9.
7. Aitcheson stated that he provides a safe and caring learning environment for students.
8. Aitcheson stated that he has received positive evaluations.
9. Aitcheson stated that he has been very effective at establishing positive relationships with students, co-workers, and parents.
10. Aitcheson stated that he uses positive and encouraging language.
11. Aitcheson stated that he has provided students with a pat on the back or a hand on the shoulder to show support and to celebrate achievements.
12. Aitcheson reiterated that in his 29 years as a teacher, he has received many notes of thanks from parents and students and has received many pieces of student art.
13. Aitcheson stated that in his 29 years as a teacher, there has never been any suggestion that he has behaved inappropriately in any way, until these allegations were made.
14. Aitcheson stated that it is unreasonable and unbelievable to imagine that he touched students inappropriately in a classroom full of students.
15. Aitcheson outlined his work history.
16. The work history document outlined the dates when Aitcheson taught at various schools.
17. The work history document outlined class composition along with generally identifying educational assistants (no names provided) and other adults who may have been in his classroom on various occasions.
18. Aitcheson provided a closing statement. He stated that he has maintained a level of professionalism that is not only expected but essential in an education setting.
19. Aitcheson stated that he has taken a series of steps to ensure appropriate professional boundaries are maintained at all times.
20. Aitcheson stated that he treats colleagues, students and parents with dignity, respect and consideration.

21. Aitcheson stated that he did not become emotionally involved with colleagues, students and parents.
22. Aitcheson stated that he is approachable and willing to listen to colleagues, students and parents without prejudgement.
23. Aitcheson stated that he has set and maintained professional boundaries.
24. Aitcheson stated that when he worked with students at their desks, at his desk or at the computer station, he would occasionally place a supportive hand on a shoulder or give an encouraging pat on the back.
25. Aitcheson acknowledged that, in hindsight, any kind of physical contact with students such as rubbing their backs or shoulders, was not a good idea.
26. Aitcheson acknowledged that he has stopped the practice of rubbing students on their backs and shoulders.

DECISION OF THE HEARING COMMITTEE

- Charge 1—Guilty
- Charge 2—Guilty
- Charge 3—Guilty
- Charge 4—Guilty
- Charge 5—Guilty

REASONS FOR DECISION

Charge 1

1. Aitcheson was employed as a teacher by Calgary School District No 19 during the 2009/10 school year.
2. Aitcheson was an active member of the Alberta Teachers' Association during the 2009/10 school year.
3. Aitcheson massaged Student A on her neck, back and shoulders. Aitcheson slid his hand underneath the shirt of Student A and grabbed her breast. The profession expects that teachers will refrain from physical contact with students and the exploitation of students. Aitcheson touched Student A inappropriately and doing so was unprofessional.
4. Aitcheson engaged in activity that was detrimental to the best interests of students, by initiating inappropriate touching with Student A.

5. Aitcheson engaged in activity that was detrimental to the best interests of the teaching profession. Aitcheson's actions tainted the profession in the eyes of the witnesses who were party to this matter and generally in the eyes of all who have become aware of his misconduct.
6. It is the responsibility of the teacher to maintain appropriate teacher-student boundaries. Aitcheson undermined this trust, and this was unprofessional.
7. The committee weighed heavily the testimony of Student A against Aitcheson's written submission. It also considered the testimony of Parent A and Student B. Parent A provided corroboration of the testimony of Student A. Student B provided similar-fact evidence of another incident. Similar-fact evidence provides evidence that advances elements which support the charge. With similar-fact evidence, the probative value must outweigh its prejudicial effect. The committee determined that the testimony of Student B, as similar-fact evidence, had sufficient probative value to outweigh any prejudicial effect because it augmented the plausibility of Student A's testimony.
8. The clarity of the recall during the testimony of Student A, corroborated by Parent A and supported by similar-fact evidence from Student B, provided the committee with confidence that the testimony of Student A was accurate and complete.
9. The testimony of Student A, Parent A and Student B established that the allegations are true on the balance of probabilities.

Charge 2

1. Aitcheson was employed as a teacher by Calgary School District No 19 during the 2008/09 school year.
2. Aitcheson was an active member of the Alberta Teachers' Association during the 2008/09 school year.
3. Aitcheson massaged Student B on her neck, back and shoulders. Aitcheson slid his hand underneath the shirt of Student B and touched her breast. The profession expects that teachers will refrain from physical contact with students and the exploitation of students. Aitcheson touched Student B inappropriately and doing so was unprofessional.
4. Aitcheson engaged in activity that was detrimental to the best interests of students, by initiating inappropriate touching with Student B.
5. Aitcheson engaged in activity that was detrimental to the best interests of the teaching profession. Aitcheson's actions tainted the profession in the eyes of the witnesses who were party to this matter and generally in the eyes of all who have become aware of his misconduct.

6. It is the responsibility of the teacher to maintain appropriate teacher-student boundaries. Aitcheson undermined this trust and this was unprofessional.
7. The committee weighed heavily the testimony of Student B against Aitcheson's written submission. It also considered the testimony of Student A. Student A provided similar-fact evidence of another incident. Similar-fact evidence provides evidence that advances elements which support the charge. With similar-fact evidence, the probative value must outweigh its prejudicial effect. The committee determined that the testimony of Student A, as similar-fact evidence, had sufficient probative value to outweigh any prejudicial effect because it augmented the plausibility of Student B's testimony.
8. Student C, Student F, Student E and Student D spoke to different incidents, but their consistent testimony further establishes similar-fact evidence to support the finding.
9. The clarity of the recall during the testimony of Student B, supported by similar-fact evidence from Student A, provided the committee with confidence that the testimony of Student A was accurate and complete.
10. The testimony of Student B and Student A established that the allegations are true on the balance of probabilities.

Charge 3

1. Aitcheson was employed as a teacher by Calgary School District No 19 during the 2011/12 school year.
2. Aitcheson was an active member of the Alberta Teachers' Association during the 2011/12 school year.
3. Aitcheson massaged Student C on her neck, back and shoulders, and pulled her onto his knee. The profession expects that teachers will refrain from physical contact with students and the exploitation of students. Aitcheson touched Student C inappropriately, and doing so was unprofessional.
4. Aitcheson engaged in activity that was detrimental to the best interests of students, by initiating inappropriate touching with Student C.
5. Aitcheson engaged in activity that was detrimental to the best interests of the teaching profession. Aitcheson's actions tainted the profession in the eyes of the witnesses who were party to this matter and generally in the eyes of all who have become aware of his misconduct.
6. It is the responsibility of the teacher to maintain appropriate teacher-student boundaries. Aitcheson undermined this trust, and this was unprofessional.

7. The committee weighed heavily the testimony of Student C against Aitcheson's written submission. It also considered the testimony of Student F, Student E, and Student D. These witnesses provided similar-fact evidence of other incidents. Similar-fact evidence provides evidence that advances elements which support the charge. With similar-fact evidence, the probative value must outweigh its prejudicial effect. The committee determined that the testimony of Student F, Student E and Student D, as similar-fact evidence, had sufficient probative value to outweigh any prejudicial effect because it augmented the plausibility of Student C's testimony and because it established a consistent pattern of misconduct
8. Student A and Student B spoke to different incidents, but their testimony further establishes similar-fact evidence to support the finding.
9. The clarity of the recall during the testimony of Student C, supported by similar-fact evidence from Student F, Student E, and Student D provided the committee with confidence that the testimony of Student C was accurate and complete.
10. The testimony of Student C, Student F, Student E, and Student D established that the allegations are true on the balance of probabilities.

Charge 4

1. Aitcheson was employed as a teacher by Calgary School District No 19 during the 2011/12 school year.
2. Aitcheson was an active member of the Alberta Teachers' Association during the 2011/12 school year.
3. Aitcheson massaged Student D on her neck, back and shoulders, and pulled her onto his knee. The profession expects that teachers will refrain from physical contact with students and the exploitation of students. Aitcheson touched Student D inappropriately, and doing so was unprofessional.
4. Aitcheson engaged in activity that was detrimental to the best interests of students, by initiating inappropriate touching with Student D.
5. Aitcheson engaged in activity that was detrimental to the best interests of the teaching profession. Aitcheson's actions tainted the profession in the eyes of the witnesses who were party to this matter and generally in the eyes of all who have become aware of his misconduct.
6. It is the responsibility of the teacher to maintain appropriate teacher-student boundaries. Aitcheson undermined this trust, and this was unprofessional.

7. The committee weighed heavily the testimony of Student D against Aitcheson's written submission. It also considered the testimony of Student C, Student F and Student E. These witnesses provided similar-fact evidence of other incidents. Similar-fact evidence provides evidence that advances elements which support the charge. With similar-fact evidence, the probative value must outweigh its prejudicial effect. The committee determined that the testimony of Student C, Student F and Student E, as similar-fact evidence, had sufficient probative value to outweigh any prejudicial effect because it augmented the plausibility of Student D's testimony and because it established a consistent pattern of misconduct.
8. Student A and Student C spoke to different incidents, but their testimony further establishes similar-fact evidence to support the finding.
9. The clarity of the recall during the testimony of Student D, supported by similar-fact evidence from Student C, Student F and Student E, provided the committee with confidence that the testimony of Student D was accurate and complete.
10. The testimony of Student C, Student F, Student E, and Student D established that the allegations are true on the balance of probabilities.

Charge 5

1. Aitcheson was employed as a teacher by Calgary School District No 19 during the 2011/12 school year.
2. Aitcheson was an active member of the Alberta Teachers' Association during the 2011/12 school year.
3. Aitcheson massaged Student E on her neck, back and shoulders, and pulled her onto his knee. The profession expects that teachers will refrain from physical contact with students and the exploitation of students. Aitcheson touched Student E inappropriately, and doing so was unprofessional.
4. Aitcheson engaged in activity that was detrimental to the best interests of students, by initiating inappropriate touching with Student E.
5. Aitcheson engaged in activity that was detrimental to the best interests of the teaching profession. Aitcheson's actions tainted the profession in the eyes of the witnesses who were party to this matter and generally in the eyes of all who have become aware of his misconduct.
6. It is the responsibility of the teacher to maintain appropriate teacher-student boundaries. Aitcheson undermined this trust, and this was unprofessional.

7. The committee weighed heavily the testimony of Student E against Aitcheson's written submission. It also considered the testimony of Student C, Student F and Student D. These witnesses provided similar-fact evidence of other incidents. Similar-fact evidence provides evidence that advances elements which support the charge. With similar-fact evidence, the probative value must outweigh its prejudicial effect. The committee determined that the testimony of Student C, Student F and Student D, as similar-fact evidence, had sufficient probative value to outweigh any prejudicial effect because it augmented the plausibility of Student E's testimony and because it established a consistent pattern of misconduct.
8. Student A and Student B spoke to different incidents, but their testimony further established similar-fact evidence to support the finding.
9. The clarity of the recall during the testimony of Student E, supported by similar-fact evidence from Student C, Student F and Student D, left the committee confident that the testimony of Student E was accurate and complete.
10. The testimony of Student C, Student F, Student E and Student D established that the allegations are true on the balance of probabilities.

SUBMISSION ON PENALTY

Hadden submitted to the committee that an appropriate penalty would be a declaration of ineligibility for membership in the Alberta Teachers' Association for two years, and a recommendation for suspension of certificate for two years to be made to the minister of education.

Hadden referred to precedent cases with somewhat similar facts to support his penalty recommendation. Hadden acknowledged that the precedent history did not align well with the facts of this case.

PENALTY

The hearing committee imposed the following penalty on Aitcheson:

1. A declaration of ineligibility for membership in the Alberta Teachers' Association for two years
2. A recommendation to the minister of education that Aitcheson's teaching certificate be suspended for two years

The penalty encompasses all five charges.

REASONS FOR PENALTY

1. Aitcheson engaged in a pattern of heinous actions that exploited the trust and innocence of multiple students.

Report of the Hearing Committee of PCC re Aitcheson, page 3

- Exhibit 4—Student A letter, undated
- Exhibit 5—Student record re Student A
- Exhibit 6—Notes of interview by Davies and Stephanie Benassi with Aitcheson
- Exhibit 7—E-mail from Aitcheson to Benassi, dated November 8, 2016
- Exhibit 8—E-mail from Student B to Benassi, dated January 19, 2017
- Exhibit 9—School district follow-up investigation, dated January 13, 2017
- Exhibit 10—Student record re Student B
- Exhibit 11—E-mail from Aitcheson to Davies, dated February 3, 2017
- Exhibit 12—Notes of interview by Human Resources personnel with Specht
- Exhibit 13—School district investigation report re Aitcheson
- Exhibit 14—Termination of contract re Aitcheson
- Exhibit 15—Notes of interview by superintendent with Student C, dated March 14, 2018
- Exhibit 16—Student record re Student C
- Exhibit 17—Student record re Student D
- Exhibit 18—Notes of interview by Davies and Benassi with Student D
- Exhibit 19—Notes of interview by Davies and Benassi with Student F
- Exhibit 20—Student record re Student F
- Exhibit 21—Notes of interview by Davies and Benassi with Student E
- Exhibit 22—Student record re Student E
- Exhibit 23—Student A’s statement
- Exhibit 24—Student B’s statement
- Exhibit 25—Student C’s Snapchat
- Exhibit 26—Instagram direct message
- Exhibit 27—Student C’s statement
- Exhibit 28—Instagram Aitcheson and Student F
- Exhibit 29—Instagram like
- Exhibit 30—Instagram like
- Exhibit 31—Instagram screenshot
- Exhibit 32—Instagram indicating that Aitcheson blocked Student F
- Exhibit 33—Student F’s statement
- Exhibit 34—Student D’s statement
- Exhibit 35—Aitcheson’s opening statement (written)
- Exhibit 36—Aitcheson’s response (rejected by committee)
- Exhibit 37—Aitcheson work history
- Exhibit 38—Board of Reference application (rejected by committee)
- Exhibit 39—Aitcheson closing statement

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

Witness Calvin Davies

1. Davies is the area director for Area 7 with Calgary School District No 19. Davies was tasked with conducting the district’s investigation into allegations concerning Aitcheson.

2. Aitcheson betrayed the trust of students by his actions. This betrayal has caused lingering and long-term mental health impact for a number of his victims.
3. Aitcheson's actions undermine the interests of students and the teaching profession.
4. Teachers are in a position of power over students. Therefore, it is a teacher's fiduciary obligation to protect students, not to exploit their vulnerability through the teacher-student relationship. Aitcheson's actions constituted inappropriate behaviour which breached trust and necessitates suspension of membership and certificate.
5. There was no evidence of a criminal investigation or conviction in this matter.
6. The committee was unable to determine sexual intent.
7. The committee considered the recommendation of the presenting officer and deemed the recommendation to be appropriate and proportional in the circumstances.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, February 6, 2019.

Report of the Hearing Committee of PCC re Aitcheson, page 4

2. Student A was the original complainant to the school district.
3. Davies stated that he conducted interviews with Student A and Student B.
4. Davies confirmed the employment history of Aitcheson.
5. Davies confirmed the student records relating to the attendance of Student A, Student B, Student C, Student E and Student D.
6. The findings of Davies's investigation led to a recommendation to terminate the contract of Aitcheson. Aitcheson ultimately resigned his contract with Calgary School District No 19.
7. Davies confirmed that his report to the superintendent triggered a complaint under section 109(1) of the *School Act*.
8. Davies was concise in his testimony. His testimony about the school district's investigation is not germane to the facts of this proceeding. The district has a different mandate than the Professional Conduct Committee. Additionally, Davies was not a primary witness to any of the actions that were testified to by other witnesses. Accordingly, his evidence was treated as historical background information only.

Witness Student A

1. Student A is now 20 years old. She is not currently employed. Student A last attended high school during the 2016/17 school year.
2. Student A attended [*School 7*] from Kindergarten to Grade 6. She attended [*School 10*] from Grade 7 to Grade 9. She attended [*School 9*] and [*School 1*] from Grade 10 to Grade 12.
3. Aitcheson was Student A's homeroom teacher when she was in Grade 5 and Grade 6 at [*School 7*].
4. Student A described Aitcheson as her favourite teacher at the time. Aitcheson taught drama and art, which Student A described as things she liked.
5. Student A felt that in Grade 6 she had become Aitcheson's favourite student.
6. Student A said that Aitcheson is no longer her favourite teacher.
7. Student A described Aitcheson rubbing her shoulders during Grade 5 and Grade 6.
8. Student A described Aitcheson massaging her neck during Grade 5 and Grade 6.

Report of the Hearing Committee of PCC re Aitcheson, page 5

9. Student A described Aitcheson standing behind her. Aitcheson moved his fingers on her shoulder and her neck. Aitcheson used both hands.
10. Student A said that Aitcheson engaged in these activities with other students, boys and girls, in Grade 5 and Grade 6.
11. Student A described feeling uncomfortable at first, but that she felt that there were no bad intentions.
12. Student A testified that this physical contact happened every day.
13. Student A never raised any concerns with Aitcheson about back rubbing or neck rubbing.
14. Student A spoke of an incident during Grade 6 involving a school play.
15. During a school play, Student A made an error by messing up a line of dialogue. Student A left the play and went to the hallway. Aitcheson followed Student A to the hallway and proceeded to hug her.
16. Student A felt that the hug was strange, but that it had no bad intent.
17. Student A spoke that she had never been hugged by a teacher before, nor since.
18. Student A had never seen Aitcheson hug other students.
19. Student A did not raise a concern with Aitcheson or anyone else with respect to the hug.
20. Student A commented that she had reflected upon this incident, and the fact that she had never been hugged by another teacher throughout her school life, and realized that this hug by Aitcheson was inappropriate.
21. Student A testified that in June 2010, at the end of her Grade 6 year, she was working on a class project at Aitcheson's laptop computer.
22. Student A described that the computer desk was situated at the front right side of the classroom with the seat facing the wall. Students were situated in four-person groups in the centre of the classroom.
23. Student A described that Aitcheson's desk was in the back corner of the classroom, on the same side as the computer desk.
24. Student A stated that she had just logged into the computer and that Aitcheson had immediately followed her to the computer desk.

25. Student A stated that Aitcheson rubbed her shoulder for about 20 seconds.
26. Student A stated that Aitcheson then slid his right hand down across her right shoulder and underneath her shirt to her left breast.
27. Student A stated that Aitcheson squeezed her left breast. He did so in a manner that was hard, but that did not hurt Student A.
28. Student A stated that she immediately ran out of the room.
29. Student A stated Aitcheson followed her into the hallway.
30. Student A stated that Aitcheson apologized if he offended her.
31. Student A stated that she responded to Aitcheson with the statement “Do you think I’m fucking stupid?” Student A left to the bathroom. Aitcheson returned to the classroom.
32. Student A remained in the bathroom and cried for approximately 30 minutes, and then left to go to the school library, where she remained for 60 additional minutes.
33. Student A did not encounter any other people during her time in the bathroom or in the library.
34. Student A believed that Aitcheson’s actions were not done by accident.
35. Student A described her clothing that day as being a white, scoop-neck, t-shirt with a nude bra.
36. Student A stated that she didn’t want anyone to know about this. She felt ashamed and embarrassed.
37. Student A stated that Aitcheson was her favourite teacher. She thought that Aitcheson cared about her, not for her.
38. Student A stated that this happened in June, about two weeks before Grade 6 graduation.
39. Student A stated that for the rest of her Grade 6 year, there was no contact between her and Aitcheson, physical or otherwise, save and except for perfunctory verbal contact as would normally occur between a teacher and a student.
40. Student A said that Aitcheson continued to engage in physical contact and massages with other students for the remainder of Student A’s Grade 6 year.
41. Student A said that she never spoke with Aitcheson about this incident.

42. Student A had not spoken with her family about the incident at the time of the Grade 6 graduation.
43. Student A commented that at the Grade 6 graduation, Aitcheson had left her alone.
44. Student A stated that at Grade 6 graduation her family wanted to take a photo of Student A with her “favourite teacher,” Aitcheson. This made Student A feel very uncomfortable.
45. Student A stated that in Grade 5 and Grade 6, Aitcheson encouraged his students to add him as a friend on Facebook.
46. Student A said that Aitcheson would comment on her Facebook posts and that he would like her status on occasion.
47. Student A commented that she thought it was weird that Aitcheson would Facebook students in Grade 5 and Grade 6.
48. Student A commented that she didn’t recall Aitcheson posting anything inappropriate on his Facebook.
49. Student A testified that immediately after the June 2010 incident, she deleted Aitcheson from her Facebook account and never had any further Facebook communication with Aitcheson.
50. Student A testified that a week after the June 2010 incident, she told a classmate, Student 1, about the incident. Student 1 didn’t want to be involved in the matter.
51. Student A testified that she later learned from Student 1 that she (Student 1) lied to the school district investigator about the June 2010 incident when she stated that she lacked any recollection of discussing the incident with Student A.
52. During the summer between her Grade 6 and Grade 7 years, Student A began to cut and self-harm. She began to drink and to experiment with drugs. Student A began to run away from home.
53. Prior to this, Student A described herself as a good student who didn’t get into trouble.
54. In the fall of her Grade 7 year, Student A felt that she was safe from Aitcheson as he was not teaching at her new school.
55. Student A said that she told her Grade 7 teacher and her grandmother about the incident with Aitcheson.
56. Student A stated that she needed to tell someone. She chose her grandmother as a trusted confidant in her life.

57. Student A felt that the Grade 7 teacher did not believe her. The Grade 7 teacher took no action.
58. Student A stated that her grandmother wanted her to report the incident to the police.
59. Student A still felt ashamed and chose not to report. Student A said that her grandmother respected her wishes.
60. Student A thought that she was the only person to whom this had happened.
61. Student A stated that she was embarrassed and hurt that someone whom she had previously thought so highly of would do this to her.
62. Student A said that she revealed the June 2010 incident to her mother during Grade 8.
63. Student A said that this conversation with her mother happened at the family home.
64. Student A said that she was tired of feeling guilty about not having pursued matters against Aitcheson as her brothers were now attending [*School 11*] where Aitcheson was now teaching.
65. Student A stated that her mother wanted her to go to the police, but that she was not prepared to do so.
66. During her Grade 12 year, Student A stated that she attended her brother's Grade 8 band concert.
67. Aitcheson was present at the concert and approached Student A.
68. Student A said that the approach by Aitcheson led her to have a panic attack. She vomited in a school bathroom, and then immediately left the school.
69. Student A stated that she could not believe that Aitcheson had that much power over her.
70. Student A stated that after the band concert, she spoke of the June 2010 incident to Amber Murray, a counsellor at [*School 1*].
71. Student A said that she knew Murray very well.
72. Student A stated that Murray reported the conversation with Student A to the school principal, who ultimately reported to Davies.
73. Student A spoke of her friendship with Student B.

74. Student A described Student B as being her best friend when Student A was in Grade 5, and Student B was in Grade 6.
75. Student A did not recall that she ever spoke to Student B about Aitcheson.
76. Student B left the school after Student A's Grade 5 year.
77. Student A felt that when she was in Grade 5, Student B was Aitcheson's favourite student. Student A stated that it was obvious to everyone that Student B was Aitcheson's favourite student. He interacted with her the most.
78. Student A felt that when Student B left the school, Student A became Aitcheson's new favourite student.
79. Student A stated that she and Student B did not keep in touch after Student B changed schools.
80. Student A said that she had a lot of terrible things go on in her life, but that the June 2010 incident with Aitcheson was "the spark that lit the flame" which led her down the path of cutting, substance abuse and running away from home.
81. The committee noted that Student A was articulate and composed throughout her testimony. Student A was not the complainant in this matter and had nothing to gain in providing her testimony. In fact, the concerns expressed in support of the application for a closed hearing indicate that she risked much in her personal life by testifying in this matter. Student A presented as a credible witness. Her recall of the events was specific and included details that were realistic and convincing. Student A was understandably emotional when recounting the events and places where they occurred, yet she remained composed. Her credibility was enhanced by her sincerity and forthrightness. Her testimony remained internally consistent throughout.

Witness Parent A

1. Parent A is the mother of Student A. She has two other children, boys currently aged 15 and 16.
2. Parent A stated that during Student A's Grade 8 year, Student A initiated a conversation at supper time at home.
3. Student A told Parent A that Aitcheson had done something to her.
4. Student A told Parent A that Aitcheson reached his hand into her top and grabbed her breast during Grade 6.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST BONNY ANN AMBROSE

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Bonny Ann Ambrose of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, March 21, 2001 at 0900 and Thursday, March 22, 2001 at 0905 and ending at 1115.

Professional Conduct Committee members present as the hearing committee were E M Willette-Larsen (chair), D V MacDonald, G G Buxton and L C Kordic. C E LeBlanc, the appointed alternate, observed the proceedings. R W Rand of Frohlich Rand Kiss was counsel to the hearing committee, M C Arnal was secretary and L A Kaun was recorder. M A Kurucz, assisted by K E Moench, presented the case against the investigated member. The investigated member was present and was represented by B A Beresh of Beresh Depoe Cunningham. B Beresh was assisted by C Glynn, student-at-law.

CONSTITUTION/JURISDICTION

There was no objection to the constitution of the hearing committee or its jurisdiction to hear the case.

PLEA

The following charges were read by the secretary to the hearing committee:

1. Bonny Ann Ambrose is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of The Alberta Teachers' Association, on or about June 17, 1998, was convicted of an indictable offence under section 140(1)(c) of the Criminal Code of Canada to wit: on or about the 13th day of September, 1996, at or near Edmonton, Alberta, did with intent to mislead, unlawfully cause a peace officer to enter on or continue an investigation by reporting that an offence had been committed when it had not been committed, thereby committing public mischief contrary to section 140(1)(c) of the Criminal Code of Canada.

2. Bonny Ann Ambrose is charged with unprofessional conduct pursuant to the

Teaching Profession Act in that she, while a member of The Alberta Teachers' Association, during the period beginning on or about September 13, 1996 through the effective date of the termination of her employment contract May 31, 2000, acted in a manner which failed to maintain the honor and dignity of the profession, given the indictable conviction and given the extensive media coverage and public attention surrounding her arrest and trial, her conviction and her appeals to the courts.

The investigated member entered a plea of "guilty" to Charge 1 and "not guilty" to Charge 2.

GUILT OR INNOCENCE HEARING PHASE

WITNESSES

There were no witnesses called during this phase of the hearing.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. B Ambrose was a member of The Alberta Teachers' Association from 1993 09 01 to 2000 05 31. (Exhibit 3)
2. B Ambrose was employed as a teacher with Sturgeon School Division No 24 from 1985 to 2000 05 31. (Exhibit 4)
3. B Ambrose was convicted of an indictable offence under section 140(1)(c) of the Criminal Code of Canada, to wit: on or about the 13th day of September, 1996, at or near Edmonton, Alberta, did with intent to mislead, unlawfully cause a peace officer to enter on or continue an investigation by reporting that an offence had been committed when it had not been committed, thereby committing public mischief contrary to section 140(1)(c) of the Criminal Code of Canada. More specifically, B Ambrose falsely accused a police officer of sexually assaulting her while she was in custody. (Exhibit 5)
4. M Kurucz presented newspaper articles which provided evidence of extensive publicity surrounding the criminal cases and the appeals. (Exhibit 5)
5. B Beresh presented an affidavit from B Ambrose which indicated that she did not encourage or facilitate, nor did she have any effective control over, the media coverage or the way in which it was presented. (Exhibit 6)

DECISION OF THE HEARING COMMITTEE

Since the investigated member pled guilty to Charge 1, the hearing committee ruled only on Charge 2. The hearing committee found the investigated member “not guilty” of Charge 2.

REASONS FOR DECISION

1. The hearing committee did not find sufficient evidence to support the charge that B Ambrose had encouraged the extensive media coverage and public attention surrounding her arrest and trials.
2. The hearing committee found that B Ambrose did not control the content, the length nor the flavor of the news articles.
3. The hearing committee was cognizant of the lawful entitlement of B Ambrose to have the charge proven by trial and to appeal therefrom and accordingly, the hearing committee could not find any professional misconduct arising from the fact of those proceedings.

PENALTY PHASE

WITNESSES

B Beresh presented five witnesses: J Zinger, M Nesca, S Sharkey, D McDonald and C Spencer.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. B Ambrose was an excellent teacher and recipient of an excellence in teaching award. (Exhibits 6 and 7)
2. From the evidence presented, it appears that B Ambrose is not a risk to students.
3. Evidence presented showed that B Ambrose’s actions giving rise to her conviction of this indictable offence, and her conviction and sentencing, generated extensive publicity which identified her as a teacher.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalty on B Ambrose:

1. That B Ambrose's membership in The Alberta Teachers Association be suspended for a period of one year
2. That a recommendation be made to the minister of learning to suspend B Ambrose's teaching certificate for one year

REASONS FOR PENALTY

1. B Ambrose was convicted of an indictable offence and is guilty of unprofessional conduct pursuant to section 22(2) of the *Teaching Profession Act*.
2. Teachers convicted of indictable offences bring dishonor and disrepute to the profession.
3. Proceedings associated with B Ambrose's convictions resulted in significant negative publicity for the profession.
4. Society expects that teachers will conduct themselves in an appropriate manner and maintain the honor and dignity of the profession.
5. There is no evidence to suggest that students in B Ambrose's care would be in jeopardy.
6. B Ambrose's offence was not related to her role as a teacher and the offences occurred outside the school environment.
7. There is substantial evidence that B Ambrose was a successful and competent teacher.

Dated at the City of Edmonton in the Province of Alberta, Thursday, March 22, 2001.

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST MAX TATS VON AMERONGEN

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Max Tats von Amerongen of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, June 9, 1999 at 0900.

Professional Conduct Committee members present as the hearing committee were: E M Pilling (chair), R G Pearn, G G Buxton and S Antonini. J T Casey of Field Atkinson Perraton was counsel to the hearing committee, E L Hjelter was secretary and L A Kaun was recorder. A K Harrison presented the case against the accused. The accused was present and was represented by Craig Spencer of Braul Spencer & McEvoy.

CONSTITUTION/JURISDICTION

Neither the prosecuting officer nor the defence counsel objected to the constitution of the hearing committee. The prosecuting officer had no objection to the jurisdiction of the hearing committee. Counsel to the investigated member objected to the jurisdiction of the hearing committee. The reason for this objection was that the professional conduct hearing date was more than two years after the alleged offence. This was contrary to Section 65(2) of the *Teaching Profession Act*. After hearing from defence counsel and the prosecuting officer, the hearing committee reserved decision on the matter of jurisdiction.

PLEA

The following charges were read by the secretary to the hearing committee. To protect the identity of the victims, the pseudonyms Person A and Person B are used in this report.

1. Max Tats von Amerongen aka Max Joseph Amerongen is charged with unprofessional conduct contrary to the *Teaching Profession Act* in that he, on or about the 27th day of February, 1998 in Edmonton, Alberta plead guilty to and was convicted of an indictable offence under the *Criminal Code* of Canada to wit: Between the 1st day of January, 1983 and the 21st day of November, 1984, both dates inclusive, at or near Edmonton, Alberta, did unlawfully commit an act of gross indecency with Person A, contrary to section 157 of the *Criminal Code* of Canada.

2. Max Tats von Amerongen aka Max Joseph Amerongen is charged with unprofessional conduct contrary to the *Teaching Profession Act* in that he, on or about the 27th day of February, 1998, in Edmonton, Alberta plead guilty to and was convicted of an indictable offence under the *Criminal Code* of Canada to wit: Between the 1st day of November, 1984, and the 21st day of November, 1984, both dates inclusive, at or near Edmonton, Alberta, did unlawfully commit a sexual assault upon Person B, contrary to section 246.1(1) of the *Criminal Code* of Canada.

The investigated member entered a plea of "guilty" to each of the charges.

The prosecution called no witnesses. The defence called M Amerongen.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. M Amerongen was a member of The Alberta Teachers' Association during the periods 1979 09 01 to 1984 11 30 and 1986 11 01 to 1997 02 28. (Exhibit 3)
2. M Amerongen was employed as a teacher by the Sturgeon School Division No 24, the Sherwood Park Catholic Separate School District No 105 and the Edmonton School District No 7. (Exhibit 3)
3. At the time of the offences, M Amerongen was a teacher employed by Sherwood Park Catholic Separate School District No 105.
4. On 1998 02 27, M Amerongen plead guilty to and was convicted of two indictable offences under the *Criminal Code*.
5. The offences were committed against Person A, who was between the ages of 13-15, and Person B, who was age 16. (Exhibit 4)
6. Person A and Person B were former students of M Amerongen. (Exhibit 4)

DECISION ON JURISDICTION

On the matter of jurisdiction, the hearing committee ruled that it did have jurisdiction on the grounds that the limitation period set forth in Section 65(2) of the *Teaching Profession Act* does not apply to professional conduct proceedings.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalty:

1. M Amerongen is hereby declared ineligible for membership in The Alberta Teachers' Association.
2. A recommendation will be sent to the minister of learning requesting that M Amerongen's teaching certificate be canceled.
3. A fine in the amount of \$1,000 on each charge, for a total of \$2,000, be paid by M Amerongen to The Alberta Teachers' Association.

REASONS FOR PENALTY

1. A teacher convicted of an indictable offence brings dishonor and disrepute to the profession.
2. Society has a right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. M Amerongen violated this trust relationship.
3. A teacher should not be engaged in sexual activity with students. Society views such actions as repugnant and reprehensible. M Amerongen's actions showed disregard for societal expectations of teachers.
4. The court proceedings received widespread media coverage.
5. M Amerongen accepted responsibility for his behavior and demonstrated remorse.

Report of the Hearing Committee of PCC
M Amerongen, page 4

Dated at the City of Edmonton in the Province of Alberta, Canada, Wednesday, June 9, 1999

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST DAX BRUCE EARL ANDREWS

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Dax Bruce Earl Andrews of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act* (TPA). The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, March 16, 2006.

Professional Conduct Committee members present as the hearing committee were Kirk Jensen (chair), Denise Peterson and George Epp; Brenton Baum was present as an observer. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Ernest Clintberg was secretary and Leslie Kaun was recorder. Brenda Haubrich presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There was no objection to either the composition or the jurisdiction of the hearing committee.

The prosecutor advised the committee that she had spoken to Andrews who was aware of these proceedings and he had agreed that the hearing should move ahead. Andrews indicated his willingness to waive the 15-day notice period of hearing requirement as specified in the TPA section 31(3) in relation to Charges 2 and 3. Andrews signed his submission to the hearing committee (Exhibit 2) on March 2, 2006, thirteen clear days prior to the hearing.

In a situation such as this, it is the view of the committee that section 31(4) of the TPA, supported by section 23(2) of the TPA, overrides the need to adhere to the prescribed duty of a hearing committee to meet the requirement of giving the member fifteen days notice of hearing relative to Charges 2 and 3.

When a member has been accused and convicted of an indictable offence, the interests of the public are best served by holding a hearing forthwith, as directed by section 31(4) of the TPA.

The committee noted that while Charges 2 and 3 would normally be governed by the time frame prescribed by section 31(3) of the TPA, section 31(4) deals with a "hearing that relates to the

conviction of a member of an indictable offence". While only Charge 1 in this case deals with the member's conviction of such offence, clearly the two other charges are related in that they arise from the facts that resulted in the criminal conviction.

The member had been notified of all three charges and had indicated that he had no objection to the hearing proceeding as scheduled.

The committee ruled that it was in the best interests of the public, the student, the member and the profession to proceed forthwith with the hearing on all three charges. There would be no real advantage to the member to sever Charges 2 and 3 and have them dealt with later.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Dax Bruce Earl Andrews is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, was convicted of an indictable offence under the *Criminal Code* and was sentenced February 28, 2006.
2. Dax Bruce Earl Andrews is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about October 1, 2004 through March 30, 2005, failed to maintain the dignity of a student by engaging in a sexual relationship with her.
3. Dax Bruce Earl Andrews is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about October 1, 2004 through March 30, 2005, failed to act in a manner which maintains the dignity of the teaching profession by engaging in a sexual relationship with a student.

The investigated member entered a plea of guilty to the charges (Exhibit 2).

WITNESSES

No witnesses were called.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Andrews was a member of The Alberta Teachers' Association during the period September 1, 1993 to November 30, 2005 inclusive (Exhibit 3).
2. Andrews was a teacher at Name of school redacted School with Calgary School District No 19 (Exhibit 2).
3. Andrews plead guilty to and was convicted of an indictable offence on January 20, 2006—while “being in a position of trust or authority towards or in a relationship of dependency with . . . , a young person, did for a sexual purpose unlawfully touch, directly or indirectly, with a part of the body or with an object, a part of the body of . . . contrary to section 153(1)(A) of the Criminal Code of Canada” (Exhibit 4).
4. Over a five-month period, beginning in October 2004, Andrews had a sexual relationship with a 15-year-old female student (Exhibit 2).
5. The court imposed a penalty on Andrews of 12 months probation and 18 months imprisonment in the community. A victim fine surcharge of \$100 was ordered. He was also ordered by the court to comply with the Sex Offender Information Registration Act and was ordered to provide a DNA sample per section 487.051(1)(a) of the *Criminal Code* (Exhibit 5).
6. Significant media coverage resulted from Andrews’ actions. Nine news articles were provided for information (Exhibits 2 and 5).
7. Andrews had relinquished his teaching certificate to the Registrar of Alberta Education prior to the hearing (Exhibit 6).
8. Andrews resigned from his teaching position with Calgary School District No 19 prior to the hearing (Exhibit 6).
9. A written paraphrase of the apology Andrews made in open court was submitted (Exhibit 6).
10. Andrews was forthright and cooperative throughout the investigation (Exhibit 2).

DECISION OF THE HEARING COMMITTEE

The hearing committee found Andrews guilty on all three charges.

REASONS FOR DECISION

1. Andrews was convicted of an indictable offence (Exhibit 4).
2. Andrews' actions clearly failed to maintain the dignity of the student.
3. Andrews failed to act in a manner that maintains the dignity of the teaching profession.

PENALTY

The hearing committee imposed the following penalty:

1. Effective immediately, Andrews is declared ineligible for membership in The Alberta Teachers' Association.
2. A recommendation will be sent to the Minister of Education to cancel Andrews' teaching certificate.
3. The Alberta Teachers' Association, upon receiving notice from the Minister of Education of the cancellation of Andrews' teaching certificate, will notify all teaching certification bodies in Canada of Andrews' lack of standing.

REASONS FOR PENALTY

1. Andrews was convicted of an indictable offence.
2. Andrews was involved in a sexual relationship with a student over a period of five months.
3. Andrews committed a breach of trust when he had a sexual relationship with the student.
4. Society has the right to expect that teachers will act in a way that will honour the dignity and well-being of students.

5. Sexual contact with a student is a serious breach of the public trust and of professional conduct.
6. Andrews was forthright and cooperative throughout the investigation.
7. Andrews publicly apologized for his actions in open court.
8. Andrews, upon conviction, was sentenced to house arrest for 18 months and probation for 12 months, was ordered to provide a DNA sample and was ordered to comply with the *Sex Offender Information Registration Act*. Under all the circumstances above, the committee was of the view that any further punishment by way of a fine was unnecessary.

Dated at the City of Edmonton in the Province of Alberta, Thursday, March 16, 2006.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST EDWIN ARIAS

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Edwin Arias of Airdrie, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held online, via video conference, on Monday, June 21, 2021 at 0900.

The participants were

1. Professional Conduct Committee members appointed as the hearing committee Heather Quinn (chair), Corey Borys and Ismat Bandali;
2. Richard Rand of Rand & Company LLP as counsel to the hearing committee;
3. Chris Gibbon as secretary;
4. Sudeep Dua as recorder; and
5. Tanya Thiessen as presenting officer assisted by Dan Coles.

The investigated member, Edwin Arias, was not present; however, he was represented by Beverly Broadhurst.

COMPOSITION/JURISDICTION

There were no objections to the composition of the hearing committee or its jurisdiction to hear the case.

CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. Edwin Arias is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between January 1, 2007 and June 30, 2009, both dates inclusive, engaged in conduct for which he, on December 5, 2018, was convicted of an indictable offence, to wit: he did unlawfully commit a sexual assault upon a person contrary to section 271(a) of the Criminal Code of Canada.

An error was discovered with the conviction date in the original charge and the charge was amended, by consent, to read:

1. Edwin Arias is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between January 1, 2007 and June 30, 2009, both dates inclusive, engaged in conduct for which he, on June 22, 2018, was convicted of an indictable offence, to wit: he did unlawfully commit a sexual assault upon a person contrary to section 271(a) of the Criminal Code of Canada.

The investigated member entered a plea of guilty to the amended charge.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

- Exhibit 1—Notice of hearing and Canada Post confirmation of delivery on June 7, 2021
- Exhibit 2—Proof of Arias's membership in the Alberta Teacher's Association from May 1, 2003 to November 30, 2019
- Exhibit 3—Declaration of awareness of rights, signed by Arias, dated June 15, 2021
- Exhibit 4—Submission on plea, signed by Arias, dated June 15, 2021
- Exhibit 5—Agreed statement of facts, signed by Arias and Thiessen, dated June 15, 2021 and June 16, 2021 respectively
- Exhibit 6—Certificate of conviction, dated June 22, 2018
- Exhibit 7—Joint submission on penalty signed by Arias and Thiessen, dated June 15, 2021 and June 16, 2021 respectively

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED

1. Arias was born February 9, 1972. (Exhibit 6)
2. Arias was a member of the Alberta Teachers' Association from May 1, 2003 to November 30, 2018. (Exhibit 5, Page 1)
3. Arias was employed by the Calgary Roman Catholic Separate School Division (CRCSSD) from May 1, 2003 to November 30, 2018. (Exhibit 5, Page 1)
4. At the time of the incidents, Arias was employed at [*name of school redacted*] which is a large urban high school located in [*location redacted*] Calgary. The school has a staff of over 100 and a student population of around 1,300. (Exhibit 5, Page 1)

5. On May 31, 2017, Arias was suspended by Superintendent Gary Strother for having been criminally charged with engaging in criminal sexual offences against a former female student. (Exhibit 5, Page 2)
6. On June 22, 2018, Arias pleaded guilty to the charge against him at the Provincial Court of Alberta. (Exhibit 5, Page 2)
7. On September 24, 2018, Arias submitted a letter of resignation to the CRCSSD. (Exhibit 5, Page 2)
8. Arias was sentenced by the court on December 5, 2018, to be imprisoned for a term of 30 months and to pay a victim fine surcharge of \$200. Further, the court issued the following orders on Arias: a) a firearm prohibition for 10 years, b) requirement to submit primary DNA, and c) be identified under the *Sex Offender Information Registration Act* for 20 years. (Exhibit 5, Page 2)
9. Arias paid his victim surcharge fine of \$200 on December 13, 2018. (Exhibit 6)

DECISION OF THE HEARING COMMITTEE

The hearing committee found Arias guilty on the single charge.

REASONS FOR DECISION

1. Arias was convicted of an indictable offence under section 271(a) of the *Criminal Code of Canada* for the sexual assault of a student.
2. Article 4 of the Code of Professional Conduct states that, “The teacher treats pupils with dignity and respect and is considerate of their circumstances.” By engaging in an inappropriate and sexual relationship with a student Arias thereby did not treat the student under the age of 16 with dignity and respect.
3. Article 18 of the Code of Professional Conduct states that, “The teacher acts in a manner which maintains the honour and dignity of the profession.” Having committed an indictable offence, then failing to acknowledge it and remaining in the profession for an additional ten years after the initial incident with the student, Arias brought dishonor and disrepute to the teaching profession.
4. By engaging in an inappropriate and sexual relationship with a student, Arias violated his position of trust as a teacher with his student(s), colleagues, the profession and society.

SUBMISSION ON PENALTY

The hearing committee received a joint submission on penalty from Arias and Thiessen, recommending the following penalty:

1. Permanent ineligibility for membership in the Alberta Teachers' Association
2. A recommendation to the minister of education that Arias's teaching certificate be cancelled.

After deliberation, the committee returned and asked both Thiessen and Broadhurst why there was no financial penalty included in their joint submission on penalty. Thiessen deferred to the committee as to what they may believe is an appropriate penalty for the charge but informed that Broadhurst would provide further insight.

Broadhurst told the committee that since the end of Arias's incarceration, he has had limited earning capacity. He currently earns \$15.50 per hour and has limited hours of work each week. Further to that, Broadhurst said that one-third of Arias's income is paid towards child support for his two children.

PENALTY

The hearing committee imposed the following penalty:

1. A declaration of permanent ineligibility for membership in the Alberta Teachers' Association
2. A recommendation to the minister of education to permanently cancel Arias's teaching certificate.

REASONS FOR PENALTY

1. Arias was convicted of an indictable offence under section 271(a) of the *Criminal Code of Canada* for the sexual assault of a student.
2. Teachers are in a position of power over students and are in a position of trust in relative to them. Parents routinely send their children into the care of teachers and cannot just "lock their doors" to protect their children from any teacher inclined to abuse them or prey upon them. It is a teacher's fiduciary obligation to protect students, not to exploit their vulnerability through the teacher-student relationship. Arias's actions constituted egregious behaviour which breached trust and necessitates the most significant penalty.
3. By engaging in an inappropriate and sexual relationship, Arias violated his position of trust as a teacher with his student(s), colleagues, the profession and society.
4. Arias was sentenced to be imprisoned for a term of 30 months, to pay a victim surcharge fine of \$200, was issued a firearms prohibition for ten years, and was required to submit

primary DNA to be identified under the **Sex** *Offender Information Registration Act* for 20 years.

5. Thiessen said that the charge against Arias was severe in nature. She further said that Arias, in silent denial of any such misconduct, continued to benefit from the profession for another ten years after the **sexual** relationship with his student.
6. The teaching profession requires that teachers engage in conduct that is professional. Teachers must uphold the requirements of the *Teaching Profession Act* and the Code of Professional Conduct in relation to the best interest of students. A penalty that deters other teachers from this type of activity is essential to prevent others from engaging in similar actions.
7. Teachers serve as role models for students and the general public. A penalty must be appropriate to ensure that the public trust of teachers is maintained, knowing that the profession has the highest standards for conduct of its members. The actions of Arias in this matter require a significant penalty to maintain the confidence of the public in the profession especially noting that he continued as a teacher for ten years after this indictable offence.
8. Arias's loss of membership and his teaching certificate in addition to his criminal record will limit his accessibility to any gainful employment in the future.
9. Arias had no previous convictions of unprofessional conduct.
10. The committee, in its deliberations, considered a fine for Arias after reviewing the ATA precedent cases provided by Thiessen. The committee noted that in all of those cases, there was some type of monetary fine; however, in all of those cases, none of the investigated members served jail time. The committee also noted Broadhurst's comments regarding Arias's employment status and his inability to pay any monetary fine as she believed he would be unlikely to ever earn more than his current wage.

Dated at the City of Edmonton in the Province of Alberta, Thursday, August 5, 2021.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST DAVID WILLIAM GEORGE ASAPH

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against David W G Asaph of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, March 21, 2002 commencing at 0903.

Professional Conduct Committee members present as the hearing committee were E Molly Pilling (chair), E L (Ted) Osborne, Dan V MacDonald and Dawn E J Arnold. Richard W Rand of Frohlich Rand Kiss was counsel to the hearing committee, Marc C Arnal was secretary and Leslie A Kaun was recorder. Kurt E Moench presented the case against the investigated member. The investigated member was not present and was not represented by counsel despite having been made aware of his right to be present and his right to have representation.

CONSTITUTION/JURISDICTION

There was no objection to the constitution of the committee or its jurisdiction to hear the case.

PLEA

The following charges were read by the secretary to the hearing committee.

1. David Asaph is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between October 1 and November 30, 1999, at the City of Calgary, failed to treat Name of student
redacted a student, with dignity and respect in a manner that was considerate of his circumstances when he invited him to come to his apartment to watch a movie.

2. David Asaph is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between October 1 and November 30, 1999, at the City of Calgary, failed to treat [Name of student redacted.] a student, with dignity and respect in a manner that was considerate of his circumstances when he showed him a **pornographic** video.
3. David Asaph is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between October 1 and November 30, 1999, at the City of Calgary, failed to treat [Name of student redacted.] a student, with dignity and respect in a manner that was considerate of his circumstances when he made **sexual** advances towards him.
4. David Asaph is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between October 1 and November 30, 1999, at the City of Calgary, failed to maintain the honor and dignity of the profession when he invited [Name of student redacted.] a student, to his apartment and subsequently engaged in **sexual** activities and discussions.
5. David Asaph is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about May 5, 2000, at the City of Calgary, failed to treat [Name of student redacted.] a student, with dignity and respect in a manner that was considerate of his circumstances when he invited him to come to his apartment to watch a movie.

In the absence of the investigated member, the committee entered a plea of "not guilty" to each of the five charges.

WITNESSES

The prosecuting officer called six witnesses: [Name of student redacted.] [Name of parent redacted.] [Name of school principal witness redacted.] [Name of teacher witness redacted.]
Boehnert, Detective Stephen Peake and [Name of teacher witness redacted.]

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. D Asaph was a member of the Alberta Teachers' Association at the time of the offences.
(Exhibit 2)

2. D Asaph was employed as a teacher by the Calgary School District No 19 at [Name of school redacted.] School at the time of the offences. (Exhibit 3)
3. [Name of student redacted.] was a grade 11 student in [Name of school redacted.] School at the time of the offences. (Exhibit 5)
4. In his grade 10 year, [Name of student redacted.] developed a friendship with D Asaph, his drama teacher, and this friendship continued into the next school year. (Exhibit 5)
5. In November 1999, while [Name of student redacted.] was in grade 11, D Asaph invited him to dinner and a play on a Friday night.
6. [Name of parent redacted.] [Name of student redacted.] mother, testified that she felt confident that her son would be safe in the company of a teacher.
7. [Name of student redacted.] testified that he and D Asaph had an extended dinner which precluded getting to the play on time. Instead, they spent time walking and shopping on 17th Avenue.
8. D Asaph then suggested they rent a movie and view it at his apartment. (Exhibits 5 and 6)
9. At or around 11:00 pm they arrived at D Asaph's apartment and watched the movie, *The Thirteenth Floor*.
10. After the movie ended, D Asaph put on a gay **pornographic** video and left the room.
11. [Name of student redacted.] testified that the video made him uncomfortable and he began thinking of an excuse to leave.
12. D Asaph returned to the living room in his underwear. He went back into the bedroom and emerged two more times wearing different underwear.
13. After the third time [Name of student redacted.] announced that he wanted to go home.
14. D Asaph went to his bedroom, got dressed and got his keys.
15. D Asaph returned to the living room and asked [Name of student redacted.] to demonstrate a workout exercise which they had discussed earlier.
16. As [Name of student redacted.] was demonstrating the exercise, D Asaph moved behind him and began to caress [Name of student redacted.] chest and arms.

Report of the Hearing Committee of PCC

Asaph, page 4

17. D Asaph moved around to the front of [Name of student redacted.] put his arms around him and began to kiss his neck and cheeks.
18. D Asaph unbuttoned his own pants, took [Name of student redacted.] right hand, and placed it on D Asaph's penis, over top of his underwear. D Asaph moved [Name of student redacted.] hand in a stroking motion.
19. D Asaph unbuttoned [Name of student redacted.] pants and asked if he could touch [Name of student redacted.] and [Name of student redacted.] said no.
20. D Asaph moved back and did up his pants. He then drove [Name of student redacted.] home. (Exhibit 5)
21. Upon arrival at his home, [Name of student redacted.] was greeted by his mother and immediately proceeded upstairs to his room where he cried. (Exhibits 5, 6, 7)
22. [Name of parent redacted.] testified that upon his return home [Name of student redacted.] appeared pale, didn't want to talk, and went upstairs to his room. She also testified that it was unusual for him not to discuss the events of his evening when he returned home. She further testified that it was unusual for him to come home past his curfew.
23. [Name of student redacted.] did not discuss the incident for several months, during which time his teachers [Name of teacher witness redacted.] and [Name of teacher witness redacted.] testified that they noticed changes in his demeanour. (Exhibits 12, 13)
24. On Tuesday, March 6, 2001 [Name of student redacted.] disclosed the incident to [Name of teacher witness redacted.] (Exhibit 13)
25. [Name of teacher witness redacted.] took [Name of student redacted.] to talk with the principal, [Name of principal redacted.] to whom he repeated his account of the incident. (Exhibits 11, 13)
26. [Name of principal redacted.] testified that she then contacted the Superintendent of Human Resources of Calgary School District No 19 and the Calgary Police Service.
27. Detective S Peake of the Calgary Police Service testified that he conducted an extensive investigation including a Part 6 Order for a One Party Consent recorded conversation between [Name of student redacted.] and D Asaph, that took place on March 22, 2001. The transcript of this conversation corroborated S Peake's previously gathered evidence. (Exhibit 9)
28. On March 22, 2001, D Asaph was suspended with pay by the Calgary Board of Education. (Exhibit 3)

29. S Peake testified that D Asaph was arrested on March 24, 2001 and charged with sexual exploitation. S Peake also testified that under criminal law, this was a minor sexual offence.
30. [Name of student redacted.] testified that a hearing scheduled for September 11, 2001 was cancelled.
31. S Peake was later notified by the crown that an agreement had been reached with D Asaph. D Asaph agreed to resign and relinquish his teaching certificate in exchange for a stay of the charges against him.
32. On March 21, 2002, a former student from [Name of school redacted.] [Name of student redacted.] provided an affidavit stating that D Asaph offered him a ride home from his graduation dance on May 5, 2000. During the ride home, D Asaph invited [Name of student redacted.] watch a movie at D Asaph's residence. [Name of student redacted.] declined the invitation. (Exhibit 15)
33. On March 30, 2001 and September 29, 2001, the *Calgary Herald* and *Calgary Sun* publicized details of the incident and identified D Asaph as a teacher with Calgary School District No 19. (Exhibits 16, 17, 18)

DECISION OF THE HEARING COMMITTEE

Charge 1 – Dismissed
Charge 2 – Guilty
Charge 3 – Guilty
Charge 4 – Guilty
Charge 5 – Dismissed

REASONS FOR DECISION

1. Charges 1 and 5 were dismissed because the actions described therein, in and of themselves, did not necessarily constitute unprofessional conduct.
2. Charge 2 – By showing sexually inappropriate movies to a [Name of student redacted.] a student, D Asaph failed to treat him with dignity and respect in a manner that was considerate of his circumstances.

Report of the Hearing Committee of PCC
Asaph, page 6

3. Charge 3 – By initiating sexual touching and making an inappropriate sexual request to Name of student redacted. D Asaph failed to treat him with dignity and respect in a manner that was considerate of his circumstances.
4. Charge 4 – By initiating inappropriate touching and engaging in inappropriate discussions, D Asaph failed to uphold the honour and dignity of the profession. Resulting newspaper coverage that detailed the incident also brought dishonour to the profession.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalties for Charges 2, 3 and 4:

1. A recommendation to the minister of learning that D Asaph's teaching certificate be cancelled.
2. Cancellation of D Asaph's membership in the Alberta Teachers' Association.

REASONS FOR PENALTY

1. Teachers must not engage in any sexual activities with their students. Society views such actions as repugnant and reprehensible. D Asaph's actions showed disregard for society's expectations of teachers.
2. Society has the right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. D Asaph exploited a vulnerable student who viewed his teacher as an understanding, caring and trustworthy adult.
3. While the actions of D Asaph were characterized by S Peake as a minor offence under the *Criminal Code*, they represent a major breach of trust and a serious violation of the Code of Professional Conduct. Further, D Asaph's actions brought dishonor to the teaching profession and caused negative repercussions for Name of student redacted. and his family.
4. The incident received media coverage which brought dishonour and disrepute to the teaching profession.

Report of the Hearing Committee of PCC
Asaph, page 7

5. The teaching profession expects teachers to treat students with dignity and respect and will not tolerate behaviour which exploits and abuses students.

Dated at the City of Edmonton in the Province of Alberta, Friday, March 22, 2002.

HEARING COMMITTEE OF THE
PROFESSIONAL CONDUCT COMMITTEE
OF THE ALBERTA TEACHERS' ASSOCIATION



E Molly Pilling, Chair



E L (Ted) Osborne



Dan V MacDonald



Dawn E J Arnold

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST BARRET MITCHELL BAIN

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Barret Bain of Rosemary, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, May 30, 2016 at 0900.

Professional Conduct Committee members present as the hearing committee were Eric Frederick (chair), Nelson Moulton and Lynne Davies. Ayla Akgungor of Field LLP was counsel to the hearing committee, Chris Gibbon was secretary and Leslie Kaun was recorder. Keith Hadden presented the case against the investigated member. The investigated member, Barret Bain, was not present and was not represented by counsel despite having been made aware of his right to be present and his right to have representation.

CONSTITUTION/JURISDICTION

There were no objections to constitution of the hearing committee or its jurisdiction to hear the case.

ABSENCE OF THE INVESTIGATED MEMBER

The investigated member was not present and was not represented by an agent or legal counsel. Further, there was no agreement between the investigated member and the presenting officer with respect to documents or the facts relating to these discipline proceedings.

Section 40 of the *Teaching Profession Act* (TPA) provides that a hearing committee, on proof of service in accordance with this act of the notice of hearing on the investigated person, may: (a) proceed with the hearing in the absence of the investigated person, and (b) act and decide on the matter being heard in the same way as if the investigated person were in attendance.

Section 31 of the TPA requires that a notice of hearing be served on the investigated person at least 15 days before the hearing and shall state the date, time and location of the hearing and the reasonable particulars of the matter to be heard. Section 64(a) of the TPA, in turn, requires that if a document is to be served on any person, the document or notice is sufficiently served if it is served personally on that person or sent to that person by registered mail or courier at the address last shown for that person on the records of the Association.

The hearing committee was provided with the notice of hearing and the Canada Post confirmation of delivery of the notice of hearing by registered mail and entered the same as Exhibit 1 in these proceedings. The committee confirmed that the notice of hearing was served on April 7, 2016, which is well within the 15-day timeline required under section 31 of the TPA and that it met the other requirements of the TPA with respect to providing the date, time, location and particulars of the hearing.

The hearing committee was satisfied that there was sufficient proof of service of the notice of hearing in accordance with TPA requirements. Further, the hearing committee was advised by the presenting officer that the investigated member was aware of his right to attend the proceedings and his right to be represented by legal counsel. Accordingly, the hearing committee determined that it would proceed with the hearing in the absence of the investigated member.

CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. Barret Mitchell Bain is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between February 1, 2008 and March 1, 2008, engaged in conduct for which he, on July 29, 2015, was convicted of a summary criminal offence, to wit: at or near the Village of Rosemary, in the Province of Alberta, Bain did for a sexual purpose touch a person under the age of sixteen years directly with a part of his body, to wit: his hand, contrary to section 151 of the *Criminal Code*.

In the absence of the investigated member, the hearing committee entered a plea of not guilty to the charge.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

Exhibit 1—Notice of hearing and Canada Post confirmation of delivery on April 7, 2016

Exhibit 2—Proof of Bain's membership in the Alberta Teachers' Association from
September 1, 2005 to January 31, 2016

Exhibit 3—Conviction certificate dated December 9, 2015

Exhibit 4—Agreed Statement of Facts between Her Majesty the Queen and Barret Mitchell Bain

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Bain was a member of the Alberta Teachers' Association from September 1, 2005 to January 31, 2016. (Exhibit 2)
2. Bain was employed by Grasslands Regional Division No 6 until January 31, 2016. (Exhibit 2)
3. During February 2008, Bain (date of birth April 18, 1969) resided with a child (date of birth April 9, 1998) and Name of spouse redacted. (the common-law spouse of Bain) in the Village of Rosemary, Alberta. (Exhibit 4, items 1 and 2)
4. During the month of February 2008, the child was 10 years old. (Exhibit 4, item 3)
5. During the month of February 2008, Bain was working on house renovations in the lower level of the house. On three separate occasions, the child went to the lower level of the house, at which point Bain stopped what he was doing and moved toward the child. (Exhibit 4)

In the first instance, Bain placed his arm around the child's shoulder and with his other hand, fondled the breasts of the child from the outside of her clothing. (Exhibit 4, item 4)

In the second instance, Bain placed his arm around the child's shoulder and with his other hand, he slid it under the child's top and bra so that he was touching her breast, skin on skin. (Exhibit 4, item 5)

In the third instance, Bain placed his hand on the child's buttocks and then slid his hand down the child's pants so that his hand was on her buttocks, skin on skin. (Exhibit 4, item 6)

6. Immediately after the third incident, Bain told the child what he did was wrong and that he would never do it again. (Exhibit 4, item 7)
7. Bain asked the complainant not to tell anyone what he had done. (Exhibit 4, item 7)
8. Bain, at a later date, told his wife what he had done and he was no longer allowed to be alone with the child. (Exhibit 4, item 8)
9. On July 29, 2015 Bain plead guilty under part XXVII (summary) of the *Criminal Code* on the charge that between February 1, 2008 and March 1, 2008 at or near the Village of Rosemary, in the Province of Alberta, did for a sexual purpose touch Name of child redacted. a person under the age of sixteen years directly with a part of his body, to wit, his hand contrary to section 151 of the *Criminal Code*. (Exhibit 3)

10. On November 25, 2015, Bain was sentenced to six months' imprisonment. (Exhibit 3)

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

REASONS FOR DECISION

1. Bain touched a child inappropriately and was convicted of a summary offence under section 151 of the *Criminal Code*.
2. Given the nature of the summary conviction, Bain is guilty of unprofessional conduct under section 23(1) of the *Teaching Profession Act*.
3. By engaging in inappropriate actions of a sexual nature with a ten-year-old child, Bain failed to treat the student with dignity and respect and to be considerate of the student's circumstances.
4. By engaging in inappropriate actions of a sexual nature with a ten-year-old child, Bain failed to act in a manner which maintains the honour and dignity of the profession.
5. Society holds teachers to a high standard of conduct. By engaging in inappropriate actions of a sexual nature with a ten-year-old child, Bain cast a shadow on the profession as a whole.
6. By engaging in inappropriate actions of a sexual nature with a child, Bain violated society's expectation that a child should be able to trust and feel safe in all relationships with an adult, especially a teacher.
7. Bain's actions were egregious, repugnant, and reprehensible.

PENALTY

The hearing committee of the Professional Conduct Committee imposed as penalty on Bain

1. a declaration that Bain is ineligible for membership in the Alberta Teachers' Association and
2. a recommendation to the minister of education that Bain's teaching certificate be cancelled.

REASONS FOR PENALTY

1. Bain's actions, in which he violated the trust of a child, were egregious, repugnant, and reprehensible.
2. Bain committed a series of deliberate, escalating and inappropriate actions of a sexual nature over a period of one month.
3. By directing the child not to tell anyone of his inappropriate actions, Bain proved that he was both dishonest and evasive.
4. Bain brought dishonour and disrepute to the profession by his conviction of a summary offence and his conduct giving rise to that conviction.
5. The penalty imposed is consistent with previous cases of a similar nature where there was evidence of inappropriate actions of a sexual nature with a child.
6. In his attempt to have the child keep his inappropriate actions a secret, Bain showed disregard for the wellbeing of the child both now and in the future.

Dated at the City of Edmonton in the Province of Alberta, Monday, July 18, 2016.

THE ALBERTA TEACHERS' ASSOCIATION

DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST JOHN BARTH

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against John Barth of Canmore, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, March 7, 2005 at 0900 and continued through Tuesday, March 8, 2005.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. John Barth is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 1995-98 school years, failed to treat a student or students with consideration for their circumstances by discussing with them matters of school business inappropriate for discussion with students.
2. John Barth is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 1995-98 school years, failed to treat a student or students with consideration for their circumstances by discussing with them matters of a sexual and/or personal nature.
3. John Barth is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 1995-98 school years, failed to act in a manner befitting a member of the teaching profession by having a student or students attend on matters of school business at his home where alcohol was served to them.
4. John Barth is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about March 14, 2003, failed to act in a manner befitting a member of the teaching profession by his rude and abusive treatment of Shawn Carr, a social worker in the community.
5. John Barth is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 1995-98 school years, involved a student in deceiving Principal O'Toole about the content of a play.

6. John Barth is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 1995-98 school years, misrepresented a parent's conversation with him when relating it to teaching colleague Dene Cooper.

As the investigated member was not present, a plea of not guilty to each of the charges was directed.

DECISION OF THE HEARING COMMITTEE

- Charge 1—Guilty
- Charge 2—Guilty
- Charge 3—Guilty
- Charge 4—Not Guilty
- Charge 5—Guilty
- Charge 6—Not Guilty

REASONS FOR DECISION

Charge 1

Barth failed to treat a student or students with consideration for their circumstances by discussing with them matters of school business inappropriate for discussion with students when he complained to Student name redacted. and Student name redacted. that his programs were being under-funded. Barth also criticized the professional competence of colleagues.

Charge 2

Barth failed to treat students with consideration for their circumstances by:

1. discussing with them matters of a sexual and/or personal nature;
2. encouraging Student name redacted. to pose nude for a community artist's group;
3. encouraging and planning for Student name redacted. to pose nude for him privately;
4. discussing nude drawings of his students, using explicit language about a student's pubic hair and his own pubic hair;
5. instructing Student name redacted. in how to masturbate;
6. soliciting information from students about their personal relationships;
7. relating information to students about his sexual life; and
8. instructing students to read sexually explicit material that had no relevance to approved course material.

Report of the Hearing Committee of PCC
Barth, page 3

Student name redacted., Student name redacted. and Student name redacted. presented themselves as credible witnesses because their testimony was consistent and corroborative despite the length of time that has elapsed since the incidents. Student name redacted. and Student name redacted. presented themselves, through voice, appearance and demeanour, as resolute, confident and rational. While the committee had the advantage of actually seeing Student name redacted. and Student name redacted. testify, they were cognizant of being deprived of such advantage during the telephone testimony of Student name redacted.. However, the telephone connection was good and the committee was able not only to hear the substantive replies of Student name redacted. to the questions asked, but also to gauge with confidence the tone and candour of her replies.

Charge 3

Barth failed to act in a manner befitting a member of the teaching profession by serving alcohol to students Student name redacted. and Student name redacted. in his home.

Charge 4

Carr stated that Barth slammed his hand on the table saying loudly, "I don't sit with assholes like you." When asked by the committee if anyone could attest to this occurrence, Carr testified that one person looked away as if embarrassed. No written testimony or other witnesses were brought forward to corroborate his allegation.

While the committee recognized that corroboration is not essential, given the circumstances so described, and the allegation that the behaviour of Barth was loud and overt, corroborative testimony would have likely been forthcoming. Under all the circumstances described by the one witness who addressed this charge, the committee concluded that it would not be appropriate to convict, even on the balance of probabilities.

Charge 5

Barth involved Student name redacted. in deceiving Principal O'Toole about the content of a play. He tore off the last scenes of the script of the play "Dark of the Moon" and instructed Student name redacted., a student assigned as the assistant director of the play, to take the partial script to O'Toole.

Student name redacted. was viewed by the committee as a highly credible witness because her testimony was internally and externally consistent, was largely corroborated by other witnesses and lacked contradiction. Although visibly emotional on occasion, she was articulate and calm. The testimony regarding the altered script was corroborated by O'Toole.

Charge 6

Barth was found not guilty of misrepresenting a parent's conversation with him when relating it to teaching colleague, Cooper, because there was not enough proof to conclude that Barth was deliberately embellishing his version of his conversation with J Ferns when he spoke to Cooper.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalty for Charges 1, 2, 3, and 5:

1. John Barth is declared ineligible for membership in the Alberta Teachers' Association.
2. A recommendation will be made to the minister of education to cancel John Barth's teaching certificate.
3. A letter of severe reprimand will be sent to John Barth no later than April 30, 2005.

REASONS FOR PENALTY

1. Students, parents and the public have the right to expect that teachers will act in a manner which establishes and maintains the trust relationship between teachers and students. Barth's behaviour betrayed that trust.
2. Barth failed to treat students [Student name redacted], [Student name redacted] and [Student name redacted] with consideration for their circumstances by discussing with them matters of a sexual and/or personal nature.
3. As a result of Barth's behaviour, [Student name redacted] articulated feelings of embarrassment and discomfort. She felt confused in her identity and suffered loss in the violation of trust.
4. [Student name redacted] described having been adversely influenced by Barth. She spoke of lost opportunity throughout her high school years as a result of having been manipulated by Barth. This influence unquestionably contributed to [Student name redacted] making unfortunate life decisions that have taken her a long time to resolve.
5. [Student name redacted] was personally violated and was manipulated to secrecy about her relationship with Barth. She felt shame and believed herself to be at fault. She still exhibits strong feelings and experiences negative consequences in her life today because she is unable to separate Barth's interference in her sexual development from her adult sexual experiences.

5. Through introducing Student name redacted. and Student name redacted. to films and books with highly explicit sexual content, well beyond their experience, and not on any approved high school reading/viewing list, Barth intellectually and emotionally violated his students.
6. Through his inappropriate self-disclosures to students regarding his personal sexual relationships, sexual practices and the sexual abuse he had allegedly suffered and perpetrated, Barth violated the innocence of his students by unduly burdening them.
7. Barth interfered with students' relationships with administration through encouraging the students to openly protest administrative decisions with which he didn't agree. Barth further violated student/teacher relationships by openly criticizing other teachers to his students.
8. Barth acted unprofessionally in that he involved a student in deceiving Principal O'Toole about the content of a play.
9. Barth, through his acts of manipulation, violated student friendships and relationships with peers.
10. Barth emotionally violated students by asking them to examine and discuss traumas that were not their own.
11. Barth sexually violated Student name redacted. by instructing her in personal masturbation techniques, by stroking her face, neck and foot, and by kissing her full on the lips.
12. Barth violated parent/child relationships by denigrating Student name redacted.'s father and by telling Student name redacted. that her parents were unreasonable and that he loved her more than her parents loved her.
13. Barth's behaviour can be characterized, on overview, as seductive, improperly controlling, manipulative and predatory towards some of his students.
14. Barth failed to act in a manner befitting a member of the teaching profession by serving alcohol to students in his own home.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, March 22, 2005.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST STEVEN BEGRAND

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Steven Begrand of Saskatoon, Saskatchewan (formerly Beaumont, Alberta), were duly investigated in accordance with the *Teaching Profession Act* (TPA). The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Friday, February 5, 2010.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Steven Begrand is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about June 2007, engaged in inappropriate electronic communication with a student.
2. Steven Begrand is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2006/07 school year, began an inappropriate relationship with a student which became a sexual relationship during the summer following the student's graduation.
3. Steven Begrand is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2007/08 school year, continued inappropriate electronic communication with a former student after graduation, based on the teacher–student relationship established while the student was in school.

Begrand entered a plea of guilty to each of the charges by way of written submission.

DECISION OF THE HEARING COMMITTEE

The committee found Begrand guilty of all three charges.

REASONS FOR DECISION

Charge 1

1. Begrand engaged in inappropriate electronic communication with a student. Communication from a teacher to a student should be confined to matters pertinent to the role of teacher. The nature of Begrand's communication was familiar, juvenile and personal and falls outside the behaviour expected of a teacher.
2. Begrand failed to uphold the honour and dignity of the teaching profession when he engaged in inappropriate electronic communication with a student.

Charge 2

1. Evidence supports that an inappropriate relationship began when the student was in school and continued on an ongoing basis following the student's graduation.
2. Evidence did not support a significant break between the timing of the teacher-student relationship in school and the developing personal and sexual relationship after the graduation of the student.
3. Teachers are expected and trusted to maintain clear boundaries between instructional and personal relationships. By continuing a relationship that started at school, Begrand did not respect these boundaries.
4. Begrand failed to uphold the honour and dignity of the teaching profession when he started an inappropriate relationship with a student at school and continued the relationship after the student graduated.
5. The subsequent public nature of the relationship brought unfavourable attention to Begrand as a teacher and therefore harms the standing of the teaching profession.
6. The escalation of the relationship between Begrand and the student to a personal and sexual relationship calls into question his integrity and intentions as a teacher and erodes public confidence in teachers.

Charge 3

1. A teacher's quality of professional service is adversely affected when the teacher uses school technology to engage in inappropriate electronic communication.
2. Begrand breached the trust of his employer when he knowingly contravened the district's technology policy.

3. Using school equipment, Begrand engaged in sexually explicit electronic communication with a former student, an activity which fails to maintain the high standard of behaviour expected of teachers.

PENALTY

The hearing committed imposes as penalty:

Charge 1—letter of reprimand

Charge 2—declaration of ineligibility for membership in the Alberta Teachers' Association for one year, effective the date of this hearing, February 5, 2010

Charge 3—letter of severe reprimand

REASONS FOR PENALTY

Charge 1

1. Electronic evidence from June 2007, retrieved during the investigation period, was limited. The evidence proved that there was inappropriate communication; however, the recovery of data was fragmented such that the extent of the inappropriateness of the communication could not be fully determined. Accordingly, while the committee was satisfied of Begrand's guilt on this charge, the penalty imposed could only reflect the evidence produced and could not be influenced by any speculation.
2. Begrand failed to uphold the honour and dignity of the teaching profession when he engaged in inappropriate electronic communication with a student.

Charge 2

1. Teachers are in a position of trust and authority and as such must always be seen by the public to be acting in the best interests of students. By engaging in an inappropriate relationship with a student, a relationship that started at school and continued on an ongoing basis after the student's graduation, Begrand acted in a manner detrimental to the public's view of the teaching profession.
2. Begrand failed to recognize his obligation to act in the best interests of students, the public or the teaching profession [TPA 23(1)(a)] when he engaged in inappropriate communication with a student which continued on an ongoing basis and developed into a sexual relationship. Factors such as the end of the school year and the student reaching the age of 18 before their

relationship became sexual, did not absolve Begrand of his professional obligations under these circumstances. At most they were mitigating factors relative to penalty.

3. Begrand admitted that he was guilty of saying things of a sexual nature, but did not take full responsibility, when he purported to blame the student as well.
4. By his actions in relation to the student, Begrand failed to maintain the honour and dignity of the profession.

Charge 3

1. Begrand betrayed the trust of his employer when he used technology, in contravention of district policy, for inappropriate communication. This behaviour failed to maintain the honour and dignity of the profession.
2. Begrand's inappropriate electronic communication with the student continued a relationship that was established when she was a student in the school. Thus he failed to maintain the honour and dignity of the profession.
3. By using school property to engage in sexually explicit electronic communication, Begrand adversely affected the quality of his professional service and brought harm to the integrity of the profession.
4. By his actions, Begrand did not maintain the honour and dignity of the profession.

Related to all Charges

1. Begrand was generally forthright and cooperative throughout the investigation.
2. Begrand has not been employed as a teacher since the 2007/2008 school year.

Dated at the City of Edmonton in the Province of Alberta, Friday, February 5, 2010.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE

IN THE MATTER OF AN APPEAL BY PROVINCIAL EXECUTIVE COUNCIL
OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL
CONDUCT COMMITTEE WITH RESPECT TO CHARGES
OF UNPROFESSIONAL CONDUCT AGAINST STEVEN BEGRAND

The Professional Conduct Appeal Committee reports that the appeal by Provincial Executive Council of the decision of the hearing committee of the Professional Conduct Committee with respect to charges of unprofessional conduct against Steven Begrand was heard in accordance with the *Teaching Profession Act*. The appeal hearing was held at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, May 31, 2010 at 0900.

SUBMISSION OF THE APPELLANT

The appellant did not question the decision of the hearing committee in regard to guilt or innocence. The appellant restricted its appeal to the penalty ordered for Charge 2. The appellant argued that the penalty for Charge 2, to declare Begrand ineligible for membership in the Association, is too lenient in that it should also include a recommendation to the minister of education to suspend Begrand's teaching certificate for an equivalent period of time.

SUBMISSION OF THE RESPONDENT

The respondent submitted, through both written and oral submissions, that the penalty for Charge 2 was appropriate and should be upheld.

DECISION OF THE COMMITTEE

The committee allowed the appeal. The penalty for Charge 2 was amended to include, in addition to the declaration of ineligibility for membership in the Association, a recommendation to the minister of education to suspend Begrand's teaching certificate for a period of one year, effective February 5, 2010.

REASONS FOR DECISION

The penalty applied in this case was not reasonable for the following reasons:

1. The hearing committee found that an inappropriate relationship began while the student was in school and continued after graduation. Having made that finding, the hearing committee had to consider certification as well as membership.
2. The Association has an obligation under section 23 not only to protect the interests of the profession but also to protect students and the public. The public has the right to expect that teachers will act in a manner that establishes and maintains a trust relationship between them and their students. The withdrawal of membership without recommending equivalent action on the teaching certificate does not meet the Association's obligation and is not in keeping with the precedent cases.
3. The suspension of certification is necessary to protect all students whereas a suspension of membership alone does not fulfil this obligation.

Dated at the City of Edmonton in the Province of Alberta, Monday, May 31, 2010.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST DAVID BELKE

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against David Belke of Edmonton, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Southern Alberta Regional Office (SARO), 6815 8 Street NE, Calgary, Alberta, Canada on Thursday, October 8, 2020.

Professional Conduct Committee members present as the hearing committee were Nelson Moulton (chair), Abisola Adesanya and Diane Sellars. Steve Eichler of Field LLP was counsel to the hearing committee, Lisa Everitt was secretary and Sudeep Dua was recorder. Tim Jeffares presented the case against the investigated member. The investigated member, David Belke, was not present and was represented by Mona Duckett Q.C. of Duckett Dawson Garcia & Johnson Barristers.

COMPOSITION/JURISDICTION

There was no objection to the composition or the jurisdiction of the committee to hear the matter.

CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. David Matthew Belke is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about February 26, 2017, did engage in conduct that failed to maintain the honour and dignity of the profession, contrary to article 18 of the Code of Professional Conduct, for which he, on November 17, 2017, was convicted of a summary offence, to wit: possession of child pornography, contrary to section 163.1(4)(b) of the *Criminal Code*, RSC, 1985, c. C-46.

The investigated member entered a plea of guilty to the charge.

WITNESSES

There were no witnesses called.

5. The committee received several reference letters supporting Belke from his counsel. However, not all letters acknowledged that Belke had collected and possessed child pornography. The letter from Johnson stipulated that Belke was allowed to volunteer after the Vulnerable Sector Check came back negative. However, the letter also states that Belke is only allowed to work with adults as an extra precaution.
6. There was considerable media attention paid to this case that highlighted his occupation as a teacher and this served to harm the teaching profession.
7. Teachers must act in a way that maintains the honour and dignity of the profession. A suspension is not sufficient in this case. Collecting and possessing child pornography and word documents depicting sexual acts with children is reprehensible. It is important that the penalty deters other teachers from engaging in similar conduct.

Dated at the City of Calgary in the Province of Alberta, Tuesday, December 1, 2020.

EXHIBITS FILED

- Exhibit 1—Notice of hearing and Canada Post confirmation of delivery on September 22, 2020
- Exhibit 2—Proof of Belke’s membership in the Association from October 1, 1997 to March 31, 2017, signed by Caroline Inacio, deputy chief financial officer on October 4, 2019
- Exhibit 3—Submission on plea, signed by Belke, dated September 24, 2020
- Exhibit 4—Declaration of awareness of rights, signed by Belke, dated September 24, 2020
- Exhibit 5—Agreed statement of facts and acknowledgement of unprofessional conduct, signed by Belke and Jeffares, dated September 24, 2020 and September 30, 2020 respectively
- Exhibit 6—Page 4 of the agreed statement of facts and acknowledgement of unprofessional conduct with Belke’s legible signature, dated September 24, 2020
- Exhibit 7—Submission on penalty, signed by Belke, dated September 24, 2020
- Exhibit 8—Submission of investigated member on penalty

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. An agreed statement of fact was put before the committee consisting of
 - a. an agreed statement of facts with respect to the within hearing;
 - b. an acknowledgement of unprofessional conduct;
 - c. a copy of an agreed statement of fact presented on or about October 26, 2017 to His Honour Judge T. D. DePoe of the Provincial Court of Alberta; and
 - d. a copy of the judgment of His Honour Judge T. D. DePoe of the Provincial Court of Alberta.
2. According to the agreed statement of facts, Belke was a member of the Association from April 2, 1989 to March 31, 2017. This was in contradiction to the letter supplied by Inacio, but both parties agreed the correct period of time for which Belke was a member extended back to 1989 even though the Association’s financial records do not extend that far back in time. (Exhibit 2 and Exhibit 5)
3. Belke was employed as a substitute teacher by the Edmonton Public School Division (EPSD) at the time of the incidents giving rise to the charges. Belke had also held five temporary contracts from time to time with EPSD. (Exhibit 5)
4. During Belke’s tenure as a substitute and temporary contract teacher, there were no other disciplinary issues. (Exhibit 5)
5. On February 19, 2017, Belke brought a computer to Staples in Edmonton to have it repaired. In the course of a diagnostic analysis on the computer, a technician noted nude pictures of young children. The technician reported the findings to their manager who then contacted the Edmonton Police Services (EPS). (Exhibit 5)

6. The EPS suspected that some of the images in Belke's computer contained child pornography, seized the computer and obtained a warrant to search the computer. The computer and its contents were analysed by the Internet Child Exploitation Unit's digital forensic laboratory. Evidence gathered and examined by the EPS determined that collection spanned over an eight-year period and there was sufficient evidence to warrant criminal charges. (Exhibit 5)
7. Approximately 827 unique images were categorized as possible child pornography with another 732 unique images considered to be of investigative interest by the police (child nudity not defined as child pornography, clothed children under 18). (Exhibit 5)
8. In addition, a number of word documents were found that described children between the ages of 12 to 16 engaged in sexual acts with adults. (Exhibit 5)
9. Belke admitted that approximately a dozen of the images met the *Criminal Code* definition of child pornography. These consisted of images of nude children or persons under the age of 18 where the dominant characteristic is the depiction for sexual purpose of a sexual organ/anal region. None of the images depicted sexual activity although a number of them contained captions describing explicit sexual activity. (Exhibit 5)
10. The word documents contained written material whose dominant characteristic was the description, for sexual purpose, of sexual activity with a person under the age of 18. It was not alleged that Belke authored these documents; however, they were in his possession. (Exhibit 5)
11. On March 17, 2017, Belke surrendered himself into the EPS custody. Belke co-operated with the police confirming that he took the computer to Staples for repair and was the sole user of the computer. Belke advised that he is attracted to the innocence of the young people depicted, finding them beautiful. He denied that he viewed the images for sexual gratification or masturbation purposes. (Exhibit 5)
12. There is no evidence that the Belke shared or distributed any of the images.
13. Belke pled guilty to a single count of possession of child pornography under section 163.1(4)(b) of the *Criminal Code*, RSC, 1985, c C-46. (Exhibit 5)
14. Belke was convicted of a summary conviction offense with a mandatory minimum jail sentence of six months plus probation for one year following his release from jail with condition that he continue counselling sessions. With this conviction, Belke was mandated to comply with Sex Offender Information Registration Act (SOIRA) for a period of 10 years and provide a DNA sample pursuant to section 487.051 of the *Criminal Code*. (Exhibit 5)
15. The Crown also applied for an order under section 161 of the *Criminal Code* which the judge declined to grant. Section 161 of the *Criminal Code* permits the court to make an order

prohibiting the offender from certain activities that may have them in contact with persons under the age of 16. In the judge's analysis, the evidence did not support the need for a section 161 order. (Exhibit 5)

16. The judge also concluded that Belke was at very low risk to re-offend and that the risk to children was very low. (Exhibit 5)
17. The judge accepted that Belke was very remorseful, had a deep sense of shame, that he made no effort to conceal the pictures and documents, that he took responsibility for his behaviour, and by all accounts now understands the harmful nature of child pornography. (Exhibit 5)
18. In 2019, after media coverage of Belke being in possession of child pornography, two complaints of unprofessional conduct were filed with the Association. (Exhibit 5)

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

REASONS FOR DECISION

1. Belke, by his own admission, failed to maintain the honour and dignity of the profession as dictated by article 18 of the professional code of conduct by being in possession of child pornography.
2. Belke, by his own admission, stated that his behaviour may have negatively impacted some of his students and violated the trust instilled in him as a teacher.
3. Belke entered a guilty plea to and was convicted of a single count of possession of child pornography under section 163.1(4)(b) of the *Criminal Code*, RSC, 1985, c C-46.
4. Although Belke was cooperative and remorseful, an individual that is prominent in the arts community and a substitute teacher should have known that it was extremely inappropriate to collect and possess images of child pornography.

SUBMISSION ON PENALTY

The Presenting Officer submission

1. Jeffares recommended the following penalty to the hearing committee:
 - a) Cancellation of Belke's membership in the Association.

- b) Recommendation to the minister of education to cancel Belke's teaching certificate issued under the *Education Act*. (Exhibit 7)
2. In his presentation to the committee, Jeffares asked the committee to consider the following factors:
- a. The nature and gravity of the proven offense
 - b. Age and experience of the teacher—Belke was 60 years old and was a well experienced teacher from 1989 to 2017 with five temporary contracts
 - c. Belke did not have any previous disciplinary issues
 - d. The age and position of persons adversely affected by Belke's actions—including students, teachers, staff, parents and the public
 - e. Belke's actions demonstrated remorse and he admitted guilt in both the criminal courts and in the ATA's discipline process
 - f. Jeffares noted that there is no way to determine the impact of Belke's actions on children. Quoting T D DePoe, the judge for Belke's criminal trial, "Child pornography raises feelings of moral repugnance in the minds of nearly everyone in our society. Children should never be made subjects of sexual interest, in any circumstance. It is the creation of child pornography that causes the most harm. Demand for it creates a steady supply; both demand and supply must be curtailed by all reasonable legal means. In particular, where real children are depicted in the material, as was he case here, these children are unequivocally victims of abuse, and very often great long-term is done to them by those who create this child pornography. For these reasons, Parliament has determined that the law should treat persons who create, distribute, and possess child pornography harshly." (Exhibit 5)
 - i. In addition, Belke's actions impacted families, students, his colleagues and the profession as the case was widely publicized in the media and the digital footprint is everlasting.
 - g. Jeffares noted that Belke had suffered other consequences for his actions:
 - i. Belke was convicted, sentenced to a mandatory six-month prison sentence, and one year probation.
 - ii. Belke was removed from the substitute teacher list with EPSD.
 - iii. Belke was cut off from the arts community.
 - iv. Belke was subject to extensive media coverage.
 - h. Jeffares noted that Belke was a consumer of child pornography; however, he had no contact with children concerned and did not distribute the child pornography.
 - i. Teachers must act in a way that maintains the honour and dignity of the profession. It is important that the penalty deters other teachers from engaging in similar conduct.
 - j. Confidence in the teaching profession by the public is paramount. Jeffares quoted DePoe's reasons for penalty, citing Dr George Pugh, who wrote, "employment as a school teacher will no longer be available to him." (Exhibit 5)
3. Jeffares stated there must be an appropriate sanction. He noted there must be high trust in the teaching profession by the public. In considering the matter before the committee, Jeffares

stated that while the courts made distinction about the seriousness of the crime, the profession is not bound to this distinction.

4. Jeffares noted there are no precedent cases that are exactly the same as the matter before the committee, but he referenced three cases (ND1187, ND1121 and ND1033) that had parallels to Belke's with the same outcomes as his requested penalty.
5. In closing, Jeffares stated that Belke's actions will have a lasting impact on the community, in particular his digital footprint. He noted that we live in a Google culture and any prospective students and parents of Belke's could easily "google" him and find that he was a convicted sex offender.

The Investigated Member's submission

1. Duckett made a summary of the submission document highlighting that Belke has accepted responsibility for his conduct throughout all proceedings, he remains in psychological treatment, he poses no risk and continues to have the support of many community members. Duckett argued that Belke should not be barred from the chance of future teaching by cancellation of his certificate. Duckett stated their proposed penalty is a lengthy suspension from the Association with conditions, if appropriate. Duckett conveyed that Belke had proposed a three-year suspension. (Exhibit 8)
2. Duckett highlighted that Belke admitted that a summary conviction constitutes professional misconduct. In addition, she noted that Belke was co-operative and helpful at both the court and the ATA's discipline processes.
3. Duckett stated that Belke had completed a psychological assessment and is committed to counselling. Reports from Belke's psychologist, Dr Pugh, indicated that Belke was very low risk to actually offend against a child. In Dr Pugh's follow up report, he stated that during his sessions with Belke, there were no indications that Belke was a danger to children and could safely return to teaching in the future. (Tab1 and Tab 2, Exhibit 8)
4. Duckett stated that Belke did not create or distribute child pornography and that he was a consumer on the low end of the spectrum.
5. Duckett argued that Belke's conviction was a summary conviction and that the rules for indictable convictions of section 42(3) of the TPA do not apply in this matter. She stated the committee is not obligated to declare Belke ineligible for membership nor recommend cancellation of Belke's teaching certificate to the minister of education.
6. Duckett referenced DePoe's reasons for sentence stating that, "there are many factors here which place this case in the low end of the spectrum. They include, firstly, the size of the collection is relatively small." (Paragraph 11, Appendix 2, Exhibit 5)

7. Duckett alluded to Belke's lack of effort to conceal the materials on his computer and his belief that it was legal.
8. Duckett also pointed out that "Belke has lived what only can be described as an active and social life." She noted that "he has contributed a great deal to his community as a teacher, over a 28-year period he has taught students of all ages from Kindergarten up to university level." Further, she noted the judge declined to make an order under section 161 of the *Criminal Code* which would have prohibited Belke from having any contact with children had it been applied. (Appendix 2, Exhibit 5, Exhibit 8)
9. Duckett argued that the committee, should it choose to impose a suspension on Belke, could impose conditions, such as a psychological report on Belke, prior to reinstating his membership.
10. Duckett then outlined "parity and other penalty precedents" she had obtained from the Association. (pages 2-3, Exhibit 8)
11. Duckett stated that Belke's Vulnerable Sector Check had come back negative. (Tab 4, Exhibit 8)
12. Duckett referred to reference letters from friends, neighbours, colleagues and members of the arts community. Particular emphasis was placed on the letter from retired Madame Justice Tressler Q.C. and Stephanie Johnson, from the Devon Public Library. (Tab 3, Exhibit 8)
13. Duckett also provided a response to the factors Jeffares had outlined.
 - a. As the nature and gravity of the situation, Duckett argued that Belke's offenses were on the low end of the spectrum. (Page 10, Tab 1, Exhibit 8)
 - b. Belke is now 60 years old and according to a former colleague, Andrea Truman, is a gifted teacher. (Tab 4, Exhibit 8)
 - c. Belke has no previous disciplinary issues with the ATA.
 - d. The media coverage was created by Belke being an award-winning playwright and as a result Belke has suffered horrendously.
 - e. Duckett noted that there was no distribution of the pornography and no sexual contact with children. She also referenced that the impact on Belke's colleague was due to the media coverage of the case.
 - f. The consequences to Belke were extraordinary—he was excoriated, not so much for his role as a teacher, but because he was a well-known playwright and because the "Google footprint" of the publicity surrounding his situation will be there forever.
 - g. Belke noted the following mitigating circumstances: there was no distribution of the child pornography; Belke accepted responsibility for his actions; and he poses a low risk to the community.

h. Duckett spoke about the need to deter professionals from this sort of action. She noted that a heavy sanction is warranted, but that it need not be permanent. She asked the committee to consider that Belke could be rehabilitated and he ought to be treated with compassion. She noted the need to balance deterrence with public confidence in the profession. Further, Duckett noted that the committee could require Belke to provide a re-assessment of risk at the end of his suspension.

14. In summary and conclusion, Duckett acknowledged that the honour and dignity of the profession has been harmed. She noted we cannot change media and internet artefacts that may haunt him forever. Duckett then noted there ought to be room for rehabilitation and redemption for Belke and stressed that he poses no risk to children. Finally, Duckett strongly recommended a sanction of a three-year suspension.

Rebuttal by presenting officer for new elements only

1. Jeffares stated that while Duckett asserted that Belke had community support, it did not appear that this was the case within the theatrical community. In addition, it is not clear that the teaching community supports Belke.
2. Jeffares objected to Duckett's assertion that possession of child pornography was analogous to illicit drug use and trafficking because it does not consider the victims of child pornography.
3. Jeffares did agree that Belke was a low risk to re-offend, but that this is not the committee's determination—committee needs to determine whether the honour and dignity of the profession had been maintained. He noted that DePoe did not comment on the impact of Belke's actions on the teaching profession.
4. Jeffares argued while suspension of Association membership could require condition for reinstatement, there was no ability to put conditions on reinstatement of Belke's teaching certificate with the Department of Education. His teaching certificate would be automatically reinstated allowing Belke to work as a teacher across provincial borders, in charter schools, private schools and international schools.
5. Jeffares acknowledged that the Fringe performing arts festival cancelled Belke's play as a result of his conviction.
6. Jeffares also stated the letters of reference for Belke were excellent, but they were not from many members of the teaching profession.

7. Jeffares highlighted the “#MeToo” movement shines a light on how society views issues such as these, particularly ones that involve children.

PENALTY

The hearing committee imposed the following penalty:

1. a declaration that Belke is ineligible for membership in the Alberta Teachers' Association effective immediately and
2. a recommendation to the minister of education to cancel Belke's teaching certificate.

REASONS FOR PENALTY

1. The teaching profession expects the highest standards of conduct for its members. In procuring materials involving child pornography, Belke caused harm to the teaching profession and the trust that the public places in teachers and the teaching profession. A teacher in possession of child pornography diminishes the reputation of the teaching profession; it is illegal and reprehensible. Section 18 of the Code of Professional Conduct states that teachers must maintain the honour and dignity of the profession. A teacher charged under the *Criminal Code* with possession of child pornography, collected over lengthy period of time, perhaps eight years, does not maintain the honour and dignity of the teaching profession.
2. The public holds teachers to high standards as members of the community who are in loco parentis. Possessing child pornography is not in the best interest of any child, it is illegal and repugnant. Gathering and possessing child pornography casts doubt on Belke's ability to safeguard children.
3. The public and profession must be confident that children in a teacher's care are safe, protected and are not at risk for exposure to criminal behaviors.
4. A teacher with 28 years in the profession should know that teachers, as professionals are held to a higher standard than the general public. All teacher members of the Association are obliged to maintain professional conduct. The Code of Professional Conduct provides general guidelines for all teachers to follow but the scope of professional conduct goes far beyond the code. Teachers should be familiar with the code and with the responsibilities placed on them by the *Teaching Profession Act*. Substitute teachers should become familiar with these expectations and conduct themselves accordingly. Adhering to the code is a 24 hour a day responsibility. All teachers must respect the standards of the profession. Belke failed to maintain the honor and dignity of the profession by viewing, collecting and possessing child pornography.

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST JAMES ROBERT BERERTON

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against James Bererton of Morinville, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Friday, January 4, 2002 at 0900.

Professional Conduct Committee members present as the hearing committee were Ron M Dittmann (chair), Ron R St Jean, Dean Romfo Van Camp and Dawn E J Arnold. Richard W Rand of Frohlich Rand Kiss was counsel to the hearing committee, Marvin E Hackman was secretary and Leslie A Kaun was recorder. Dave L Jeary presented the case against the investigated member. The investigated member was present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or the jurisdiction of the committee to hear the matter.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee.

1. James Robert Bererton is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, commencing on or about July 1980, at or near Morinville, Alberta, had a sexual relationship with a female student.
2. James Robert Bererton is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about the summer of 1976, at or near Morinville, Alberta, provided a student with an illegal substance, to wit: marijuana.

The investigated member entered a plea of “not guilty” to the charges.

WITNESSES

The prosecuting officer called two witnesses and requested a publication ban on the names of both witnesses. The committee acceded to this request. They will be referred to as Witness A and Witness B throughout this report.

The investigated member did not call any witnesses and elected not to testify on his own behalf although he was given the opportunity to do so.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. *J R Bererton was a member of the Alberta Teachers' Association at the time of the offences. (Exhibit 2)*
2. *J R Bererton was employed as a teacher by Edmonton School District No 7 from September 9, 1974 until June 6, 2001. (Exhibits 2 and 3)*
3. *Witness A was born July 16, 1964.*
4. *Witness A was a student at Londonderry Junior High School, Edmonton. Her grade 9 science teacher was Ms J Bererton.*
5. *Witness A testified as follows:*
 - (a) *She developed a friendship with Ms Bererton during her grade 9 school year.*
 - (b) *Stemming from this friendship, Witness A was invited to the Bererton farm in the Morinville area. It was here that she met J R Bererton, Ms Bererton's husband, and their five children .*

- (c) *She visited the Bererton farm "one or two weekends per month for fun and to work on the farm."*
- (d) *She felt that she was considered a member of the Bererton family.*
- (e) *J R Bererton tutored her in Biology 10 and Chemistry 10, during the summer prior to her grade 10 year, in order to allow her to gain advance credit.*
- (f) *Her relationship with the Bererton family continued while she was a student at M E Lazerte High School, where Mr Bererton taught.*

- (g) The relationship with the family developed in a “natural and logical progression” involving affectionate loving, hugging, kissing on a waterbed.
 - (h) In July of 1980, after grade 10, she went on a canoe trip with the Bererton family.
 - (i) On this trip she shared a tent with J R Bererton and a two-year-old child where she and J R Bererton engaged in hugging, kissing, petting, touching and clitoral stimulation.
 - (j) During the summer, after the canoe trip, the relationship continued and penile penetration occurred “with regularity.”
 - (k) She experienced adverse, long-term consequences as a result of her relationship with J R Bererton
6. During her grade 12 year, she attended school in France. Exhibits 4 to 8, identified as correspondence which she received from J R Bererton, referenced and supported the intimate sexual relationship.
7. Witness B was born in 1961 and was a student in a high school science course taught by J R Bererton at M E Lazerte High School.
8. Witness B testified as follows:
- (a) His first visit to the Bererton farm was a field trip approximately in the spring of 1977 when he was 16 years of age.
 - (b) He became a frequent visitor at the farm where he subsequently was employed by J R Bererton as part of a government-funded farm labor program.
 - (c) He assisted in the harvest of a “large crop of marijuana” on the Bererton farm.

(d) Marijuana was readily available and “given freely” by J R Bererton, who smoked openly in the presence of his own children and other students.

9. J R Bererton confirmed, in his cross-examination of Witness B, that the marijuana was readily available as a “help-yourself-kind-of-thing.”

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—guilty

REASONS FOR DECISION

Charge 1

1. J R Bererton initiated and engaged in an inappropriate sexual relationship with a female student who was under the age of 18. Thus, J R Bererton did not treat the student with dignity and respect and violated his position of trust as a teacher.
2. It is inappropriate and unacceptable for a teacher to engage in a sexual relationship with a student even if there is no current teacher/student relationship.
3. By J R Bererton's actions, he did not treat Witness A with dignity and respect and was not considerate of her circumstances.
4. The honor and dignity of the profession is harmed by a teacher having a sexual relationship with a student.

Charge 2

1. The cultivation, use and trafficking of marijuana are all unlawful acts under the Narcotic Control Act of Canada.
2. J R Bererton knowingly allowed Witness B to
 - (a) participate in the harvest of marijuana from the Bererton property and
 - (b) consume marijuana at his residence, making the said marijuana openly available to Witness B.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalties:

Charge 1

1. Cancellation of J R Bererton's membership in the Alberta Teachers' Association
2. Recommendation to the minister of learning that J R Bererton's teaching certificate be cancelled
3. A fine of \$3,000

Charge 2

1. Suspension of J R Bererton's membership in the Alberta Teachers' Association for a period of two years
2. Recommendation to the minister of learning that J R Bererton's teaching certificate be suspended for two years
3. A fine of \$1,500 to be paid by J R Bererton before reinstatement of his Association membership and teaching certificate

REASONS FOR PENALTY

Charge 1

1. A teacher should not be engaged in sexual activity with students. Society views such actions as despicable, repugnant and reprehensible. J R Bererton's actions showed disregard for societal expectations of teachers.
2. Society has a right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. J R Bererton violated this trust relationship.
3. J R Bererton failed to uphold the honor and dignity of the teaching profession by engaging in sexual activity with Witness A.
4. J R Bererton's actions had a negative impact on Witness A and her family relationship and the teaching profession.
5. J R Bererton did not accept responsibility for his behavior nor did he demonstrate remorse.

Charge 2

1. Society has a reasonable expectation that teachers will not encourage or allow students to engage in unlawful acts or partake in illegal activities themselves in the presence of students.
2. Where the public trust is breached, the honor and dignity of the profession is harmed, thereby requiring appropriate sanction.

Report of the Hearing Committee of PCC
Bererton, page 8

3. Teachers are role models for students. J R Bererton did not model acceptable behavior.

Dated at the City of Edmonton in the Province of Alberta, Friday, January 4, 2002.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE REPORT OF THE
HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST TRACI-ANN BORER

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Traci-Ann Borer of Fort McMurray, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on May 10-12, 2006 and adjourned and reconvened on June 12, 2006.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Traci-Ann Borer is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about October 2002 to December 2002, at her place of residence, touched a student in a sexual manner.
2. Traci-Ann Borer is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, while employed by Fort McMurray Roman Catholic Separate School District No 32, participated in activities inappropriate to the maintenance of a dignified teacher–pupil relationship.

The investigated member entered a plea of not guilty to each of the charges.

DECISION OF THE HEARING COMMITTEE

The hearing committee found Borer guilty on both Charge 1 and Charge 2.

REASONS FOR DECISION

1. Borer touched a student in a sexual manner.
2. Borer developed and continued close relationships with students that were not consistent with appropriate student–teacher relationships. These included a series of improper overly friendly e-mails using Borer’s school e-mail account, visits to a student’s part-time job, two day trips to Edmonton with a student and taking students to parties where alcohol was served.
3. Alcoholic Jello shooters were available in Borer’s refrigerator for students who attended an end-of-the-year drama party at her residence.
4. Borer’s testimony on critical issues was often unclear, evasive, inconsistent and it appeared that she had a selective memory, frequently answering questions with, “I can’t recall.”
Examples are as follows:
 - (a) Borer testified that she tried to put distance between herself and the student in question (hereafter referred to as Student A) after Student A visited her house and yet Borer established friendly e-mail contacts with Student A following this visit.
 - (b) No recollection of conversations with Student A on two day trips to Edmonton.
 - (c) No recollection of saying that students should call her Tracy.
 - (d) Borer could not recall why she sent e-mails.
 - (e) Borer did not recall whether she had gone into the hot tub at the July 1 party where she took two students. Borer claimed that people wore street clothes in the hot tub.
 - (f) Despite all Borer’s involvement with Student A, Borer could not recall talking to Student A about her sexuality when Student A had been open with the school community about her questions about her own sexuality.
5. While the committee was aware of various reasons to carefully scrutinize the evidence of Borer’s partner (hereafter referred to as Person A), overall Person A provided credible testimony that was consistent with the circumstances surrounding the incidents he was involved in. Person A was straightforward about his criminal past, abuse of alcohol, and his physical abuse of Borer. He had been reluctant to come forward, indicating that he did not have a vendetta against Borer. His testimony about the incidents was also clear when he related his memory of incidents between Borer and students. While Borer and Person A differed on certain crucial elements of the facts alleged, to a large extent Borer gave evidence of the circumstances surrounding the incidents in question that was corroborative of Person A’s evidence. For example, there was no dispute that Student A was at Borer’s residence or that Borer and Student A engaged in mutual massages.
6. Borer admitted to having crossed the line by having Student A visit her at Borer’s residence.

PENALTY

The hearing committee imposed the following penalty:

Charge 1—a six-month suspension of membership in The Alberta Teachers' Association and a recommendation to the Minister of Education of a six-month suspension of Borer's teaching certificate.

Charge 2—a six-month suspension of membership in The Alberta Teachers' Association and a recommendation to the Minister of Education of a six-month suspension of Borer's teaching certificate.

These two penalties are to be applied concurrently.

REASONS FOR PENALTY

1. Students, parents and the public have a right to expect that teachers will act in a manner that establishes and maintains appropriate student–teacher relationships, including observing boundaries that are professional. Borer did not do this on many occasions.
2. Borer's action of touching a student in a sexual manner was inappropriate and unacceptable.
3. Borer put students in situations where alcohol was present, including one such situation in her own residence.
4. The Association expects its members to treat students in a manner that maintains dignified student–teacher relationships.
5. Borer cooperated fully in the investigations conducted by the Association, the RCMP and the school board.
6. At the time of the incidents, Borer was in a stressful time in her life which included a physically and emotionally abusive relationship with her partner, a lack of adult support and an extreme work load. While Borer did plead “not guilty” to each of the charges and while the committee has found her to be guilty, Borer did demonstrate some developing insight into her earlier actions with her concessions that, in retrospect, she would have done some things differently.

Dated at the City of Edmonton in the Province of Alberta, Friday, May 12, 2006.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST RYAN RAY BOSTROM

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Ryan Ray Bostrom of Calgary, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, March 26, 2015.

Professional Conduct Committee members present as the hearing committee were Eric Frederick (chair), Cassandra Jager and Joe Rodgers. Jim Casey of Field LLP was counsel to the hearing committee, Philip McRae was secretary and Leslie Kaun was recorder. Keith Hadden presented the case against the investigated member. The investigated member, Ryan Ray Bostrom, was not present and was not represented by legal counsel.

CONSTITUTION/JURISDICTION

There were no objections to either the constitution or the jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. Ryan Ray Bostrom is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between March 29, 2008 and May 30, 2013, engaged in conduct for which he, on May 6, 2014, was convicted of an indictable offence, to wit: possession of child pornography, contrary to section 163.1(4) of the Criminal Code of Canada.

Given that the investigated member was not present and did not submit a plea, a plea of not guilty was entered.

WITNESSES

No witnesses were called.

EXHIBITS FILED

Exhibit 1—Notice of hearing and Canada Post confirmation of delivery on February 24, 2015

Exhibit 2—Certificate of conviction of Ryan Ray Bostrom, for possession of child pornography, on May 6, 2014

Exhibit 3—Proof of Bostrom's membership in the Alberta Teachers' Association

Exhibit 4—Statement of Facts between Her Majesty the Queen and Ryan Ray Bostrom

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Bostrom was a member of the Association from September 1, 2007 to May 31, 2014, employed by Calgary School District No 19 (Exhibit 3).
2. While Bostrom was a member of the Association, between March 29, 2008 and May 30, 2013, he engaged in conduct for which he, on May 6, 2014, was convicted of an indictable offence, to wit: possession of child pornography, contrary to section 163.1(4) of the Criminal Code of Canada (Exhibits 3 and 4).
3. Bostrom pled guilty to, and was convicted of, an indictable offence pursuant to the *Criminal Code* on May 6, 2014 (Exhibit 2).

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

REASONS FOR DECISION

1. Bostrom was convicted of an indictable offence under section 163.1(4) of the *Criminal Code* and is therefore guilty of unprofessional conduct under section 23(2)(a) of the *Teaching Profession Act*.
2. The *Teaching Profession Act* section 23(2)(a) stipulates that if a member has been convicted of an indictable offence, the conduct of the member upon which the conviction is based is deemed to constitute unprofessional conduct.

PENALTY

The hearing committee imposed the following penalty on Bostrom:

- A declaration of ineligibility for membership in the Association
- A recommendation to the minister of education to cancel his teaching certificate

REASONS FOR PENALTY

1. Bostrom was convicted of an indictable offence under section 163.1 (4) of the *Criminal Code*.
2. If a member is convicted of an indictable offence, then the conduct on which the conviction based is considered unprofessional conduct.
3. The circumstances surrounding this offence were repugnant because the activity occurred over a period of many years and included several incidents of downloading and viewing child pornography.
4. Due to the egregious nature of the offence, and due to a teacher's position of trust in relation to students, and due to a teacher's duty to act only in a manner that safeguards the interests of children generally, the hearing committee ruled that Bostrom can no longer be a member of the Alberta Teachers' Association, nor should he be considered suitable for certification.
5. Bostrom's possession of child pornography was unbecoming of a teacher and dishonoured the profession.
6. Bostrom's actions showed disregard for society's expectations of teachers. Society and the profession view such actions as repugnant and reprehensible.

Dated at the City of Edmonton in the Province of Alberta, Thursday, March 26, 2015.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST LEE SCOTT BREakey

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Lee Scott Breakey of Carstairs, Alberta were duly investigated in accordance with the *Teaching Profession Act* (TPA). The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, June 18, 2019 and Wednesday, June 19, 2019, commencing at 0900 on both dates.

Professional Conduct Committee members present as the hearing committee were Stephani Clements (chair), Brenda Parker and Abisola Adesanya. Jason Kully of Field LLP was counsel to the hearing committee, Andrea Berg was secretary and Leslie Kaun was recorder. Elissa Corsi presented the case against the investigated member. Corsi was assisted by Dave Matson. The investigated member, Lee Breakey, was not present and was not represented by counsel.

COMPOSITION/JURISDICTION

There were no objections to the constitution or jurisdiction of the hearing committee.

PRELIMINARY MATTERS

Application to Close the Hearing

The committee heard an application from Corsi to close the hearing to the public during those parts of the hearing where students would be testifying. Corsi requested this out of concern for the privacy of those students whose statements would become part of the record. She also requested a publication ban on the students' names.

The committee made a decision pursuant to section 33(b) of the TPA to close the hearing to the public during those parts of the hearing where students would be testifying to protect their identity. The committee determined that protecting the anonymity of the witnesses outweighed any public interest in an open hearing. The committee agreed to protect the anonymity of the students in its written decision.

Decision of the Hearing Committee of PCC re L Breakey, page 10

2. Breakey acknowledged the events in his conversation with Principal name redacted. but failed to see any problems with his actions. Breakey demonstrated a lack of insight into his behavior.
3. A school must be a safe learning environment and teachers must ensure that they take care of students in the learning environment. Breakey's actions failed to provide students with a safe learning environment.
4. By using unnecessary force against a student, Breakey failed to treat the student with dignity and respect, thereby contravening article 4 of the Code of Professional Conduct.

Charge 4

1. Breakey's actions in restraining a student against the wall during the 2017/18 school year were neither honourable nor dignified. They were unprofessional. Students, parents and society have an expectation that teachers will behave in a dignified and professional manner when interacting with students.
2. Students have an expectation that teachers will not use inappropriate or unnecessary physical force. Society expects that teachers will provide a safe and caring learning environment for their children.
3. By using unnecessary physical force, Breakey breached the trust afforded to him as a teacher and failed to maintain the honour and dignity of the profession, thereby contravening article 18 of the Code of Professional Conduct.

SUBMISSION ON PENALTY

The presenting officer recommended the following penalties to address all four charges:

1. A single letter of severe reprimand
2. A declaration of ineligibility for membership in the Alberta Teachers' Association for a period of three months
3. A recommendation to the minister of education to suspend Breakey's teaching certificate for a period of three months

The presenting officer cited a number of precedent cases dealing with Charges 1 and 2 (Exhibit 9), and also Charges 3 and 4 separately. (Exhibit 10)

PENALTY

The hearing committee ordered the following penalties to address all four charges:

1. A single letter of severe reprimand

2. A declaration of ineligibility for membership in the Alberta Teachers' Association for a period of three months
3. A recommendation to the minister of education to suspend Breakey's teaching certificate for a period of three months

REASONS FOR PENALTY

1. In considering an appropriate penalty for the unprofessional conduct, the hearing committee considered a number of factors.
2. Breakey's unprofessional conduct was serious. Breakey's derogatory comments and use of physical force were inappropriate, disrespectful and constituted a failure to treat students with dignity and respect. Breakey also failed to maintain the honour and dignity of the profession with his actions
3. Breakey's comments to students made them feel uncomfortable, anxious, worried, and unsafe in his classroom. Some students testified that they still feel the impact of Breakey's comments. Unfortunate experiences at school can have a negative impact on how young people feel about school and themselves and can seriously undermine their self-esteem.
4. The only female student in Breakey's Grade 9 class was made to feel exceptionally uncomfortable in his classroom due to his misogynistic comments directed towards her and women in general. She did not want to be by herself in the class with Breakey.
5. Making reference to a student's religion in front of other students can have a negative impact and fails to treat students with dignity and respect; nor is it considerate of their circumstances. Breakey's derogatory comments toward a *[religious affiliation redacted]* student about his religion had the potential to diminish the trust the *[religious affiliation redacted]* community has in the public school system.
6. In a number of instances, Breakey was reminded of his professional obligations and expectations by his administrators. Even after receiving verbal and written direction from the administrators, more than once, Breakey continued to conduct himself in an unprofessional manner. His repeat behaviour demonstrated a lack of understanding of the impact of his actions.
7. Breakey's tenure as a teacher with approximately 21 years of experience was such that he should have known his professional responsibilities under the Code of Professional Conduct.
8. The penalty reflects the precedent cases referenced by the presenting officer.
9. The committee was unable to consider any potential mitigating factors due to Breakey's lack of participation in the process.

Decision of the Hearing Committee of PCC re L Breakey, page 12

10. The public and the profession expect that teachers will behave in a manner that upholds the honour and dignity of the profession. The penalty reflects the profession's condemnation of Breakey's unprofessional conduct and the importance of protecting students' safety and dignity.
11. The committee also intends that the penalty be sufficient to deter similar behaviour, from Breakey as well as other members of the profession, in the future.

Dated at the City of Edmonton in the Province of Alberta, Friday, July 12, 2019.

Absence of the Investigated Member

The investigated member, Breakey, was not present and was not represented by an agent or legal counsel. Further, there was no agreement between Breakey and Corsi with respect to documents or the facts relating to these discipline proceedings.

Section 40 of the TPA provides that

A hearing committee, on proof of service in accordance with this Act of the notice of hearing on the investigated person, may

- (a) proceed with the hearing in the absence of the investigated person, and*
- (b) act and decide on the matter being heard in the same way as if the investigated person were in attendance.*

Section 31 of the TPA requires that a notice of hearing be served on the investigated person at least 15 days before the hearing and it shall state

- (a) the date, time and location of the hearing and*
- (b) reasonable particulars of the matter to be heard.*

Section 64(a) of the TPA, in turn, requires that if a document is to be served on any person, the document or notice is sufficiently served

- (a) if it is served personally on that person or sent to that person by registered mail or courier at the address last shown for that person on the records of the Association...*

The hearing committee was provided with the notice of hearing and the Canada Post confirmation of delivery of said notice by registered mail to Breakey and entered the same as Exhibit 1 in these proceedings. The committee confirmed that the notice of hearing was sent to the last recorded address for Breakey in Association records and received by Breakey on May 17, 2019, which is well within the 15-day timeline required under section 31 of the TPA. The committee confirmed the notice of hearing met the other requirements of the TPA with respect to providing the date, time, location and particulars of the hearing.

The hearing committee was satisfied that there was sufficient proof of service of the notice of hearing in accordance with the TPA requirements and was satisfied that Breakey was aware of the investigation and hearing. Accordingly, the hearing committee exercised its authority under section 40 of the TPA and determined that it would proceed with the hearing in the absence of Breakey.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Lee Scott Breakey is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the

2017/18 school year, made inappropriate comments, of a nonsexual nature, to pupils, thereby failing to treat a pupil or pupils with dignity and respect and be considerate of their circumstances, contravening article 4 of the Code of Professional Conduct.

2. Lee Scott Breakey is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2017/18 school year, made inappropriate comments, of a nonsexual nature, to pupils, thereby failing to maintain the honour and dignity of the profession, contravening article 18 of the Code of Professional Conduct.
3. Lee Scott Breakey is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2017/18 school year, forcibly restrained a student against the wall, which was not appropriate to the situation, thereby failing to treat a pupil with dignity and respect and be considerate of their circumstances, contravening article 4 of the Code of Professional Conduct.
4. Lee Scott Breakey is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2017/18 school year, forcibly restrained a student against the wall, which was not appropriate to the situation, thereby failing to maintain the honour and dignity of the profession, contravening article 18 of the Code of Professional Conduct.

In Breakey's absence, the hearing committee entered a plea of not guilty for each of the charges.

WITNESSES

The presenting officer called the following witnesses:

1. [School Principal name redacted], Principal, [School name redacted].
2. Student A (accompanied by a parent)
3. Student B (accompanied by parents)
4. Student C (accompanied by a parent)
5. Scott Brandt, Superintendent, Grasslands Regional Division No 6
6. [School Principal name redacted], Principal, [School name redacted].
7. Student D (accompanied by a parent)
8. Student E (accompanied by a parent)

EXHIBITS FILED

Exhibit 1—Notice of hearing and Canada Post confirmation of delivery on May 17, 2019

Exhibit 2—Proof of Breakey's membership in the Alberta Teachers' Association

Exhibit 3—Photocopy of [School Principal name redacted] notebook dated January 19-25, 2018, including notes from acting principal, [School Principal name redacted].

- Exhibit 4—E-mail from [School Principal name redacted.] b Assistant Superintendent Rhae-Ann Holoien, dated January 19, 2018
- Exhibit 5—Letter of concern from [School Principal name redacted.] to Breakey, dated February 6, 2018
- Exhibit 6—Notice of suspension from Brandt to Breakey, dated June 13, 2018
- Exhibit 7—Photocopy of [School Principal name redacted.] notebook, dated February 14-15, 2018
- Exhibit 8—Factors to consider when determining penalty
- Exhibit 9—List of precedent cases on Charges 1 and 2
- Exhibit 10—List of precedent cases on Charges 3 and 4

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Service of notice of this hearing on Breakey was affected in compliance with the TPA.
2. Breakey was a member of the Alberta Teachers' Association during the following periods (Exhibit 2):
 - a) September 1, 1997 to April 30, 1999;
 - b) March 1, 2002 to June 30, 2002;
 - c) September 1, 2002 to April 30, 2003;
 - d) September 1, 2003 to August 31, 2004;
 - e) October 1, 2004 to April 1, 2005;
 - f) September 1, 2006 to January 31, 2007;
 - g) October 1, 2008;
 - h) December 1, 2008 to June 30, 2009;
 - i) September 1, 2009 to December 31, 2009;
 - j) February 1, 2010 to April 30, 2010 and
 - k) September 1, 2010 to August 31, 2018.
3. Breakey was hired by Grasslands Regional Division No 6 in September 2015. Breakey was employed as a Career and Technology Studies (CTS) teacher assigned to visit various schools in the division with a mobile semi-trailer containing a CTS construction shop at the time of the incidents giving rise to the charges, and therefore, was an active member of the Association. (Exhibit 2)
4. The mobile trailer CTS program moves around to different schools within the school division throughout the year. There are 10 to 12 instructional [Name of School redacted.] offered per site. In January 2018, Breakey taught the mobile trailer CTS program at [Name of School redacted.] School and in February 2018, Breakey taught the mobile trailer CTS program at [Name of School redacted.] School.
5. A complaint was brought forward by a parent on January 19, 2018 about comments that Breakey was reported to have made to students in the CTS trailer on January 18, 2018. It was alleged that Breakey had said that one student was in the back "smoking a dube" and that Student A, a female student, was "not just a pretty face". It was these comments that necessitated further investigation by the principal of [Name of School redacted.] School, [Name of principal redacted.]

- Name of principal redacted. had a meeting with Student A and confirmed the comments were made by Breakey. (Exhibits 3 and 4)
6. Name of principal redacted. met with Breakey on January 19, 2018 regarding the concerns shared by the parent and provided Breakey with a copy of the Association's Code of Professional Conduct with articles 4 and 18 highlighted to reference the unprofessional nature of his comments. (Exhibit 3)
 7. Breakey acknowledged he had made the alleged comments to the students. (Exhibit 4)
 8. Student A was a Grade 9 student in Breakey's mobile CTS class in January 2018 at Name of school redacted. School. Student A was uncomfortable in his class and said that Breakey made inappropriate comments during class. For example he called her "a dumb blonde" and said that she had "looks but no smarts." In describing how to use a hammer, he told students to "hit it like your wife." These comments were made in front of other students. Student A described feeling upset and devastated as a result of Breakey's comments.
 9. Student B was a Grade 9 student in Breakey's mobile CTS class in January 2018 at Name of school redacted. School. He said that Breakey's class was "uncomfortable and stressful." Student B stated that Breakey commented on students' intelligence and looks and made comments including "hit it like it's your wife" when students were working with tools. Student B reported that Breakey said to Student name redacted. that she had "all looks and no brains." Student B said Student A was the only girl in the class of 5 students.
 10. On January 25, 2018, the acting principal, Principal name redacted. contacted Principal name redacted. about a further incident involving comments made by Breakey to Student 1, a Grade 8 student in Breakey's mobile CTS class in January 2018 at School name redacted.. It was alleged that Breakey said "I can see you are a [*religious affiliation redacted*] boy because you can't stand if a girl can do better than you" and "I thought all [*religious affiliation redacted*] boys were well behaved." (Exhibit 3) This information was corroborated by fellow student, Student C's testimony.
 11. On February 6, 2018, Principal name redacted. gave Breakey the letter of concern reviewing Breakey's statements to students from both incidents and advising that the language used was unacceptable. Excerpts referencing expectations from Grasslands School Division No 6 Administrative Procedure 720, the Association's Code of Professional Conduct and the Alberta Teaching Quality Standard were included in the letter. (Exhibit 5)
 12. Student C was a Grade 8 student in Breakey's mobile CTS class in January 2018 at School name redacted. School. Student C testified that he felt "nervous" going to the CTS class because he didn't know what Breakey was going to do. Student C testified that Breakey treated other students unfairly, including speaking about a student's religion. Student C confirmed that comments were made about Student 1's religion as [*religious affiliation redacted*]. (Exhibit 3). Student C said that Student 1 didn't like going to Breakey's class and Student 1 is no longer

- at [School name redacted.] Student C said he was surprised at Breakey's comments because "teachers should respect students and other teachers."
13. Scott Brandt, the superintendent of the school division, testified that Breakey received the letter of concern from [Principal name redacted.] principal at [School name redacted.] on February 6, 2018 (Exhibit 5) and despite this, a subsequent incident occurred at [School name redacted.] on February 14, 2018.
 14. [Principal name redacted.] principal of [School name redacted.] testified that on February 14, 2018, at break time, she was alerted that there was an incident involving Breakey. She was told by her vice-principal and a teacher that Breakey had yelled, cornered a Grade 7 student, and put his hands on the student.
 15. After the incident on February 14, 2018, [Principal name redacted.] with Breakey. During that meeting, Breakey admitted to putting his hands on a student, Student D, but told [Principal name redacted.] that he did not see what the problem was. (Exhibit 7)
 16. Student D was a Grade 7 student in Breakey's mobile CTS class in February 2018 at [School name redacted.] School. He testified that he had cleaned up and left Breakey's class early to play a school-wide game with his friend, Student E. Student D was running away from Student E in the game when Breakey pushed Student D against the wall using his forearm on his chest and Breakey's leg against his own leg. Breakey shouted at Student D, told him to listen, and threatened to "boot him from class" if he left early again. Student D testified that the push was hard enough for him not to be able to move but that it didn't hurt.
 17. Student E was a Grade 9 student at [School name redacted.] in February 2018. Breakey was his CTS teacher in Grades 7 and 9. Student E testified that Breakey would swear a lot in class and that it wasn't appropriate for teachers to swear all the time like that.
 18. Student E testified that he and Student D were partners in the school-wide game on February 14, 2018. Student D ran out of Breakey's class to chase Student E around the office loop. As they ran past Breakey, Breakey grabbed Student D and held him against the wall. Student E reported that it was enough force to hold Student D but not to really hurt him. Student E reported that Breakey was yelling at Student D loud enough for others to hear. Student E was shocked that this happened. Student E felt that Breakey's behaviour was inappropriate and could have been handled better.
 19. The school division conducted an investigation into the allegations against Breakey regarding the events on February 14, 2018. The investigation included interviews with staff and students who witnessed the incident or that had information related to the incident. During the course of the investigation, other allegations were brought forward against Breakey including incidents such as
 - a) the inappropriate comments made to students at [School name redacted.]

- b) referring to students as “fat,” a “whore” and using the term “retard” while teaching at [School name redacted] and
- c) a previous physical altercation with a student at [School name redacted] in December 2017.

Brandt said that when given an opportunity to respond to the allegations, Breakey failed to take responsibility for his conduct and did not seem remorseful in any way. Instead Breakey justified his conduct by blaming Student D for misbehaving. Regarding his inappropriate and disrespectful comments, Breakey stated that he did not recall making those statements, but Breakey admitted that sometimes he says things that other people don't think are funny. Breakey also expressed disappointment to Brandt that “what happens in shop class does not stay in shop class”. (Exhibit 6)

- 20. As a result of the investigation, Breakey was given a notice of suspension on June 13, 2018. In order to return to teaching with the school division in September 2018, Breakey was directed to register in a nonviolent crisis intervention course or the like and to review relevant school division documents outlining expectations for teachers, the *School Act* and the Code of Professional Conduct and report back by letter once he had completed his review (Exhibit 6). Breakey did not respond and did not meet the expectations outlined in the notice of suspension.
- 21. In his testimony, Brandt said he hired Breakey with some reservations due to comments made by his referees that Breakey was sometimes abrupt with students and made inappropriate comments to female staff. Brandt stated that he later had some concerns about Breakey during the evaluation process in May 2016.
- 22. In his testimony, Brandt shared his concerns that Breakey's behaviour towards Student I could erode trust with the [name of language redacted] speaking community as a whole. The school division had been deliberately trying to build capacity and relationships with [name of language redacted] speaking students and families in public schools. Brandt was concerned that Student I did not finish the school year and did not return to the school division in the following school year.
- 23. Brandt testified that Breakey submitted his letter of resignation in August 2018.

CREDIBILITY OF WITNESSES

- 1. [Principal name redacted] was a credible witness in that he had a good ability to perceive the events and was forthright when he couldn't remember specific points. He made notes that were timely to the events and could refer to the notes. He was professional in his demeanour and in his presentation. His testimony was internally and externally consistent.
- 2. Student A appeared calm but slightly nervous. She had a good ability to perceive as she was directly involved in the incident with Breakey. She was motivated to be at the hearing

because of how uncomfortable Breakey's behaviour made her feel and she wanted the truth to be heard. Her evidence was very plausible. The committee found Student A to be credible.

3. Student B was a bit nervous but calm and polite. He was internally and externally consistent in his story and had clear recall of the events. The committee found Student B to be credible.
4. Student C appeared shy and nervous. He was soft spoken. He could not recall the exact comment made to Student I but acknowledged this and he knew it was related to Student I's identity as [*religious affiliation redacted*]. His motivation was to tell the truth. His testimony was consistent with that of prior witnesses and evidence. The committee found Student C to be credible.
5. Brandt was professional and spoke intelligently about the situation. He was forthright and wanted to protect students and the reputation of the school division. His testimony was probable and plausible. The committee found Brandt to be credible.
6. Principal name redacted. was confident, professional and personable. She recalled information with the help of her notes and she readily admitted when she didn't remember particular details. Her testimony was externally consistent with that of other witnesses and evidence. The committee found Principal name redacted. to be credible.
7. Student D was fairly nervous and was a quiet speaker. He understood the serious nature of the incident with Breakey. He had a good ability to recall the incident and his story was externally consistent with the testimony of other witnesses and evidence. The committee found Student D to be credible.
8. Student E was calm and articulate and explained, in significant detail, the incident between Breakey and Student D. He could distinguish between what he had witnessed and what was hearsay. His testimony was externally consistent. The committee found Student E to be credible.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty
Charge 2—Guilty
Charge 3—Guilty
Charge 4—Guilty

REASONS FOR DECISION

Charge 1

1. Breakey made inappropriate comments of a nonsexual nature to students during the 2017/18 school year including, “he was in the back smoking a dube” and “you’re not just a pretty face.” He also used phrases in class such as, “hit it like it’s your wife” and “dumb blonde” and “all looks and no smarts.” Some of these derogatory comments were made to the only female student in the class. Notwithstanding his meeting with Principal name redacted. where concerns about his comments were discussed, Breakey did not stop his inappropriate conduct and made further comments of a derogatory nature concerning a student’s religion. Breakey demonstrated a pattern of inappropriate behaviour.
2. A school must be a safe learning environment and teachers must be considerate in such a safe learning environment. Breakey’s derogatory comments made students uncomfortable and created a stressful learning environment. Breakey’s misconduct is especially serious as he was working with young teens.
3. By making these inappropriate comments, Breakey failed to treat students with dignity and respect and to be considerate of their circumstances, thus contravening article 4 of the Code of Professional Conduct.

Charge 2

1. The comments made by Breakey during the 2017/18 school year were neither honourable nor dignified. They were unprofessional. Students, parents and society have an expectation that teachers will behave in a dignified and professional manner when interacting with students.
2. As discussed under Charge 1, Breakey’s derogatory comments were inappropriate, made students uncomfortable and created a stressful learning environment. His comments were damaging to the public’s perception of the teaching profession.
3. By making the inappropriate comments, Breakey failed to maintain the honour and dignity of the profession thereby contravening article 18 of the Code of Professional Conduct.

Charge 3

1. During the 2017/18 school year, Breakey grabbed a student and then forcibly restrained the student against the wall by holding his forearm against the student’s chest, which was not appropriate to the situation. Breakey was loud, upset, and angry during the incident. The student was not behaving in a way that was dangerous to himself or others and the force used by Breakey was not necessary. This conduct was witnessed by other students and teachers.

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST MARK PATRICK BUCKLEY

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Mark Patrick Buckley of Peterborough, Ontario, (formerly Calgary, Alberta) were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, November 6, 2017, commencing at 0900.

Professional Conduct Committee members present as the hearing committee were Sheila Fraser (chair), Terry Gibson and Bart Heine. Richard Rand of Rand Kiss Turner LLP was counsel to the hearing committee, Shelley Magnusson was secretary and Leslie Kaun and Sudeep Dua were recorders. Ian Stewardson and Elissa Corsi presented the case against the investigated member. The investigated member, Mark Buckley, was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the composition or the jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Mark Patrick Buckley is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2010/2011 and/or the 2011/2012 school year(s), inaccurately coded students for special needs funding, thus failing to maintain the honour and dignity of the profession, contrary to article 18 of the Code of Professional Conduct.
2. Mark Patrick Buckley is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, in the 2010/2011 and/or the 2011/2012 school year(s), inaccurately coded students for special needs funding with no assessments to document the students' needs, thus failing to treat pupils with dignity and respect and to be considerate of their circumstances, contrary to article 4 of the Code of Professional Conduct.
3. Mark Patrick Buckley is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the

83. Steele was an educational assistant employed by the school district and worked at West Dover School when Buckley was principal.
84. Steele testified that there was an immediate change of tone when Buckley became principal of the school. She said that he was very strong willed and controlling and “it was his way or the highway.”
85. He started bringing in birds at first and then other animals. He brought in wooden and chicken wire cages for the animals. She said she thought the cages were the kind you would find on a farm not in a school. The rabbits had large hutches in the hallways and some were allowed to roam freely in the classrooms. Many of the animals were sickly as they were not well cared for. Some of the children were responsible for cleaning the cages. There was a maliferous odour throughout the school. She suffered from sinus infections and had recurring bouts with bronchitis. She was reprimanded for missing work.
86. Steele testified that the environment negatively impacted staff, students, parents and visitors to the school.
87. Steele expressed her concerns to Buckley, and he replied that he thought things were going just fine.
88. Chakera was employed by the school district and was a teacher at West Dover School while Buckley was principal.
89. Chakera testified via telephone conference from a lawyer’s office in Ontario. The lawyer verified her identity and subsequently e-mailed a copy of Chakera’s driver’s licence as proof of identity (Exhibit 11).
90. Chakera said Buckley brought in a large number of farm birds, turkeys, chickens, ducks etc that were kept in large cages at the front of the school. The cages were dirty and the birds smelled bad. He was also breeding the birds and hatching chicks in incubators.
91. Chakera testified that Buckley tried to mate two guinea pigs. He was advised that guinea pigs have to mate before a certain age because their pelvic bones fuse together when they are older and they are unable to give birth. Buckley refused to listen and as a result the female guinea pig died. The students were very upset.
92. Chakera testified that she had mild allergies and it was difficult to avoid the areas where the animals and birds were kept. West Dover School is an older school and the ventilation system was not equipped to filter out pollen and dust and as a result, it was in all areas of the school.
93. Chakera said she often required medication in order to go to work at West Dover School.

94. Chakera testified that as far as she knew, Buckley did not address parental concerns regarding the animals and birds in the school.
95. Chakera recounted a time when a student was required to clean out the feces from the rabbit hutch and was breathing in the dust from the hutch.

Charge 4

96. Hashman testified from Calgary via voice Skype.
97. Hashman is a psychiatrist who specializes in forensic psychiatry.
98. Hashman testified that he had been contracted by the school district to conduct an independent evaluation of Buckley and Buckley consented to waive confidentiality for the purpose of Hashman's report to the school district. Hashman received independent legal advice that he could testify before the hearing committee regarding the contents of his report.
99. Hashman testified that Buckley told him that he had sex with another adult in the music room at West Dover School on a weekend.
100. Hashman testified that Buckley told him this voluntarily and without prompting.

Credibility

Hashman testified via voice Skype from his office in Calgary. He sounded professional and when asked, he readily volunteered his extensive credentials and professional association involvement. Hashman was aware of his legal responsibilities and advised the committee that he had sought legal and professional advice before testifying. Hashman testified about a conversation he had with Buckley. Because Buckley had agreed to share the information with the school district, Hashman was advised he could therefore share that same information with the committee. During the conversation between Hashman and Buckley, Buckley volunteered the information that he had brought an adult into the school for a sexual encounter. This information was voluntarily given; therefore, it is considered to be an admission against interest and therefore is not hearsay and is allowed to be entered as evidence. Hashman was very specific in his testimony and only testified on evidence directly related to Charge 4.

Yee has been Area III Director with the school district for over nine years. Previously she was a principal with several different school boards and has over 43 years of experience within the education system. Her demeanour was professional. She made eye contact with the presenting officer and with the committee members. Yee appeared to be honest and she was able to easily recall details. Her motivation in testifying was to fulfill her responsibility to the school district. Yee's story remained consistent throughout all her testimony. Her version of events was consistent with other evidence and was consistent with other witnesses' testimony. She

demonstrated a believable perception of events and her grasp of the protocols and regulations of her school division was evident.

Ingenthron testified via video Skype. The committee found Ingenthron to be a credible witness. Her testimony was internally consistent throughout and was consistent with other witnesses' testimony. She was able to recall specific details and explain them very well.

Gouthro was Director of Student Services and Director of Learning with the school district. Her demeanour was professional. She made eye contact with the presenting officer and with the committee members. Gouthro appeared to be honest and she was able to easily recall details. Her motivation in testifying was to fulfill her responsibility to the school district. Gouthro's story remained consistent throughout all her testimony. Her version of events was consistent with other evidence and was consistent with other witnesses' testimony. She demonstrated a believable perception of events and her grasp of the protocols and regulations of her school division was evident.

McRuer testified via video Skype. The committee found McRuer to be a credible witness. Her testimony was internally consistent throughout and was consistent with other witnesses' testimony. She was able to recall specific details and explain them very well. She was visibly upset at one point in her testimony.

Abboud is Manager of Human Resources with the school district and has over 35 years' experience. She demonstrated a strong understanding of protocols and legal procedures. Her demeanour was professional. Abboud appeared to be honest and she was able to easily recall details. Her motivation in testifying was to fulfill her responsibility to the school district.

Clark's testimony was deemed believable by the committee. Although visibly upset, she was able to recall very specific details and describe the events to the committee. Her testimony was both internally and externally consistent. She showed sensitivity to the needs and concerns of other staff and students. She seemed to be very aware of the effect the incidents have had on her long term emotional health and wellbeing.

Steele's testimony was deemed believable by the committee. Steele was an educational assistant at the school. Her testimony was internally consistent and was corroborated by other witness testimony.

Chakera testified via telephone from a lawyer's office in Ontario. She was able to vividly describe specific details of how the animals, students and staff were treated. Her testimony was internally and externally consistent.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

Charge 4—Guilty

REASONS FOR DECISION

Charge 1

1. The school district's administrative regulations state that parents must be consulted and informed about the processes for special education programming. A lack of communication between teachers and parents undermines the trust and credibility of the profession. By not communicating with parents regarding special education programming, Buckley failed to maintain the honour and dignity of the profession, contrary to article 18 of the Code of Professional Conduct.
2. By ignoring the regulations as set out by the school district, Buckley's actions undermined the integrity of the process and the authority of the district to issue lawful orders.
3. Inaccurate coding brought an extra \$80,000 to West Dover School which meant that other schools, whose principals followed the rules, may not have received adequate funding. More importantly, these actions may have resulted in depriving students of the supports they required to be successful in school, thus failing to maintain the honour and dignity of the profession.
4. A school principal is given autonomy and is expected to act with integrity. Buckley's actions lacked professionalism and thus undermined the credibility of the profession as a whole.
5. By fraudulently accessing funds meant to provide programming for special education students, Buckley failed to maintain the honour and dignity of the profession.

Charge 2

6. The school district's administrative regulations state that parents must be consulted and informed about the processes for special education programming. By not communicating with parents regarding special education programming for their children, Buckley failed to show students dignity and respect and was not considerate of their circumstances, contrary to article 4 of the Code of Professional Conduct.

7. Inaccurate coding brought an extra \$80,000 to West Dover School, which Buckley did not use for supports for students who had been wrongly coded, thus failing to treat students with consideration for their circumstances.

Charge 3

8. Buckley failed to treat students and staff with dignity and respect, contrary to section 23(1) of the *Teaching Profession Act*, by housing animals in the school without regard to the health and safety of the staff and students.
9. Buckley refused to acknowledge the health impacts the animals had on students and staff who experienced allergic reactions and failed to provide a safe space for those students and staff who were allergic.
10. Buckley failed to consider the health impacts of having animals in unclean and unsafe cages in the school, in the main hallway, classrooms and food preparation areas. This resulted in excessive odours throughout the school and impacted the culture of the school.
11. Staff and students were expected to clean up after the animals and birds, thus taking away time from instruction and learning.

Charge 4

12. Buckley admitted, in a conversation with a psychiatrist, that he brought another adult into West Dover School's music room for the purpose of a sexual encounter, thus failing to maintain the honour and dignity of the profession, contrary to article 18 of the Code of Professional Conduct.

SUBMISSION ON PENALTY

Stewardson submitted that the appropriate penalty in this case would be one letter of severe reprimand for all four charges, a declaration that Buckley be declared permanently ineligible for membership in the Alberta Teachers' Association and a recommendation to the minister of education that Buckley's teaching certificate be cancelled.

This penalty was recommended due to the nature and severity of Buckley's actions, which caused significant harm and have had an ongoing impact on the physical and mental health of the staff. Stewardson said Buckley's actions were not isolated incidents; his actions were fraudulent in nature. Stewardson said Buckley's actions were severe enough to cause long term, adverse emotional impacts for the staff.

Stewardson said Buckley was an experienced principal who should have known better; Buckley's actions were not youthful indiscretions. Buckley has many years of teaching, principal

and central office experience. The investigation revealed there was no record of previous professional discipline against Buckley. There were no mitigating factors in this case.

Stewardson said Buckley was uncooperative with him and with the investigating officer.

PENALTY

The hearing committee of the Professional Conduct Committee imposed as penalty on Buckley

1. a letter of severe reprimand to address Charges 1 to 4 inclusively,
2. a declaration that Buckley is permanently ineligible for membership in the Alberta Teachers' Association, and
3. a recommendation to the minister of education to cancel Buckley's teaching certificate.

REASONS FOR PENALTY

1. All teachers have a responsibility to treat students with dignity and respect.
2. All teachers have a responsibility to maintain the honour and dignity of the profession.
3. Any conduct of a teacher that, in the opinion the hearing committee, is detrimental to the dignity of a student, is unprofessional.
4. Any conduct of a teacher that, in the opinion of the hearing committee, is detrimental to the honour and dignity of the profession is unprofessional.
5. Buckley failed to uphold sections 4 and 18 of the Code of Professional Conduct. By deliberately miscoding students, Buckley violated the trust and authority that was vested in him as the educational leader of the school.
6. Buckley was an experienced principal and would have been aware of the proper protocols and procedures required by the school district for coding a student for special education programming.
7. Buckley's deliberate miscoding of the students for special needs funding, with no assessments to document the students' needs and with no intent to provide special assistance to those students named, showed a blatant disregard for the dignity of the students, failed to treat them with the respect they deserved and was inconsiderate of their circumstances.
8. Buckley's fraudulent coding of students allowed his school to receive money that it was not entitled to receive. Given the finite resources available, this could have caused harm to other students and schools in the school district.

9. The profession expects school leaders to act as role models for other staff and to act in a manner that is trustworthy and upholds the honour and dignity of the profession, at all times. Buckley's actions violated these expectations and besmirched the reputation of the profession amongst its own members. As a result, a significant penalty is in order to affirm the profession's expectations of its members.
10. Buckley clearly betrayed the fundamental trust that society places on teachers and brought dishonour and disrepute to the profession. The public must be assured that teachers who do not uphold the values outlined in the Code of Professional Conduct will not go unpunished.
11. Buckley's actions in bringing birds, fish and animals into the school without providing for relief for those people who may have had medical issues is a clear and definite violation of section 23(1) of the *Teaching Profession Act*.
12. School leaders are expected to provide a safe and caring learning environment for their students. By failing to acknowledge that some students may have allergic reactions to the animals and birds, Buckley showed a complete disregard for the students' health and safety, thus failing to be considerate of their circumstances.
13. Buckley's continued refusal to acknowledge the discomfort of staff regarding the manner in which the animals were housed and cared for, showed a complete lack of respect for his staff.
14. Buckley's actions failed to provide due consideration for the health impacts that housing the animals and birds at the school would have on staff, thus failing to treat staff with dignity and respect.
15. Buckley's repeated refusals, over three years, to ameliorate the health effects the animals had on the students and staff resulted in a hostile working environment. This working environment caused long term emotional and psychological distress for many staff members.
16. Buckley did not provide adequate training for the staff in how to look after the birds and animals.
17. Many staff felt they were implicated when birds or animals died.
18. Staff were also responsible for explaining to students why animals and birds had died.
19. Teachers and educational assistants were expected to feed and clean the animals and birds. This directly affected the learning time for students.
20. Teachers and educational assistants were expected to provide safe passage for their students through hallways that were littered with cages, aquariums and feces.

21. By his own admission, Buckley brought another adult into the school for the purpose of a sexual encounter, thus failing to maintain the honour and dignity of the profession, contrary to article 18 of the Code of Professional Conduct.
22. The hearing committee did not hear testimony of any mitigating factors.
23. The hearing committee, in considering the totality of Buckley's actions as outlined in Charges 1, 2, 3 and 4, determined that a severe penalty was warranted. Through his actions, Buckley clearly demonstrated that he did not respect the honour and dignity of the teaching profession. Buckley showed a complete lack of respect for the school authority and its processes. Further, his actions demonstrated a complete disregard for the health and safety of the staff, the students and parents of West Dover School.

Dated at the City of Edmonton in the Province of Alberta, Friday, November 24, 2017.

period of school years 2008/09 through 2011/12, failed to provide due consideration to the health impacts that housing animals in West Dover School would have on students and staff, thus failing to treat students and staff with dignity and respect, contrary to section 23(1) of the *Teaching Profession Act*.

4. Mark Patrick Buckley is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of school years 2008/09 through 2011/12, brought another adult into West Dover School's music room for the purpose of a sexual encounter, thus failing to maintain the honor and dignity of the profession, contrary to article 18 of the Code of Professional Conduct.

In Buckley's absence, the chair entered a plea of not guilty to each of the charges on his behalf.

WITNESSES

The presenting officer called as witnesses

1. Kenneth Hashman
2. Dianne Yee
3. Andrea Ingenthron
4. Elizabeth Gouthro
5. Kenzie McRuer
6. Odile Abboud
7. Meghan Clark
8. Maureen Steele
9. Emily Chakera

EXHIBITS FILED

Exhibit 1-1—Notice of hearing returned by Canada Post marked "unclaimed"

Exhibit 1-2—Canada Post confirmation of non-delivery and record of attempts made to contact Buckley

Exhibit 2—Proof of Wilson's membership in the Alberta Teachers' Association

Exhibit 3 —Calgary Board of Education Administrative Regulation 3003 – Special Education Programming

Exhibit 4 —Excerpt from 2011/2012 Severe Disabilities Funding Process at a Glance, Calgary Board of Education

Exhibit 5 —Special Education Coding Criteria 2011/2012, Government of Alberta, Education

Exhibit 6 —Standards for Special Education, Amended June 2004, Alberta Learning

Exhibit 7 —Calgary Board of Education Administrative Regulation 4027 – Code of Conduct for Employees

Exhibit 8 —Calgary Board of Education Human Resources Complaint Form

Exhibit 9 —Indemnity Agreement between Calgary Board of Education and complainants

Report of the Hearing Committee of PCC re M Buckley, page 3

Exhibit 10—Calgary Board of Education, Preliminary Investigation Report re Buckley, by
Deborah Prowse, QC

Exhibit 11—Proof of identity for telephone witness Emily Chakera

Exhibit 12—List of precedent cases provided by Stewardson

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Service of notice of this hearing on Buckley was effected in compliance with the *Teaching Profession Act*.
2. During the time of the incidents that gave rise to the charges, Buckley was a principal employed by Calgary School District No 19, at West Dover School.
3. Buckley was a member of the Alberta Teachers' Association from September 1, 1999 to August 31, 2012 (Exhibit 2).

Charge 1 and Charge 2

4. Yee is an Area III Director with the school district and was so at the time of the incidents.
5. Yee knew Buckley previously when Buckley was a principal at William Roper Hull School in Calgary, which was a dedicated special needs school.
6. Yee became Buckley's direct supervisor in 2011.
7. At the end of September 2011, Yee was made aware of eight additional students at West Dover School being identified with severe needs coding. In her opinion, this was an unusually large increase in the number of coded students at West Dover School.
8. On November 28, 2011, Yee and Gouthro, Director of Student Services, met with Buckley to ask for an explanation for the significant increase in students receiving severe needs codes at West Dover School and the lack of assessments and other paperwork for those eight students.
9. Yee said it was a tense meeting and Buckley was aggressive and argumentative.
10. Yee said Buckley told them he felt he was not given enough supports or time to properly assess the students.
11. Buckley explained to Yee and Gouthro that he needed the \$80,000 in additional funds (which his school received as a result of the eight coded students) in order to maintain lower class sizes and to provide the students with a dedicated physical education teacher.

12. Yee said she advised Buckley that the funds must be used to provide supports for the coded students and that he was “cheating” other schools in the district.
13. Yee said this was the first time she had received a fraudulent claim for coded students.
14. Yee commented this was a risk for the school district in that parents could challenge the process of coding students and the money allocated for supports.
15. Yee said West Dover School had a high immigrant population and new Canadian parents often are less likely to challenge the school personnel or other persons considered experts.
16. Yee said she did not think Buckley made an honest mistake in miscoding the eight students as the process used by the school district is well documented and all principals have access to district staff if assistance is needed.
17. Yee outlined the steps and procedures school staff must undertake in order to identify a student as severe needs (Exhibit 3).
18. Yee explained the requirements of Alberta Education regarding proper assessments and timelines for coding students with special needs (Exhibit 4).
19. Yee said principals are aware that all schools must identify students with severe disabilities codes by September 30 and the Student Coding Report must be sent to Inclusive Learning Supports Branch. While principals are responsible for entering the students’ codes into the Student Information Records System, the district expectations are that the proper assessments and supports are in place for those students (Exhibit 4).
20. By mid-November school personnel must complete the Student Monitoring Form and submit it to district office. They must include (a) copies of recent assessments and/or diagnostic reports including interpretation of the results or a written summary of specialized services provided for the student, (b) Individual Program Plans and (c) anecdotal notes where applicable (Exhibits 3 and 4).
21. Yee said all principals in the school district are aware of these procedures and dates.
22. Yee said she did not receive the Student Monitoring Form and associated paperwork from Buckley.
23. Yee said the minimum requirements that principals are expected to complete in order to receive funding for students with severe needs are outlined in AR3003 on page 25 (Exhibit 3).

24. Yee reiterated that parents must be a part of the process and must understand that their written informed consent is a requirement before a student can be considered for special education programing recommendations (Exhibit 3).
25. Yee said Buckley did not have assessments nor parental consent for the eight students he coded in order to receive additional funding for his school.
26. Yee said she believed that Buckley committed fraud.
27. Gouthro is Director of Student Services and Director of Learning with the school district.
28. Gouthro previously knew Buckley when he was under her supervision as a specialist regarding suspension hearings for the school district.
29. Gouthro said students are identified as requiring special needs coding through the Ministerial Order, Standards for Special Education, Amended June 2004 (Exhibit 6).
30. Gouthro said this standard has been in place for at least 20 years so there is no reason why a principal would not be aware of the requirements as outlined.
31. Gouthro said principals are expected to discuss with parents any necessary assessments as well as any possible outcomes and ramifications that may arise from those assessments.
32. Gouthro said the school district has a very specific tracking system of all forms through the entire process of identifying students with special needs.
33. Gouthro identified the steps, procedures and timelines that must be followed by school principals in identifying students with severe special needs (Exhibits 3 and 4).
34. Gouthro said principals in the school district are encouraged to contact district staff if they are having difficulty meeting any of the requirements in a timely manner. She further stated that she received no requests for assistance from Buckley.
35. In the fall of 2011, Gouthro and her staff noticed there were eight additional students added to the list of special needs students at West Dover School. This was an anomaly, especially given that these students had not been identified the previous spring although all had been students at West Dover School.
36. She and her staff began to explore why this anomaly occurred. She noted there was no paperwork in the files and no work orders had been filed to request a psychological assessment.
37. Gouthro advised Yee of her concerns.

38. Gouthro attended the meeting with Yee and Buckley on November 28, 2011. Gouthro said Buckley admitted that he coded the students without the proper assessments as he felt the students required the extra supports. Buckley said there were many needy students at West Dover School and they would all benefit from the extra funding the school would receive.
39. Gouthro advised Buckley that this was inappropriate.
40. Gouthro said it would be highly unlikely that Buckley would not know the correct processes, especially given his previous experience at a dedicated special needs school and his experience in district office.
41. Gouthro said this was the first time she had seen a fraudulent claim in her 17 years with the school district.

Charge 3

42. Yee said that, in October 2011, the Facilities Team Leader alerted her to concerns regarding the location of animals, electrical hazards and lack of cleanliness at West Dover School.
43. Yee toured the school in December 2011. She noted that there were large fish tanks, cages and excessive furniture in the front hallway of the school, which could impede safe conduct from one part of the school to another for students, staff and visitors to the school.
44. Buckley told Yee the complaint was a result of a personality conflict between Buckley and the Facilities Team Leader and was not grounded in fact.
45. Buckley was dismissive of Yee's concerns and commented that students needed direct hands-on learning that would be gained through interaction with the animals, fish and birds.
46. In April 2012, Buckley went on a medical leave.
47. The principal who replaced Buckley reported to Yee that the school was filthy and a health hazard for students and staff.
48. Yee and the Facilities Team Leader toured the West Dover School again. Yee noted the following:
 - a) There was a plant wall in the front entrance that was dripping water onto the floor from the makeshift watering system that was being used.
 - b) Dripping water was close to extension cords.
 - c) There were things hanging from the ceiling and lights in classrooms that were not approved and could have been deemed a fire hazard.
 - d) The fish tanks appeared to be dirty and filled with algae. Some tanks were so dirty she could not tell if there were live fish in the tanks.
 - e) There were fish tanks inappropriately stored in the mechanical room.

- f) There were chicken wire, pellets and cages in the book storage rooms.
 - g) There were flammable materials stored in the art storage room next to the kiln.
 - h) Two doves lived in the room immediately adjacent to the food prep area and were allowed to fly free. There were feces on the staff room furniture and walls.
 - i) Smelly incubators with unhatched eggs were stored in the office area.
49. Yee called in the “swarm team” to begin a thorough cleaning of the school. Staff assisted with the clean-up which took approximately two months to complete.
50. Ingenthron testified via video conferencing from the Southern Alberta Regional Office of the Alberta Teachers' Association.
51. Ingenthron was a teacher on a probationary contract with the school district and worked at West Dover School while Buckley was principal.
52. Ingenthron said Buckley told the staff that the theme for the school year would be “Our Living World” and as such, Buckley brought several birds and animals into the school.
53. Ingenthron said the main hallway by the music room and the gymnasium had a musty urine smell, “like a petting zoo.” Because this was a main hallway in the school and the only way to access the music room and the gymnasium, there was no way to avoid the area.
54. Ingenthron said the tanks and cages were not well looked after and appeared to be very dirty.
55. Ingenthron said the two doves were both male and were fighting and pecking at each other; one was bloody and losing his feathers as a result.
56. She said extra supervision was required by staff because students with impulse control issues would often grab at the animals and the birds, often coming dangerously close to the heat lamps in the cages.
57. Ingenthron asked Buckley about students and staff with allergies and was advised that they should avoid the areas of the school where the animals and birds were. Ingenthron stated that there was no way to avoid the animals and birds in the school.
58. Ingenthron said educational assistants were often tasked with cleaning up after the animals and birds rather than working directly with their assigned students.
59. Ingenthron said it was difficult to meet with Buckley because he had various animals and birds in his office.
60. Ingenthron was concerned for the health and safety of the animals as well as the staff and students; it was not a healthy environment.

61. She stated the “deep clean” process took over two weeks to complete.
62. McRuer testified via video conferencing from the Southern Alberta Regional Office of the Alberta Teachers' Association.
63. McRuer was a teacher on contract with the school district and was teaching at West Dover School when Buckley was principal.
64. McRuer described the school as being extremely messy and smelly. She described the school floors as being filthy with “poop” all over. She had allergies to animals and was required to take antihistamines in order to go to work.
65. McRuer said even though she told Buckley she was scared of birds, he still placed two birds in her classroom. After a week, the two birds died and were replaced. The replacement birds also died. When she spoke to Buckley about this, he implied that it was her fault that the birds died since his were still alive. Buckley claimed that she either fed them too much or too little, kept them too hot or too cold or caused their death in some other way. McRuer said she was not given any training on how to look after the birds. She was very upset that the birds had died and she resented the implication that it was her fault. She had to try to explain to her students what had happened to the birds.
66. McRuer had a concern brought to her by a parent regarding the birds in her classroom; she told the parent she would need to speak to Mr Buckley. McRuer did not know if the parent met with Buckley.
67. McRuer also said that rabbits were allowed to roam the room and that teachers were expected to clean up after them.
68. McRuer said Buckley advised students and staff with allergies to avoid the areas of the school where the animals and birds were. McRuer said there was no way to avoid the animals and birds in the school as you had to pass by them in order to gain access to the gymnasium and the music room. There was no “allergy free” zone in the school.
69. Abboud was employed by the school district as a human resources manager in the superintendent’s office during the time of the incidents.
70. In February 2012, staff of West Dover School brought forth concerns regarding the principal of the school (Exhibit 8).
71. The teachers asked to meet with Abboud outside of school property. They expressed fear of retaliation from Buckley.

72. Before the teachers would sign the complaint form (Exhibit 8), they demanded an indemnity agreement (Exhibit 9). Abboud had to obtain legal advice before the complaint could move forward.
73. As a result of the complaint, the school district contracted Deborah Prowse to conduct an independent investigation into Buckley's behaviour. In her preliminary report (Exhibit 10), Prowse refers to the serious allegations, by several witnesses, regarding Buckley's disregard for the health and safety of the staff and students at West Dover School who were allergic to animals, particularly birds and rabbits, that he housed in the school. In her opinion, this could be a human rights issue. Prowse could not make a final report as she was unable to interview Buckley.
74. Clark was employed as a teacher by the school district and worked at West Dover School when Buckley was principal.
75. Clark testified that although she liked animals, there were too many in the school and they were not well looked after.
76. Clark said the smell hit you as soon as you entered the school. Many staff experienced illnesses due their exposure to animal hair and feathers. There was animal and bird feces on the hallway walls "at the height of a kindergarten child." There was nowhere to eat that didn't either have animals in the room or close by, which resulted in the lunch room smelling badly.
77. One of her Grade 1 students was hospitalized on more than one occasion, and Clark was told by the parent that it was due to severe allergies. She took her concerns to Buckley who advised her that there was more to the story and she shouldn't worry about it. She felt he dismissed her concerns cavalierly.
78. Clark said extra supervision of children was required because the students wanted to touch the animals and birds in the cages. Clark felt this was not safe as there were heat lamps and the cages were not clean.
79. Clark also said that the doves were in poor living conditions and plucked at each other until they bled and lost feathers.
80. Clark said she felt that Buckley did not take any of her concerns seriously.
81. After Buckley left the school, the staff started cleaning and getting rid of cages and aquariums.
82. Clark said she still feels the effects of working for Buckley. She now works with the principal who replaced Buckley; she followed that principal to the next school as Clark does not trust administrators.

REPORT OF THE HEARING PANEL
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST KENNETH BURNETT

The hearing panel of the Professional Conduct Committee of The Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Kenneth Burnett of Buck Lake, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, January 22, 1998. The hearing commenced at 0915.

Professional Conduct Committee members present as the hearing panel were: E M Pilling (chair), S W S Brown and J L Fisher. R Y Palichuk of Field Atkinson Perraton was counsel to the hearing panel, E L Hjelter was secretary and L A Kaun was recorder. V A Riewe presented the case against the accused. The accused was not present and was not represented by legal counsel. The hearing panel was informed by the prosecuting officer that the accused was aware of the hearing and that he would neither be attending nor be represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to either the constitution of the hearing panel or its jurisdiction to hear the case.

An agreed statement of facts was submitted by the prosecutor. (Exhibit 2)

PLEA

The following charge was read by the secretary to the hearing panel:

Kenneth Burnett is charged with unprofessional conduct contrary to the *Teaching Profession Act* in that he, on or about the 12th day of June, 1986 in Edmonton, Alberta plead guilty to and was convicted of an indictable offence under the Criminal Code of Canada to wit: On or about the 21st day of July A.D 1971 and the 15th day of August A.D 1971, at or near the Town of Jasper, in the Province of Alberta, did have sexual intercourse with Minor name redacted. a female person not his wife and under the age of fourteen years, contrary to the Criminal Code.

In the absence of the accused, the hearing panel entered a plea of "not guilty" to the charge.

WITNESSES

No witnesses were called.

EVIDENCE ADDUCED FROM EXHIBITS FILED INDICATED THAT:

1. K Burnett was a substitute teacher for Twin Rivers School Division No 65, County of Wetaskiwin No 10, Wetaskiwin Regional Division No 11 and Wild Rose School Division No 66 on an irregular basis from 1976 until June 1997. (Exhibit 2)
2. On June 12, 1986, K Burnett plead guilty to and was convicted of an indictable offence under the Criminal Code of Canada. (Exhibits 2 and 5)

DECISION OF THE HEARING PANEL

Charge 1—Guilty

REASONS FOR DECISION

1. K Burnett was convicted of an indictable offence under the Criminal Code of Canada.

PENALTY

The hearing panel of the Professional Conduct Committee imposes the following penalty:

- a) K Burnett is hereby declared ineligible for membership in The Alberta Teachers' Association;
- b) a recommendation shall be sent to the minister of education requesting that K Burnett's teaching certificate be cancelled;
- c) K Burnett's surrendered teaching certificate and accompanying letter shall be forwarded to the minister of education together with the recommendation to cancel the certificate.

REASONS FOR PENALTY

1. K Burnett was convicted of an indictable offence. Accordingly, K Burnett engaged in unprofessional conduct within the meaning of sections 22(2) and 40(2) of the *Teaching Profession Act*.

Report of Hearing Panel of PCC
Kenneth Burnett, p 3

2. A teacher convicted of an indictable offence brings dishonor and disrepute to the profession.
3. In an agreed statement of facts, K Burnett has accepted responsibility for his actions and has indicated he does not wish to bring further dishonor to the profession. (Exhibit 2)
4. K Burnett was forthright and cooperative with the investigating officer.

Dated at the City of Edmonton in the Province of Alberta, Thursday, January 22, 1998.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST AMANDA CHILTON

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Amanda Chilton of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Friday, June 21, 2013, commencing at 0900.

Professional Conduct Committee members present as the hearing committee were Elaine Willette-Larsen (chair), Trevor Smith and Lynne Davies. Ayla Akgungor of Field LLP was counsel to the hearing committee, Philip McRae was secretary and Leslie Kaun was recorder. Robert Bisson presented the case against the investigated member. The investigated member, Amanda Chilton, was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to either the constitution or the jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Amanda Chilton is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about June 23, 2011, invited a student to her apartment for the purpose of consuming alcohol, thus acting in a manner detrimental to the best interest of students, the public or the profession.
2. Amanda Chilton is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about June 23, 2011, engaged in sexual intercourse with a student, thus acting in a manner detrimental to the best interest of students, the public or the profession.
3. Amanda Chilton is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, between November 2011 and March 2012, provided false or misleading information to the investigating officer, thus failing to cooperate with the investigating officer as required by the *Teaching Profession Act*.

Council also urged the appeal committee to consider that Chilton's actions needlessly prolonged the discipline investigation.

SUBMISSION OF THE RESPONDENT

There was no submission received from the respondent.

DECISION OF THE COMMITTEE

1. Based on the standard of review of reasonableness, the decision of the appeal committee is that the appeal is upheld.
2. The decision of the appeal committee is that the penalty be varied to add
 - (a) an additional three years of ineligibility for membership in the Alberta Teachers' Association;
 - (b) a recommendation to the minister of education for an additional three-year suspension of Chilton's teaching certificate; and
 - (c) the additional three-year period is to be served consecutively to the original penalty of three years of ineligibility and recommended suspension, for a total of six years.

REASONS FOR DECISION

1. In considering the penalty ordered by the hearing committee, the appeal committee applied a standard of review of reasonableness. A standard of review of reasonableness means that the appeal committee must exercise deference in relation to the decision of the hearing committee. Using this standard of review, a decision is unreasonable if the decision falls outside the range of possible acceptable outcomes given the evidence before the hearing committee and precedents.
2. At the professional conduct hearing, the presenting officer made submissions on penalty specific to each of the charges as follows:

Charge 1—A letter of severe reprimand

Charge 2—Chilton be declared ineligible for membership in the Alberta Teachers' Association for a period of three years and a recommendation be made to the minister of education to suspend Chilton's teaching certificate for a period of three years.

Charge 3—A letter of severe reprimand and a one thousand dollar fine

Charge 4—Chilton be declared ineligible for membership in the Alberta Teachers' Association for an additional period of three years, and that a recommendation be made to the minister of education to suspend Chilton's teaching certificate for an additional period of three years.

Charge 5—A letter of severe reprimand

3. The appeal committee reviewed the presenting officer's submission on penalty and the global penalty imposed by the hearing committee.

The appeal committee found that the hearing committee's decision, with respect to the letter of severe reprimand and the fine of \$1000, was intelligent, reasonable and justifiable and sufficient rationale was provided in the report to support the decision on these penalties.

However, the appeal committee could not determine, from the hearing committee's report, why the hearing committee did not accept the recommendation of the presenting officer with respect to ineligibility for membership and suspension of certificate, because no reasons were provided. It was not clear to the appeal committee why the hearing committee opted to order the three-year period of ineligibility for membership and suspension of certificate rather than the six-year period recommended by the presenting officer.

4. In the presenting officer's written submission on penalty, he recommended, for Charge 4, an additional period of three years of ineligibility for membership and suspension of certificate. The appeal committee noted from the transcript (pages 28–29), that the presenting officer further recommended the additional three years be served consecutively to the penalty for Charge 2.
5. The report of the hearing committee omitted any clear reference to the reason for the deviation from the presenting officer's recommended penalty. In addition, the transcript shows the hearing committee had a long and fulsome discussion regarding suspension and the necessity for the member to follow the Association's rigorous reinstatement process (pages 38–48) at the conclusion of the suspension period, in order to return to teaching; however, this discussion was not reflected in the written decision and does not shed light on why the hearing committee opted for a three-year period of ineligibility and suspension rather than the six-year period which was recommended.
6. In these circumstances, the appeal committee concluded that the three-year period of ineligibility and suspension was unreasonable.
7. The appeal committee concluded that Chilton's attempt to subvert the investigative process by repeatedly lying to the investigating officer and others, and by encouraging others to lie for her, is a serious matter and when combined with the totality of the charges, warrants a longer penalty.

Report of the Hearing Committee of PCAC re A Chilton, page 4

8. The penalty that the appeal committee is ordering is based on a review of precedent cases and fits within the reasonable range of penalties.

Dated at the City of Edmonton in the Province of Alberta, Thursday, March 27, 2014.

4. Amanda Chilton is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about June 2011 to March 2012, did allow or encourage a witness or witnesses to lie about a previous sexual encounter and, in so doing, failed to maintain the honour and dignity of the profession.
5. Amanda Chilton is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, between June 2011 and March 2012, engaged in activities that led to rumours and gossip in the community, thus harming or tending to harm the standing of teachers generally.

The investigated member entered a plea of guilty to each of the charges, by written submission.

WITNESSES

No witnesses were called.

EXHIBITS FILED

- Exhibit 1—Statutory declaration, signed by Chilton, dated May 9, 2013
- Exhibit 2—Notice of hearing, dated May 9, 2013
- Exhibit 3—Canada Post confirmation of delivery on May 23, 2013
- Exhibit 4—Submission on plea, signed by Chilton, dated May 9, 2013
- Exhibit 5—Proof of Chilton's membership in the Alberta Teachers' Association
- Exhibit 6—Agreed statement of facts, signed by Chilton and Bisson, dated May 9, 2013
- Exhibit 7—Submission on penalty, to be recommended by Bisson, signed by Chilton, dated May 9, 2013
- Exhibit 8—Submission on penalty by Chilton, dated June 5, 2013

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Chilton was a member of the Alberta Teachers' Association (ATA) during the period September 1, 2010 to June 30, 2012 inclusive (Exhibit 5).
2. Chilton was employed as a teacher with Buffalo Trail Public Schools Regional Division No 28, commencing in September 2010. She was 21 years of age. (Exhibit 6).
3. Chilton taught Grades 7 to 11 at School name redacted. in the town of Name of town redacted. during the 2010/11 and 2011/12 school years (Exhibit 6).
4. Chilton, during her first year at the school, participated in student council activities such as chaperoning the school ski trip in February 2011 (Exhibit 6).

Report of the Hearing Committee of PCC re A Chilton, page 3

5. [Student name redacted.] was an 18-year-old, Grade 12 student at [School name redacted.] who graduated in June 2011 (Exhibit 6).
6. Chilton did not teach [Student name redacted.] nor was she involved in his academic program (Exhibit 6).
7. No parental concerns were raised about Chilton's interactions with students during her employment with the division, although staff had provided Chilton advice about her casual interactions with older students (Exhibit 6).
8. Chilton said that she did not have a good relationship with her colleagues most of whom she felt treated her like a child. Chilton said that none of the staff tried to befriend her during her first year at the school (Exhibit 8).
9. Chilton lived in an apartment in Wainwright, a town close to [Town name redacted.] (Exhibit 6).
10. The annual Wainwright Stampede was held June 23–26, 2011 (Exhibit 6).

Charges 1 and 2

11. On Thursday evening, June 23, 2011, Chilton sent [Student name redacted.] a text message inviting him to her apartment for a beer (Exhibit 6).
12. [Student name redacted.] was in Wainwright staying with friends at the stampede grounds and had been drinking with some friends at their trailers (Exhibit 6).
13. Chilton picked up [Student name redacted.] around 9:30 PM on June 23, 2011 and they went to Chilton's apartment where they each had "a couple of beers" to celebrate his graduation. The alcohol was supplied by Chilton (Exhibit 6).
14. They sat on the couch in Chilton's living room, watching television, at which time [Student name redacted.] asked Chilton to move closer to him, she complied and he kissed her (Exhibit 6).
15. Chilton did not stop [Student name redacted.] or direct him to stop kissing her (Exhibit 6).
16. They mutually engaged in progressively more intimate sexual activities, which lead to sexual intercourse on the couch in Chilton's living room (Exhibit 6).
17. Chilton then drove [Student name redacted.] back to the stampede grounds shortly after 10:30 PM on June 23, 2011 (Exhibit 6).
18. Chilton attempted to call [Student name redacted.] on Friday, June 24, 2011 but was not successful (Exhibit 6).

Report of the Hearing Committee of PCC re A Chilton, page 4

19. On Saturday, June 25, 2011, Chilton and [Student name redacted.] each attended the Wainwright Stampede dance, but spoke only briefly. Chilton confided to a childhood friend, Wallace, during the dance, that she (Chilton) had sexual intercourse with [Student name redacted.] (Exhibit 6).
20. Chilton and [Student name redacted.] had no further contact until the ATA investigation was initiated in November 2011(Exhibit 6).

Charges 3 and 4

21. In November 2011, the principal of [School name redacted.] School, [Principal name redacted.] approached Chilton regarding rumours that she had sexual intercourse with [Student name redacted.] at the Wainwright Stampede (Exhibit 6).
22. Chilton denied the allegations to her principal. [Principal name redacted.] then requested an investigation of these rumours by the ATA. Chilton was advised of the investigation on November 30, 2011 (Exhibit 6).
23. Chilton contacted [Student name redacted.] through his Facebook page in early December 2011 asking him to contact her (Exhibit 6).
24. [Student name redacted.] phoned Chilton on December 7, 2011. At that time, Chilton informed [Student name redacted.] of the investigation and the likelihood that he would be interviewed by the ATA. [Student name redacted.] indicated that he did not want Chilton to lose her job and that he would deny the incident (Exhibit 6).
25. Chilton was interviewed on January 5, 2012 by the ATA and, at that time, denied having any sexual relationship with [Student name redacted.] (Exhibit 6).
26. [Student name redacted.] alluded to a sexual encounter between himself and a teacher, on his Facebook page, on January 25, 2012. When the investigating officer confronted Chilton with the Facebook page, Chilton denied the sexual encounter that [Student name redacted.] had alluded to on his Facebook page (Exhibit 6).
27. Between February 1, 2012 and February 6, 2012, [Student name redacted.] and Chilton exchanged 180 text messages. In the text messages, Chilton shared with [Student name redacted.] her conversations with the investigating officer. [Student name redacted.] confirmed that he would tell the investigating officer that he was not aware of the rumours and that nothing had happened between them in June 2011 (Exhibit 6).
28. On February 5, 2012, Chilton met [Student name redacted.] in his truck, in an empty parking lot in Wainwright. The purpose of this meeting was to “get their story straight.” At that time [Student name redacted.] made sexual advances that were not rebuked by Chilton and subsequently led to them having consensual sex in his truck (Exhibit 6).

Report of the Hearing Committee of PCC re A Chilton, page 5

29. On February 10, 2012, [Student name redacted.] met with the investigating officer and denied having engaged in any sexual activity with Chilton (Exhibit 6).
30. On February 14 and 15, 2012, Chilton and [Student name redacted.] exchanged over 100 text messages (Exhibit 6).
31. Wallace, Chilton's childhood friend, was first interviewed on February 16, 2012 by the investigating officer. At that time, Wallace spoke only of her visit with Chilton during the Wainwright Stampede and did not mention the sexual encounter between Chilton and [Student name redacted.] (Exhibit 6).
32. Wallace subsequently called the investigating officer and reported that Chilton confided in her during the stampede dance that she (Chilton) had slept with [Student name redacted.] Wallace further reported that she had a record of numerous text messages exchanged between her and Chilton that would verify the affair between Chilton and [Student name redacted.] Wallace reported that Chilton told her she would deny the sexual encounter and would also deny ever having told Wallace about an encounter. Wallace said that Chilton recently told her that Chilton and [Student name redacted.] had met to ensure their stories would be the same (Exhibit 6).
33. [Student name redacted.] contacted Chilton in late February 2012 after [Student name redacted.] had been partying with friends. He then picked Chilton up and they drove to a remote area of town and parked and had sexual intercourse in [Student name redacted.] truck (Exhibit 6).
34. Chilton was interviewed by the investigating officer again on March 5, 2012 and again denied having any relationship with [Student name redacted.] (Exhibit 6).

Charge 5

35. During the fall of the 2011/12 school year, rumours of the June 23, 2011 incident circulated among students at [School name redacted.] School. Two teachers overheard the rumours and reported them to the principal. Other teachers and adults in the community were also aware of the rumours (Exhibit 6).
36. [Student name redacted.] Facebook page of January 25, 2012, in which he alluded to a sexual encounter with a teacher, fuelled the rumours within the community (Exhibit 6).
37. Additional rumours surfaced within the community in December 2012. The rumours included the statement that [Student name redacted.] had told friends he lied to the ATA's investigating officer and that he and Chilton had sex on two subsequent occasions (Exhibit 6).

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

Charge 4—Guilty

Charge 5—Guilty

REASONS FOR DECISION

Charge 1

Chilton acted in a manner that was detrimental to the best interests of students, the public and the profession when she facilitated the consumption of alcohol, by an 18-year-old student, in her home. This demonstrated a serious lack of sound judgment and a failure to maintain appropriate boundaries between herself and an 18-year old, Grade 12 student at her school.

Charge 2

Evidence provided to the hearing committee established that, by engaging in sexual intercourse with Student name redacted. on June 23, 2011, Chilton failed to maintain clear and acceptable boundaries between herself and an 18-year-old, Grade 12 student at her school. She thus failed to recognize her professional role with students, the public and the profession, harming the honour and dignity of the profession.

Charge 3

The evidence presented to the hearing committee established that on January 5, 2012, January 25, 2012 and March 5, 2012, Chilton purposefully deceived, failed to cooperate and failed to provide factual information to the investigating officer. Members of the ATA owe their profession both respect and truthfulness and have a responsibility to uphold the honour and dignity of the profession and Chilton failed to meet these obligations in this case.

Charge 4

Based on the evidence, the hearing committee finds that Chilton encouraged and allowed others to lie for her, rather than admit and take responsibility for her actions.

When Student name redacted. indicated to Chilton that he would deny the incident on June 23, 2011, Chilton did not advise him or counsel him to do otherwise. Chilton and Student name redacted. met to “get their stories straight” on February 5, 2012. When Student name redacted. met with the investigating officer, he denied any sexual activity with Chilton.

Chilton told Wallace that if she was asked, she (Chilton) would deny the sexual encounter and having spoken to Wallace about it.

Charge 5

Chilton's repeated denials of the incident and further sexual encounters with Student name redacted. (which Student name redacted. relayed to his friends) only served to contribute to the gossip and rumours circulating in the community. Chilton's actions and her perpetual lies, which became public over time, undermined the standing of teachers and the honour and dignity of the profession.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalties on Chilton:

1. A letter of severe reprimand.
2. A fine of \$1,000, to be paid within 10 months from the date of the receipt of this written decision. If payment is not received by this date, the teacher will be ordered to appear before the hearing committee, at a time determined by the committee, as it retains its jurisdiction over the penalty imposed.
3. Chilton is ineligible for membership in the Alberta Teachers' Association for a period of three years, effective immediately.
4. A recommendation will be made to the minister of education to suspend Chilton's teaching certificate for a period of three years.

REASONS FOR PENALTY

1. Chilton contravened the Code of Professional Conduct when she facilitated the consumption of alcohol, by a student, in her home. Such behavior undermines the stature of the profession.
2. Chilton, while a member of the Alberta Teachers' Association, engaged in sexual intercourse with an 18-year-old student of the school where she was teaching. Chilton's actions were inappropriate, unacceptable and constituted a failure to treat the student with dignity and respect.
3. Society has the right to expect that teachers will act in a manner that establishes and maintains trusting relationships with students, the public and the profession.
4. Teachers have a responsibility to be honest and truthful, given that they hold positions of authority and trust within the community.

5. Chilton attempted to hide the fact that she had sexual intercourse with [Student name redacted.] and further misled and lied to her principal and to the investigating officer of the ATA. Her lies were unethical and prolonged the investigation, while fuelling rumours within the community.
6. Lying is repugnant in these circumstances and undermines the standing of teachers and the profession. When a teacher allows or encourages others to lie on his or her behalf, it besmirches the reputation of all teachers. The ATA expects its members to uphold the honor and dignity of the profession. The fine of \$1,000 is appropriate as a penalty, not only to reinforce to Chilton the seriousness of her conduct, but also to send a message of general deterrence to the profession as a whole by reinforcing the obligation to be truthful and forthright to the ATA during its investigations of unprofessional conduct.
7. Chilton's facilitation of the consumption of alcohol by an 18-year-old student is not an indictable or criminal offence.
8. The hearing committee accepted that the sexual intercourse was consensual and given that the consent occurred between a 22-year-old female and an 18-year-old male, it cannot be considered an indictable or criminal offence.
9. At Chilton's request, she and [Student name redacted.] have had no further contact.
10. Chilton was a young and inexperienced teacher who felt she lacked collegial support in her first year of teaching.
11. Chilton's sexual encounter with [Student name redacted.] in June 2011 was a spontaneous occurrence and did not arise in a grooming context where there had been a sustained relationship between Chilton and [Student name redacted.]. Chilton did not use her position of authority or trust to secure a sexual encounter with [Student name redacted.].
12. This was Chilton's first offence and she pled guilty to all five charges.
13. Chilton acknowledged that her actions were unacceptable; she was apologetic and demonstrated remorse.
14. Chilton ultimately accepted responsibility for her actions in a purposeful and convincing way.
15. Through her actions, Chilton brought dishonour and disrepute to the teaching profession.
16. Through her actions, Chilton undermined public trust in the teaching profession.

Dated at the City of Edmonton in the Province of Alberta, August 16, 2013.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE
IN THE MATTER OF AN APPEAL BY PROVINCIAL EXECUTIVE COUNCIL
OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL
CONDUCT COMMITTEE WITH RESPECT TO CHARGES
OF UNPROFESSIONAL CONDUCT AGAINST AMANDA CHILTON

The Professional Conduct Appeal Committee reports that the appeal by Provincial Executive Council of the decision of the hearing committee of the Professional Conduct Committee with respect to charges of unprofessional conduct against Amanda Chilton was heard in accordance with the *Teaching Profession Act*. The appeal hearing was held at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, February 25, 2014.

Professional Conduct Appeal Committee members present were Brenton Baum (chair), Karen Atkinson, Ruth Kuik and Debra Scharff. Ayla Akgungor of Field LLP was counsel to the committee, Shelley Magnusson was secretary and Leslie Kaun was recorder. Cynthia Malner-Charest represented Provincial Executive Council. The respondent, Amanda Chilton, was not present and was not represented by legal counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the appeal committee.

SUBMISSION OF THE APPELLANT

The appellant, Provincial Executive Council, did not question the conclusion or decision of the hearing committee relative to guilt or innocence. Provincial Executive Council submitted that the penalty ordered by the hearing committee is

- (a) too lenient,
- (b) does not fit the nature of the offences and
- (c) does not address the Association's responsibility of acting in the best interest of students, the public or the profession or in a manner which maintains the honour and dignity of the profession.

Provincial Executive Council did not take issue with the severe reprimand or the fine of \$1000 ordered by the hearing committee. Council indicated that the focus of its appeal was the hearing committee's orders that Chilton be ineligible for membership in the Association for a period of three years and that a recommendation be made to the minister of education to suspend Chilton's teaching certificate for a period of three years. Council submitted that the three-year period was inadequate given Chilton's deliberate attempts to subvert the Association's discipline process.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST BRIAN STANLEY CLARK

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Brian Clark of Tofield, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, February 3, 2020 at 0900.

Professional Conduct Committee members present as the hearing committee were Wade Westworth (chair), Dan Jackson and Lori Szmul. Richard Rand of Rand & Company LLP was counsel to the hearing committee, Chris Gibbon was secretary and Sudeep Dua was recorder. Dan Coles, assisted by Tim Jeffares, presented the case against the investigated member. The investigated member, Brian Clark, was present and was not represented by counsel.

COMPOSITION/JURISDICTION

There were no objections to the composition or jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges read aloud by the secretary to the hearing committee:

1. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of the 2010/11 to the 2018/19 school years made sexual gestures in the presence of students, thus failing to maintain the honour and dignity of the profession.
2. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of the 2010/11 to the 2018/19 school years made sexual gestures in the presence of students thus failing to treat pupils with dignity and respect and be considerate of their circumstances.
3. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about March 3, 2017, asked a female staff member to assist him with lifting some heavy items, or a similar statement, while he headed in the direction of the washroom, thus failing to maintain the honour and dignity of the profession.
4. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about

Witness 6: Elliot Bessey

65. Elliot Bessey, the sixth witness, testified that he was the current principal of Lac La Biche Outreach School.
66. Bessey said that he would be at Clark's school at least two to three times a month.
67. Bessey said that Clark, as a teacher, had good relationships with his students but could be inappropriate with colleagues.
68. Bessey sent an e-mail summary on March 20, 2018, of a meeting with Clark. The meeting occurred on March 19, 2018 and outlined concerns Bessey had with Clark's behaviour and his language around colleagues. This was because of an incident that occurred at Crossroads Outreach School on March 2, 2018. (Exhibit 11)
69. Bessey said at the end of his e-mail to Clark, he had written that if Clark disagreed with the content of the e-mail he should respond within 24 hours. Clark had made corrections to previous e-mails, on separate matters; however, he did not do so in this case. (Exhibit 11 and testimony)
70. On cross-examination, Bessey acknowledged there was an odour in the school but said that it was a sewage smell due to renovations. No time period was specified as to when the renovations took place.

Witness 7: Blair Norton

71. Blair Norton, the seventh witness, testified that he was the director of learning and human resources for the NLSD.
72. Norton testified that he worked with multiple levels of staff in his role at central office, including Clark.
73. Norton testified that he knew Clark as an off-campus teacher.
74. Norton testified that in his investigation he discovered that Clark had made a reference to his female colleagues as, "whores" and "skanky cunts." Clark, by his own admission, did not deny making these statements. Clark also admitted to a comment he made about lifting heavy items. Norton referenced both incidents in his May 9, 2018, letter of reprimand to Clark. Norton also stated in his letter that this was Clark's second letter of reprimand in the last two years and the letter "acts as a final warning." (Exhibit 12)
75. Clark was given seven days to appeal the content of the letter of reprimand from the time it was received. There was no response from Clark. (Exhibit 12)
76. On cross-examination, Norton testified he was not sure if accusations against Clark had been solicited by Grygus.

77. On re-direction by Coles, Norton testified that it was not normal for teachers to:
- a. use the term skanky cunts,
 - b. tell someone you wanted to stick something in their mouth,
 - c. make a statement in front of a female colleague and female student that he smelled fish, or
 - d. gyrate in front of colleagues and students.
78. Norton testified that such comments and behaviours were inappropriate.

Brian Clark's testimony

79. Brian Clark, the investigated member, took the stand.
80. Clark testified that he worked in both the hotel and entertainment industry before entering the teaching profession in 2001.
81. Clark also testified that he was diagnosed with Oppositional Defiance Disorder (ODD) and Obsessive-Compulsive Disorder (OCD).
82. Clark stated he “comes out like a rat if he feels cornered.” He also testified that he can be “absolutely terrifying” when in this state.
83. Clark testified that he was a Metis and bi-sexual male, which provided him with a different perspective on teaching.
84. Clark testified that “all we have is our voice” and that he was “not a traditional teacher.”
85. Clark testified that he considers himself to be a relationship builder and that he took great lengths to build relationships with students and their parents.
86. Clark testified that if he had made the “smells like fish” statement, the father of the female student would have, “kick[ed] my ass” for speaking to his daughter in that manner.
87. Clark testified that, when “I lose it my language becomes impolite.”
88. Clark testified that in 2017, the school environment changed and it became “an era of mistrust and accusations.”
89. Clark testified that he had a heart attack in 2017, and “was not in good shape.” Medication had changed his behaviour and that he did not know that he was getting aggressive.
90. Clark testified that it was his belief that Grygus and Mauro hated him and that they had ruined his relationship with his other colleagues.
91. Clark testified that he does not deny making the comments but those comments were taken out of context and had been said in front of friends and colleagues.

92. Clark testified that he was a creature of habit, cannot control himself, and at 58, he probably would not change.
93. Clark testified that his comments and dancing were taken out of context. He also said that he would let loose at lunch and staff meetings including doing his “Homer Simpson” dance from the television show, The Simpsons, to wake the students up after lunch.
94. Clark testified his biggest offense was insulting a principal; he terrified her as he got his Masters’ degree before her.
95. On cross-examination, Coles reviewed most of the charges with Clark:
 - a. For Charges 1 and 2, Coles asked whether or not Clark had made sexual gestures. Clark admitted to the gestures and said “unless you are a real pig,” you would not consider them sexual. Coles followed up and asked if the dance would be considered sexual to a 15-year-old girl and Clark said no.
 - b. For Charge 3, Coles asked if whether or not Clark made the “heavy lifting” comment. Clark admitted to making the comment but advised it was in response to the EA’s comment about his “old man bladder” which was made on his way to the bathroom.
 - c. For Charge 4, Coles asked whether or not Clark had taken students to his home. Clark admitted to taking students to his home. Clark said that his colleague, Badry, also had students at his house. As a follow up, Coles asked if students stayed overnight? Clark admitted to hosting students overnight but said there was always at least two students present.
 - d. For Charge 5, Coles asked whether or not Clark made a jailbird statement to one of his students who had just been released from jail. Clark admitted to making the comment but said that he was joking and also stated that he had known the family for years.
 - e. For Charge 6, Coles asked whether or not Clark made the “he wanted to put something in her mouth” comment to a colleague. Clark said he did not recollect saying that. Coles followed up by asking if that colleague swore often and Clark said that she did.
 - f. For Charges 7 and 8, Coles asked whether or not Clark made the comment “smells like fish.” Clark admitted to making the comment. Coles asked if he considered the audience when he made the comment. Clark said that he did not and was not aware of the impact until he saw the look on his colleague’s face.
 - g. For Charge 9, Coles asked whether or not Clark referred to colleagues as “skanky cunts.” Clark admitted to making the comment. Clark said that he did not think the comment was a big deal until today (February 5, 2020).
 - h. Coles did not speak to Charge 10.

SUBMISSION OF THE PARTIES

1. On the following day, after testimony by Clark, Clark advised the committee that he had to leave. Westworth told Clark that the committee still needed to hear closing arguments. Rand advised that the committee could hear from the investigated member, Clark, first. Rand stated that while it did not comply with the usual steps and procedures, it should not be an issue.

2. The committee recessed to consider Rand's advice in regard to changing the normal sequence of steps and procedures to allow Clark to tell his side as he had indicated that he had to leave for his own health. The committee concurred with advice from counsel to change the order of closing arguments.

Clark's Submission

3. Clark spoke first in closing arguments.
4. In his closing statement, Clark said that he had given most of what he had to say on the witness stand.
5. Clark said that as a Métis–First Nation, truth is foremost and he tried to put things into context for the hearing committee.
6. Clark said that “four or five ladies may have a negative effect as the result of my behaviours and see it as failing of dignity and honour of the profession.”
7. Clark also said that the hearing process was a “charade of justice.”
8. Clark said that he had never harmed a student and never wilfully harmed another staff member.
9. Clark said that he left it in the committee's hands to decide his fate with guidance from the Creator.
10. After Clark finished speaking, Westworth strongly encouraged Clark to attend and come back whenever he could. Westworth also said that the committee valued his participation in the process.
11. Clark said that he had to leave before his anxiety became full-blown and left the room.

Procedural note

The committee, before recessing for lunch, directed the secretary to the committee, Gibbon, to contact Clark on his cell phone and encourage him to return to the hearing as his attendance was important. Gibbon contacted Clark and encouraged him to return to hearing if his health allowed for it. The investigated member returned at lunch break. The chair advised Clark that he had not missed anything substantive.

Coles's Submission

12. Coles in his closing arguments, reviewed the charges.
13. For Charges 1 and 2, Coles confirmed that Clark admitted to the comment and it was confirmed by his colleagues. Coles said that in doing so, Clark failed to be a good role model.

14. For Charge 3, Coles confirmed that Clark admitted to making the “heavy lifting” comment and Coles said that it involved sexual innuendo. Coles said that while Clark attempted to apply context to his action he failed to consider their impact. Coles went on to say that Clark attempted to absolve himself of responsibility and it was the recipients’ problem on how they perceived his comments.
15. For Charge 4, Coles confirmed that Clark admitted to taking students to his home.
16. For Charge 5, Coles confirmed that Clark admitted to making the jailbird comment about one of his students. It was more important to Clark to be funny rather than uphold the dignity of the student and be considerate of their circumstances. Teachers need to hold themselves to the highest professional standard.
17. For Charge 6, Coles asserted that while Clark states he couldn’t recall saying the statement about “putting something in his colleague’s mouth,” you have seen the pattern of speaking with sexual innuendos.
18. For Charges 7 and 8, Coles confirmed that Clark made the comment about something smelling like fish. Coles said that the comment was sexually inappropriate and derogatory and was made in front of staff and students. It failed to treat students with honour and dignity. A female student is very impressionable so it is important that teachers choose their words carefully.
19. For Charge 9, Coles confirmed that Clark made the comments “skanky whores”. Coles said that using such terms fell very short of the Code of Professional Conduct.
20. For Charge 10, Coles confirmed that Clark yelled at his colleague, Eludin and blamed the victim for his actions.
21. In summary for:
 - a. Charge 10, Coles said that no teacher deserves to be yelled at.
 - b. Charges 2, 5, and 8, Coles said that students came from broken homes, were vulnerable, and that Clark’s comments were wrong in any school setting. Clark was not considerate of their circumstances.
 - c. Charges 1, 3, 4, 6, 7, 9, Coles said that Clark subjected his to female colleagues to sexual comments and innuendo both implicit and explicit. Clark’s actions had consequences which he refused to acknowledge. No context can excuse this.

Clark’s Response

The committee asked Clark if he wished to respond to any new information.

22. Clark accused Coles of dramatizing some of the events.
23. Clark further accused Coles of degrading the profession through his presentation.
24. Clark also accused his administration of forcing staff to fill out complaints against him.

Procedural Matter

Following Clark's closing argument, he once again stated that he needed to leave and did so. The committee did advise him prior to his departure that it was important to stay but Clark said that his anxiety was peaking and it would be better if he left.

WITNESS CREDIBILITY

1. Annette Eludin—Eludin carried herself in a professional manner and was very matter of fact. She remained calm even when provoked by the investigated member during cross. Eludin was thoughtful and carefully considered her responses. Eludin's testimony was both internally and externally consistent. The committee found her recall of the events to be probable. The committee found her testimony in regard to Charge 10 to be credible.
2. Karri Thompson-Radke—Thompson-Radke was very professional and authentic. She always kept eye contact with the presenting officer when responding to his questions. Thompson-Radke worked with Clark for a number of years which gave her the perspective to testify first-hand to the events in question. Thompson-Radke freely admitted her own transgression in regard to using inappropriate language around students and in turn showed remorse for her actions. In the eyes of the committee this contributed to her overall credibility as a witness. The committee found her testimony in regard to Charges 1, 2, 3, and 4 to be credible.
3. Karen Mauro—Mauro testified from Costa Rica via Skype and there were no technical issues. Mauro was very prepared in her testimony. She did not hesitate in responding to any of the questions asked by the presenting officer or when crossed by Clark. It was the committee's position that she felt harassed and fearful of further escalation by Clark. The committee believed her to be very maternal in her protective instincts toward students and staff. The committee heard that Mauro could no longer deal with Clark's abusive behaviour. The committee found her testimony in regard to Charges 1, 2, 3, 5, 6, 7, and 8 to be credible.
4. Bonnie Belhumeur—Belhumeur was soft spoken when testifying. She had worked with Clark daily for over a decade. This provided Belhumeur with the opportunity to observe the escalation of Clark's unprofessional conduct. The committee found her testimony in Charges 6, 9 and 10 to be credible, however, found inconsistencies in her testimony regarding Clark's use of inappropriate language around students.
5. Karen Grygus—Grygus was Clark's immediate supervisor as Principal of Lac La Biche Outreach School and as such had the opportunity to observe Clark's behaviour with staff and students. She also received a number of complaints from Clark's colleagues and conducted her own investigation into his behaviour. She was able to recall the details of the matters at hand but had some difficulty recalling other matters as she said they happened a long time ago. Her testimony was largely consistent with other witnesses and evidence but was inconsistent on the matter of Clark's use of inappropriate language. Grygus did qualify that inconsistency by noting that Clark, most likely, cleaned up his language because of her supervisory role. The committee found her testimony on Charges 3, 6, 7 and 8 to be credible.

6. Elliot Bessey—Bessey was Clark’s immediate supervisor as Principal of Lac La Biche Outreach School and as such had the opportunity to observe Clark’s behaviour with staff and students. He also received a number of complaints from Clark’s colleagues and conducted his own investigation into Clark’s behaviour. The committee found his testimony on Charges 7, 8, and 9 to be credible.
7. Blair Norton—Norton was very matter-of-fact in his testimony. He was clear and articulate when providing testimony, even when asked to repeat the offensive terms used by Clark. Even while soft spoken, Norton was firm in his responses. Norton had conducted both an informal and formal investigation as a result of Clark’s actions and issued a letter of reprimand to Clark. The committee found his testimony on Charges 3 and 9 to be credible.
8. Brian Clark—Clark seemed scattered in his thought but touched on a number of the issues. The committee found him credible in that he admitted to his actions in all charges with the exception of Charge 6. He admitted to using inappropriate language but tried to rationalize his behaviour and deflect responsibility by providing a number of circumstances. Clark argued forcefully against many of the accusations against him but seemed to have very little corroborating evidence to support his assertions and seemed to lack insight into his wrongful actions. The committee put little weight in the context provided by Clark as he had no corroborating evidence to support his testimony, which ran counter to other witness testimony that the committee preferred as more credible. Overall, the committee found him to be somewhat credible.
9. Badry Fyith—scheduled but did not testify due to family emergency

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty
Charge 2—Guilty
Charge 3—Guilty
Charge 4—Guilty
Charge 5—Guilty
Charge 6—Guilty
Charge 7—Guilty
Charge 8—Guilty
Charge 9—Guilty
Charge 10—Guilty

REASONS FOR DECISION

1. The sexual nature of Clark’s dancing in the presence of staff and students was a matter of debate. Clark denied the dancing was of a sexual nature but on the balance of probability, the committee accepted the testimony of Thompson-Radke and Mauro, that the dance was sexual in nature, to be more probable. Clark’s actions in the presence of both staff and students failed to maintain the

honour and dignity of the profession. Further, Clark failed to treat pupils with dignity and respect. He also failed to be considerate of their circumstances.

2. By his own admission, Clark invited a female colleague to assist him with some “heavy lifting” in the bathroom. In doing so, he offended his colleagues with comments that were perceived as sexual innuendo, and thus failed to maintain the honour and dignity of the profession.
3. By his own admission, Clark frequently invited students to his residence and on some occasions had them stay overnight. Clark also admitted to taking students and, on some occasions, their families, on trips of a personal nature to Edmonton. In doing so, Clark failed to maintain the honour and dignity of the profession.
4. By his own admission, Clark made a disparaging comment, “Oh, they let the jailbird out” to a student about his recent incarceration. In doing so, Clark failed to treat the pupil with dignity and respect and be considerate of his circumstances.
5. Based on the testimony of witnesses, the committee heard that Clark, who was in a position of power, made a repulsive comment to a female colleague in that he said he wanted to “put something in her mouth.” In doing so, Clark made her feel degraded and traumatized. Clark’s misogynistic statement failed to maintain the honour and dignity of the profession.
6. By his own admission, Clark made a comment in the presence of both a female student and a female colleague that he “smelled fish.” Regardless of the intent of the comment, Clark failed to consider how his words could impact the audience. In doing so, Clark failed to treat a student with dignity and respect and be considerate of her circumstances. Further, in using such comments, he failed to maintain the honour and dignity of the profession.
7. By his own admission, Clark made an inappropriate sexual comment by referring to female colleagues as “skanky cunts” and “whores.” In making these degrading statements, he demeaned his colleagues and did significant damage to the honour and dignity of the profession.
8. By his own admission, Clark yelled at his colleague, Eludin and said that she deserved it. Clark’s yelling and threatening behaviour was an attempt to intimidate Eludin and to establish a position of power. In doing so, Clark failed to maintain the honour and dignity of the profession.
9. Clark’s habitual and abusive behaviour and inappropriate language was both escalating and ongoing. It reflected his continuous poor judgement in a setting where extra sensitivity was required. By his own admission, when confronted, Clark characterized himself as “absolutely terrifying.” Teachers have an obligation to create safe and caring learning environments for their students and colleagues. By his actions, Clark failed to do so.

SUBMISSION ON PENALTY

After receiving advice from counsel and hearing the presenting officer, the committee recessed and decided to allow the investigated member to give his submission first as a result of Clark's indication that he was going to leave.

Clark's Statement Regarding Penalty

Clark advised the committee that he had a heart attack in January 2017 and was taking medication that increased his aggression. He also stated he had a variety of mental health issues and was attending counselling. As Clark failed to provide any supporting medical evidence other than his testimony, the committee put little weight on these mitigating circumstances.

Clark recommended that the penalty in this case should consist of:

1. a letter of reprimand
2. a fine that would go to a mental health fund for the Alberta Teachers' Association
3. no suspension of teaching certificate

Victim Impact Statements

Under oath, the committee received victim impact statements via Skype from both Eludin and Mauro. There were no technical issues with their testimony. Both witnesses read from prepared statements (Exhibits 14 and 15). Both witnesses confirmed that their statements were their own words and no one had assisted them with their statements.

Eludin's Statement

Excerpts from Exhibit 14:

First, as a woman, to be subjected to inappropriate sexual behaviour while at work, both directly and indirectly, made me feel dirty and devalued. We are teachers. We work with children. It made me feel that belonging to a profession that was supposed to have a higher moral standard was made into a joke, and that as his fellow teacher, I became a part of that joke because this type of behaviour should not be acceptable. Watching him behave this way in the presence of students was even worse. As outreach teachers, we typically have more vulnerable students, and watching Brian take advantage of them left me feeling as though I was ineffectual at protecting them or helping them to grow. I felt a lot of guilt over this, and I also felt that I couldn't do anything to change this because I was fearful of what Brian would do to me personally if I stood up to him.

...On February 7th when Brian confined me in the office to confront me and yell at me, I was shaken to the point where I had to leave the school for my own well-being. I literally could not continue to do my job that day, and I am still emotionally recovering from that. Seeing and speaking to Brian again yesterday showed me that I'm not there yet.

To this day, I still fear for my job security because of Brian. I am fearful that Brian will retaliate by using his connections in the community to "get back" at me for coming forward.

That would devastate me professionally, as our community is small and rumours can easily become rampant.

Seeing him during this process has been incredibly hard emotionally. It is so hard to have to confront someone like this professionally, but I was left with no choice because of his continued and consistent toxic behaviour. It is also difficult to see fellow staff struggle with this as well. We are broken and I hope that Brian allows us all to heal without causing any further damage.

Mauro's Statement

Excerpts from Exhibit 15:

Brian Clark came into my life in the fall of 2014. At the time, he came across as what appeared to be a caring, loud, robust teacher. He appeared to have a connection with our students. As a new staff member to an outreach school it seemed "different" and yet it was accepted by all other staff members. The foul language, sexist remarks and sexual harassment just seemed to be something everyone put up with.

I was disgusted by his comments and often told him how gross they were. I didn't, however, understand how this seemed to be acceptable behaviour in Outreach Schools. Everyone just let it be! It was when he started to totally cross the line that I began to report. I had reached a point where I could no longer let things go and I called him on it. It was not a pleasant situation and I will admit that I feared the consequences of my actions. Over the course of the following four years I saw and heard many disgusting remarks by Brian Clark.

...I have never suffered from anxiety, but during the 2018/2019 school I started to have anxiety attacks on the days when I was at Brian Clark's school. On the night prior to going out to his school, I had difficulty sleeping. Even after Brian Clark's leave and to this day, I become anxious when I see or hear his name.

Comments from the Committee

1. The victim impact statements were considered by the hearing committee and reinforced what the committee heard in witness testimony during the hearing.
2. It was clear to the committee that the unprofessional conduct of Clark had a profound and lasting impact on his colleagues.

Coles's Statement Regarding Penalty

Coles advised that while Clark had no previous convictions with the Association there were a number of issues in regard to both the nature and gravity of Clark's actions and behaviour:

1. Clark's language and gestures were highly sexualized and occurred in front of both students and staff. Many of these young female students very highly vulnerable teens and he was not considerate of their situation.

October 1, 2014, took two male students to his personal residence without the permission of the school principal, thus failing to maintain the honour and dignity of the profession.

5. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about February 2, 2015, made a disparaging comment to a student about the student's prior incarceration, thus failing to treat a pupil with dignity and respect and be considerate of their circumstances.
6. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about March 6, 2017, informed a female staff member that he wanted to put something in her mouth, or a similar statement, thus failing to maintain the honour and dignity of the profession.
7. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about March 23, 2017, stated to a female student and a female staff member, "Mmm, smells like fish," or similar statement, thus failing to maintain the honour and dignity of the profession.
8. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about March 23, 2017, stated to a female student and a female staff member, "Mmm, smells like fish," or similar statement, thus failing to treat the student with dignity and respect and be considerate of their circumstances.
9. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about March 2, 2018, Clark made a sexually inappropriate comment in the presence of school staff, thus failing to maintain the honour and dignity of the profession.
10. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about February 7, 2019, yelled at a colleague, Annette Eludin, in the presence of students in a manner that could undermine the confidence of pupils in Eludin.

The investigated member entered a plea of not guilty to each of the charges.

PRELIMINARY MATTERS

1. Clark made an inquiry to the committee as to whether or not the hearing would be completed by the end of the first day. The committee informed Clark that witnesses were scheduled for two days and the hearing would proceed accordingly.
2. While clearly present at the appointed date, time and location, Clark said that he did not receive the notice of hearing as the post office would not release it to his son.

2. Clark is in his 50s and has many years of experience. He should know better than to behave the way he did over the last few years.
3. Clark had received two letters of reprimand and was told to stop, but his inappropriate behaviour continued.

Coles submitted five precedent cases for the committee's consideration. (Exhibit 13) Coles suggested the following penalty:

1. a single letter of severe reprimand
2. a fine of \$3,000.
3. a suspension of membership in the Alberta Teachers' Association until August 31, 2021 and
4. a recommendation to the minister of education to suspend Clark's teaching certificate until August 31, 2021.

PENALTY

The hearing committee imposed the following penalty:

1. a single letter of severe reprimand to encompass all 10 charges
2. a fine of \$3,000 payable within 90 days of Clark's receipt of the written decision of the hearing committee. Failure to pay the fine in full within the specified time will result in Clark being declared ineligible for membership in the Alberta Teachers' Association.
3. a declaration that Clark is ineligible for membership in the Alberta Teachers' Association.
4. a recommendation to the minister of education to cancel Clark's teaching certificate.

REASONS FOR PENALTY

1. Teachers have an obligation to treat their students and colleagues with dignity and respect; Clark failed to do so.
2. The public expects teachers to conduct themselves in a way that upholds the honour and dignity of the profession; Clark failed to do so.
3. The students in Clark's charge lived very complex lives, thus his words and actions needed to be more sensitive and cautious than in a traditional school setting. In not doing so, Clark failed to treat pupils with dignity and respect and was not considerate of their circumstances.
4. Society expects that a teacher will preserve the integrity and trust of the student-teacher relationship; Clark failed to do so.
5. Society and the profession expect that teachers will act in a manner that establishes and maintains appropriate boundaries in trust relationships with students; Clark failed to do so.
6. Clark admitted to his detestable actions and heinous comments but failed to take responsibility or feel remorse for the impact and damage that he inflicted on both students and colleagues. It

was a concern that he lacked insight into the unprofessionalism and the impacts of his comments and action.

7. By his own admission, Clark said he was not going to change. This level of ungovernability prompted the committee to apply the most severe penalty available—a declaration of ineligibility for membership in the Alberta Teachers' Association and a recommendation to the minister of education to cancel his teaching certificate so he can never teach again in any school—public or otherwise.

Dated at the City of Edmonton in the Province of Alberta, Friday, February 28, 2020.

3. Rand informed all that pursuant to section 64 of the *Teaching Profession Act*, it appeared that the Association provided notice by registered mail to the member's last known address on Association records and further, published notice twice in the Tofield Mercury on January 8, 2020 and January 15, 2020. The committee accepted that notice had been served properly.
4. After some suggestion of confusion by the member, Rand suggested to the committee that Clark speak to each one of the charges individually, which Clark did. Clark proceeded to plead not guilty to each of the ten charges on a charge by charge basis.
5. Rand noted for the record that Clark spoke specifically to each charge and was attentive to the wording, and entered his plea at the end of each charge.
6. Coles informed the committee that one of his witnesses, Badry Fyith, would not be testifying due to a family emergency.

WITNESSES

The presenting officer called as witnesses:

1. Annette Eludin
2. Karri Thompson-Radke
3. Karen Mauro
4. Bonnie Belhumeur
5. Karen Grygus
6. Elliott Bessey
7. Blair Norton

EXHIBITS FILED

- Exhibit 1—Notice of hearing dated December 12, 2019, and returned unclaimed to the Association on January 20, 2020
- Exhibit 2—Notice of hearing advertised in Tofield Mercury on January 8, 2020 and January 15, 2020
- Exhibit 3—Proof of Clark's membership with the Alberta Teachers' Association during the 2005/06 school year to 2018/19 school year, dated January 23, 2020
- Exhibit 4—Two e-mails from Eludin to Bessey and Lisa Gingras
- Exhibit 5—Incident report filed by Thompson-Radke, dated April 21, 2017, in regard to an incident from March 3, 2017
- Exhibit 6—Incident report filed by Mauro on April 15, 2017, in regard to an incident from March 3, 2017
- Exhibit 7—Incident report filed by Mauro on April 15, 2017, in regard to an incident from March 6 or 8, 2017
- Exhibit 8—Incident report filed by Mauro on April 15, 2017, in regard to an incident from March 23, 2017
- Exhibit 9—Handwritten notes, dated March 2, 2018, signed by Belhumeur

Exhibit 10—Letter of reprimand from Grygus to Clark, dated May 31, 2017

Exhibit 11—E-mail from Bessey to Clark, dated March 19, 2018

Exhibit 12—Letter of reprimand from Norton to Clark, dated May 9, 2018

Exhibit 13—Precedent case list as presented by Coles

Exhibit 14—Written copy of victim impact statement made by Eludin via Skype on February 4, 2020

Exhibit 15—Written copy of victim impact statement made by Mauro via Skype on February 4, 2020

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Clark was a member of the Alberta Teachers' Association during the period September 1, 2005 to June 30, 2019. (Exhibit 3)
2. Clark was an outreach teacher at Lac La Biche Outreach School with the Northern Lights School Division (NLSD) during the period of the alleged incidents relating to the charges. This covered a period of time from the 2014/15 school year to the 2018/19 school year.
3. Clark was in his early fifties at the time the alleged incidents started to occur. Clark became an active member of the Association on September 1, 2005 (Exhibit 3) but Clark stated that he started teaching in September 2001.

Witness 1: Annette Eludin

4. Eludin, a teacher at Lac La Biche Outreach School, was called as the first witness. She reviewed the concept of teaching at an outreach school and indicated that students have many challenges including coming from broken families, addiction, pregnancies and interpersonal issues in main stream school. She also said that students come with challenges that were not met in traditional schools and outreach teachers need to build rapport with their students in order to create trust.
5. Eludin stated that she started working with Clark, one day a week, in the 2018/19 school year.
6. Eludin stated that she found Clark hostile, inappropriate and controlling. She also said that Clark had told her that all women were tattletales.
7. Eludin stated Clark had told her that her position of supporting upper level math and science was a waste of money and that it was his mission to get rid of both her and the teaching position.
8. The initial incident between Eludin and Clark occurred February 7, 2017, when Clark disputed Eludin's concerns about a biology test. (Exhibit 4)
9. Clark became upset when she refused his demand to immediately make changes to the test. (Exhibit 4)
10. Eludin informed Clark that she would revise the test after she was done working with students. (Exhibit 4)

11. Eludin said that Clark yelled at her in front of students and stated that he was sick of her and that she was moody and sulky. (Exhibit 4)
12. Eludin testified to a second incident, which took place later in the day when Clark followed her into an office, during her lunch break, in order to further discuss the biology test. Eludin said Clark yelled at her and spoke to her in an intimidating and patronizing manner. She stated Clark was between her and the door, which he closed, and had stepped towards her. Eludin said she felt both confined and threatened by his tone and “mannerisms.” (Exhibit 4)
13. Eludin testified that she repeatedly told Clark that she would not have any conversation alone with him in the office but he continued to yell at her.
14. Eludin said when Clark opened the office door and exited; he stated for all staff and students to hear that if Eludin “didn’t want to be yelled at, [she should] not to do the things to make [her] deserve it.” (Exhibit 4)
15. Eludin said that the incident left her physically shaken and feeling upset and unsafe to the point where she found it necessary to immediately leave the school. (Exhibit 4)
16. Eludin made multiple references to Clark’s inappropriate behaviour dating back to 2009. Some of these incidents included:
 - a. Her initial meeting with Clark in 2009 in which she offered him some chocolate but he refused indicating that “chocolate made him horny and that she was hot.”
 - b. Clark’s gyration in front of both students and staff.
 - c. Clark’s sexually inappropriate statements such as “I’m a big man with a little dick.”
 - d. Clark’s statements for shock value including his past employment as a male escort and his addictions.
17. Eludin testified that some female students said they felt uncomfortable around Clark.
18. Eludin also testified that Clark called her a prude because she did not approve of his inappropriate conduct.
19. On cross-examination by Clark, Eludin said that she was not aware of the number of hours she had worked with him and was surprised that Clark had kept track of those hours.
20. She also testified that while some students may like him it did not change the fact that his behaviour was still inappropriate.
21. In re-direction by Coles, Eludin acknowledged that teachers are role models to their students and that positive relationships are important. Eludin said that Clark fed on students’ dysfunction in the lives of students.

Witness 2: Karri Thompson-Radke

22. Karri Thompson-Radke, the second witness, said that she had been employed as an educational assistant (EA) since 2008/09 at Lac La Biche Outreach School. Thompson-Radke said that her role was not limited to that of an EA as she was also a driver, cook and did other duties as assigned by the school division.
23. Thompson-Radke said that her last year working with Clark was around 2017.
24. Thompson-Radke testified that there were more expectations for staff working at the Outreach as students were more at risk including pregnant teens, teen parents, Fetal Alcohol Spectrum Disorder (FASD) students, students from broken homes, and students with anxiety.
25. Thompson-Radke testified that Clark was a good outreach teacher, knew how to generate credits and could think outside the box; however, his conversations could veer off task as he engaged in inappropriate conversations with the students. Thompson-Radke testified that these conversations included discussions around drug and alcohol use on the weekends.
26. Thompson-Radke testified that Clark would have students do paid work on his acreage and hosted students overnight at his house. This was in addition to driving students, including a boyfriend and girlfriend, into the city.
27. Thompson-Radke also testified that Clark would go outside and smoke with students during the break.
28. Thompson-Radke testified that her friendship with Clark broke down over time and the friendship deteriorated quicker after he became ill. "He would lose his temper and it scared me."
29. Thompson-Radke testified that Clark would use the terms "cunts" and "bitches" in talking about the principal and counsellors, Mauro and Grygus.
30. Thompson-Radke in her complaint (Exhibit 5) said that Clark asked her if she could help him with some "heavy lifting in the bathroom" as he had just had a hernia operation and he wanted help. In addition to his salacious comments, he said "Oh did you miss me, I missed you" and shook his body while saying "Did you miss this."
31. Thompson-Radke testified that she felt degraded when Clark said these things because "he was my colleague and we weren't really friends at the time."
32. In cross-examination, Clark questioned Thompson-Radke why it took her so long to fill out the form. Thompson-Radke readily acknowledged that she was advised to do so by her principal and had waited until she was provided with the form.

Witness 3: Karen Mauro

33. Karen Mauro, the third witness, testified via Skype. She stated that spent seven years in her role as a student advocacy counsellor. She worked twice a week with Clark at Journeys Learning Academy.
34. Mauro testified that Clark would swear in front of the students and allowed the students to swear as well. She said that the word “fuck” was a normal word in the classroom. Mauro said Clark’s informal interactions and jokes made him appear more like a peer than a teacher. She also added that his inappropriate conversations and jokes were both racist and crude.
35. Mauro testified that while on a field trip at the Bold Centre in Lac La Biche, Clark made an inappropriate comment to a student who had just got out of jail by referring to him as a “jailbird.”
36. Mauro testified that Clark frequently made sexual comments, often in front of the students, and provided as an example, Clark stating “Do you want my sexy body?” while he gyrated. She characterized this behaviour as his norm.
37. Mauro testified that she started to address these issues in 2015 but stopped after she “received a threatening e-mail from Clark and the jokes continued.”
38. Mauro testified that she filed three complaints against Clark after the NLSA’s implementation of a “whistle-blower” policy where the complainant’s identity did not have to be revealed.
39. The first complaint was as a witness to Thompson-Radke’s complaint, in regard to Clark asking Thompson-Radke to help him with some heavy lifting in the bathroom. (Exhibit 6)
40. The second complaint was in regard to a comment Clark made to her colleague, Belhumeur, “I’ve got something I would like to stick in your mouth.” (Exhibit 7)
41. The third complaint was in regard to Clark’s comment, “I smell fish,” which he made to both Mauro and a student. (Exhibit 8)
42. Mauro said that she was shocked and took Clark’s comment as sexual innuendo. (Exhibit 8 and testimony) Mauro testified that she felt Clark’s behaviour was getting worse over time and that it was very inappropriate, disgusting and “people just don’t say that sort of thing.” As a result, she felt compelled to file a complaint.
43. In cross-examination, Mauro acknowledged Clark’s statement about a large amount of garbage outside of the kitchen due to the recent cold weather and that the basement had flooded, but she disagreed this is what Clark was referring to in his reference to “fish.”

Witness 4: Bonnie Belhumeur

44. Bonnie Belhumeur, the fourth witness, said that she worked at Crossroads Outreach as an EA. She said that students in the outreach program often came from a bad homelife, had different experiences and attitudes toward education, and had a hard time trusting people.
45. Belhumeur said that she had worked with Clark every day for 13 years and had an opportunity to watch him teach and interact with students. Belhumeur said that she believed Clark cared for the students and tried to make them feel comfortable. She also said that he shared his life experiences with the students and talked about raising his own sons, as well as his experience of working in a bowling alley.
46. Belhumeur said that on March 2, 2018, she noticed Clark was getting upset. Clark was not pleased with Mauro coming into the school and using the office; thus, not allowing Clark access to the printer or photocopier. Belhumeur said Clark referred to both Mauro and Grygus as “whores.”
47. Belhumeur also said that on March 6 or 8, 2017, Clark had said to her, “I’ve got something I would like to stick in your mouth.” She said that she was very mad, upset, and “hurt, actually” by Clark’s comment.
48. Belhumeur also testified that she was so upset with Clark that she started swearing when she exited the room and went to be with the students and her other colleagues.
49. Belhumeur testified that she was scared of Clark and it felt like she was walking on eggshells.
50. Belhumeur also testified that while Clark did not swear at the students individually, instead he did raise his voice to the whole group.
51. Belhumeur also testified that Clark followed Eludin into the office on February 7, and after five minutes, Clark came out yelling at Eludin.
52. Clark asked Belhumeur if he was inappropriate with Eludin. Belhumeur stated that he was.
53. Belhumeur also confirmed that Clark would take students or families to the city.
54. In cross-examination, Belhumeur agreed with Clark that it was common for some staff to give students chores at their residences to earn money, purchase firewood from students’ families and take students or their families to the city.

Witness 5: Karen Grygus

55. Karen Grygus, the fifth witness, said that she had been the principal of the Lac La Biche Outreach School and was currently the principal of Ecole Plamondon School. Grygus testified that outreach teachers created a home away from home by creating a safe space that some of the students lacked at home.

56. Grygus's testimony about the type of students that outreach schools attract was consistent with previous witness testimonies. She also stated the outreach schools built students' confidence up, allowed many to catch up on their studies, upgrade their marks and allowed the students to get a fresh start after being in trouble with the law.
57. Grygus testified that she worked with Clark from August 2013 to June 2017. She said that she attempted to visit his school at least once a week.
58. On May 31, 2017, Grygus issued a letter of reprimand after meeting with Clark on April 21, 2017, in regard to three issues reported to her by staff. Those issues included: (1) March 3, 2017 incident in which Clark asked a female staff member, in front of other staff, to come into the bathroom to assist with lifting heavy things; (2) March 6, 2017 incident in which Clark told a female colleague he had something he would like to stick in her mouth; and (3) March 23, 2017 incident in which Clark made a comment around a female staff member and a female student that he smelled fish. (Exhibit 10)
59. Grygus testified that while she would usually meet with teachers individually, she chose to have her vice-principal join her in the meeting with Clark to "act as a buffer." She also said that it was important to have a third person, specifically a male, present as a witness and to assist if Clark became agitated as he had in the past when given feedback. Grygus said that having a third person in the room was not the norm when meeting with teachers.
60. Grygus testified that Clark had told her he was going to take the letter to the ATA to assist with a response. No response was received.
61. Grygus testified that Clark said that he wished she was dead but Grygus acknowledged that Clark said he was joking when he made the comment.
62. Grygus said Clark tried to be more careful around her with his language as she was his direct supervisor.
63. Grygus also said that she believed Clark's language would be less tolerable in a non-outreach school setting.
64. On cross-examination, Grygus testified that she did not recall bags of garbage being in or around the kitchen that Clark claimed caused the odour.

Procedural Matter

After Karen Grygus' testimony, the last witness of February 3, 2020, Clark was anxious to leave. He was requesting that the committee start calling the witnesses scheduled for tomorrow, February 4, 2020. Westworth stated that the steps and procedures of the hearing must be followed. Westworth and counsel to the committee, Rand, wanted to ensure that Clark understood where the parties were in the proceedings and what would occur on Day 2 of the hearing. After reviewing the steps and procedures with Clark, Clark stated that he would be available the following day at 9:00AM.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM
THE REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST [Teacher Name Redacted - Publication Ban]

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against [Teacher Name Redacted - Publication Ban] [Location redacted] Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, January 10, 2013, at 0900.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. [Teacher Name Redacted - Publication Ban] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period December 2009 to April 2011, sent sexually explicit text messages to students, thus failing to treat the students with dignity and respect.
2. [Teacher Name Redacted - Publication Ban] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2009/10 school year, sent a sexually explicit photograph to a student, thus failing to treat the student with dignity and respect.
3. [Teacher Name Redacted - Publication Ban] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period March 2010 to April 2011, requested sexually explicit photographs of students, thus failing to treat the students with dignity and respect.
4. [Teacher Name Redacted - Publication Ban] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on one or more occasions during the period April 2010 to April 2011, invited a student to meet him outside of appropriate student/teacher professional boundaries, thus failing to maintain the honour and dignity of the profession.
5. [Teacher Name Redacted - Publication Ban] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, in April 2010, inappropriately touched a student, thus failing to treat the student with dignity and respect.

[Teacher Name Redacted - Publication Ban] entered a plea of guilty to each of the charges, by written submission.

DECISION OF THE HEARING COMMITTEE

- Charge 1—guilty
- Charge 2—guilty
- Charge 3—guilty
- Charge 4—guilty
- Charge 5—guilty

REASONS FOR DECISION

Teacher name redacted. Publication Ban.

admitted and pled guilty to (a) exchanging sexually explicit text messages and photographs with students, (b) attempting to arrange private liaisons with the students and (c) touching one student on the thigh.

2. By his own admission, Teacher name redacted. Publication Ban. failed to treat the three students with dignity and respect.

Teacher name redacted. Publication Ban.

created inappropriate relationships with students, relationships that exceeded acceptable teacher–student boundaries.

Teacher name redacted. Publication Ban.

engaged in conversations with students via text messaging which he purposefully escalated to become sexually explicit in nature.

5. Students have the right to feel safe and respected as individuals Teacher name redacted. Publication Ban. violated the trust of students through both his words and actions.

Teacher name redacted. Publication Ban.

depersonalized the students and treated them as objects for his own sexual gratification.

Teacher name redacted. Publication Ban.

betrayed the trust that students, parents and the public have a right to expect of teachers, specifically that teachers will treat students with dignity and respect and with consideration for their circumstances.

Teacher name redacted. Publication Ban.

conduct was reported to the RCMP by the parents of two of the students. By betraying the trust of students and parents Teacher name redacted. Publication Ban. brought dishonour to himself and to his profession.

9. The honour and dignity of the teaching profession is harmed by a teacher having inappropriate relationships with students.

Teacher
name
redacted.
Publication
Ban.

PENALTY

The hearing committee imposes the following penalty to address all five charges:

Teacher name redacted.
Publication ban.

[redacted] is declared ineligible for membership in the Association.

2. A recommendation will be forwarded to the minister of education to cancel [redacted] teaching certificate.

Teacher
name
redacted.
Publication
Ban.

REASONS FOR PENALTY

Teacher name redacted.
Publication ban.

[redacted]; egregiously inappropriate behaviour occurred repeatedly, during two consecutive school years, and involved three students.

Teacher name redacted.
Publication ban.

[redacted] broke the fundamental trust that society places in teachers.

Teacher name redacted.
Publication ban.

[redacted] intentional and predatory behaviour makes him unworthy of membership in the teaching profession. In order to protect students [redacted] must be expelled from the profession.

Teacher
name
redacted.
Publication
Ban.

Dated at the City of Edmonton in the Province of Alberta, Thursday, January 10, 2013.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST MARC RICHARD DAIGLE

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Marc Richard Daigle of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act* (TPA). The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Friday, January 24, 2020.

Professional Conduct Committee members present at the hearing committee were Dan Jackson (chair), Rick Kremp and Abisola Adesanya. Leanne Monsma of Field LLP was counsel to the hearing committee, Andrea Berg was secretary and Sudeep Dua was recorder. Keith Hadden presented the case against the investigated member. The investigated member, Marc Daigle, was not present. While Mike Danyluik, Daigle's counsel signed a number of documents on Daigle's behalf, Danyluik was not present either.

COMPOSITION/JURISDICTION

There were no objections to the constitution or jurisdiction of the hearing committee.

PRELIMINARY MATTERS

Under section 40 of the TPA, a hearing committee, on proof of service of the notice of hearing on the investigated person in accordance with the TPA, may proceed with the hearing in the absence of the investigated person and may act and decide on the matter being heard in the same way as if the investigated person were in attendance.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Marc Richard Daigle is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about November 21, 2016, engaged in conduct for which he, on March 12, 2019, was convicted of an indictable offence, to wit: On or about the 21st day of November, 2016, at or near Edmonton, Alberta, did transmit, make available, distribute, sell, import, export, or possess for the purpose of transmission, making available, distribution, sale or exportation, child pornography, contrary to section 163.1(3) of the *Criminal Code of Canada*.

2. Marc Richard Daigle is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about

November 21, 2016, engaged in conduct for which he, on March 12, 2019, was convicted of an indictable offence, to wit: On or about the 21st day of November, 2016, at or near Edmonton, Alberta, did access child pornography, contrary to section 163.1(4.1) of the *Criminal Code of Canada*.

3. Marc Richard Daigle is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about May 24, 2017, engaged in conduct for which he, on March 12, 2019, was convicted of an indictable offence, to wit: On or about the 24th day of May, 2017, at or near Edmonton, Alberta, did possess child pornography, contrary to section 163.1(4) of the *Criminal Code of Canada*.

The investigated member entered a plea of guilty to the three charges.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

- Exhibit 1—Declaration of awareness of rights, signed by Danyluik, dated January 13, 2020
- Exhibit 2—Notice of hearing and Canada Post confirmation of delivery on December 19, 2019
- Exhibit 3—Submission on plea, signed by Danyluik, dated January 13, 2020
- Exhibit 4—Certificate of conviction aligned with Charge 1, dated July 16, 2019
- Exhibit 5—Certificate of conviction aligned with Charge 2, dated July 16, 2019
- Exhibit 6—Certificate of conviction aligned with Charge 3, dated July 16, 2019
- Exhibit 7—Agreed statement of facts, dated March 11, 2019, from Daigle's court trial
- Exhibit 8—Joint submission on penalty, signed by Danyluik and Hadden, dated January 13, 2020

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Daigle was a member of the Alberta Teachers' Association during the 2016/17 school year. (Exhibit 3)
2. Daigle pled guilty and was convicted under section 163.1(3) of the *Criminal Code* of Canada on June 24, 2019. The charge read: on or about the 21st day of November, 2016, at or near Edmonton, Alberta, did transmit, make available, distribute, sell, import, export, or possess for the purpose of transmission, making available, distribution, sale or exportation, child pornography. (Exhibit 4)
3. Daigle pled guilty and was convicted under section 163.1(4.1) of the *Criminal Code* of Canada on June 24, 2019. The charge read: on or about the 21st day of November, 2016, at or near Edmonton, Alberta, did access child pornography. (Exhibit 5)

4. Daigle pled guilty and was convicted under section 163.1(4) of the *Criminal Code* of Canada on June 24, 2019. The charge read: on or about the 24th day of May, 2017, at or near Edmonton, Alberta, did possess child pornography. (Exhibit 6)
5. Section 23(2) of the TPA states that if a member has been convicted of an indictable offence, the conduct of the member on which the conviction is based is deemed to constitute unprofessional conduct. Also, section 41(2)(a) of the TPA also provides that if a member has been convicted of an indictable offence, a hearing committee has no authority to find that the conduct of the member on which the conviction is based does not constitute unprofessional conduct.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

REASONS FOR DECISION

1. Daigle entered a plea of guilty to the three charges. (Exhibit 3)
2. Further, Daigle was convicted of indictable offences under sections 163.1(3), 163.1(4.1) and 163.1(4) of the *Criminal Code* of Canada and is therefore guilty of unprofessional conduct under section 23(2)(a) of the TPA.
3. Section 23(2)(a) of the TPA stipulates that if a member has been convicted of an indictable offence, the conduct of the member upon which the conviction is based is deemed to constitute unprofessional conduct.

SUBMISSION ON PENALTY

The hearing committee received a joint submission on penalty recommending:

1. A declaration that Daigle is permanently ineligible for membership in the Alberta Teachers' Association
2. A recommendation to the minister of education to permanently cancel Daigle's teaching certificate. (Exhibit 8)

PENALTY

The hearing committee ordered the following penalty:

1. A declaration that Daigle is permanently ineligible for membership in the Alberta Teachers' Association
2. A recommendation to the minister of education to permanently cancel Daigle's teaching certificate.

REASONS FOR PENALTY

1. Daigle pled guilty to the three charges against him. He was also was convicted of three indictable offences under section 163.1 of the *Criminal Code* of Canada.
2. If a member is convicted of an indictable offence, then the conduct on which the conviction is based is deemed to be unprofessional conduct and the hearing committee must find that the conduct of the member on which the conviction is based constitutes unprofessional conduct.
3. Due to the egregious nature of the offences, and due to a teacher's position of trust in relation to students, and due to a teacher's duty to act only in a manner that safeguards the interests of children generally, the hearing committee ruled that Daigle should be permanently ineligible for membership in the Alberta Teachers' Association. For the same reasons, the hearing committee also ruled that a recommendation should be made to the minister of education to permanently cancel Daigle's teaching certificate.
4. Teachers are held to the highest standards by the public, as well as their peers. Teachers must maintain the public's confidence; therefore, Daigle's conduct failed to uphold the honour and dignity of the profession and jeopardized the public's trust in the profession.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, February 26, 2020.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST RACHELLE DANDURAND

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Rachelle Dandurand of Red Deer, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, November 24, 2020.

Professional Conduct Committee members present as the hearing committee were Sonja Dykslag (chair), Fitz Sherman and Brice Unland. Stuart Shigehiro was present as an observer of the Professional Conduct Committee. Ayla Akgungor of Field LLP was counsel to the hearing committee, Chris Gibbon was secretary and Sudeep Dua was recorder. Dan Coles presented the case against the investigated member. The investigated member, Rachelle Dandurand, was not present and was not represented by counsel.

COMPOSITION/JURISDICTION

There were no objections to the composition of the hearing committee or its jurisdiction to hear the case.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Rachelle Dandurand is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about February 2019 to March 2019, engaged in messaging through social media with a male student in which Dandurand discussed alcohol and/or drugs and/or suicide and/or a desire to consume drugs and/or alcohol with the student upon him turning 18, thus failing to treat the student with dignity and respect and be considerate of his circumstances.
2. Rachelle Dandurand is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about February 2019 to March 2019, engaged in messaging through social media with a male student in which Dandurand discussed alcohol and/or drugs and/or suicide and/or a desire to consume drugs and/or alcohol with the student upon him turning 18, thus acting in a manner which failed to maintain the honour and dignity of the profession.

3. Rachelle Dandurand is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about October 2018 to March 2019, engaged in messaging through social media with a male student in which Dandurand exchanged nude and/or partially nude photos and/or videos of herself including her breasts and/or buttocks and/or pubic region and/or engaged in the act of masturbation thus failing to treat the student with dignity and respect and be considerate of his circumstances.
4. Rachelle Dandurand is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about October 2018 to March 2019, engaged in messaging through social media with a male student in which Dandurand exchanged nude and/or partially nude photos and/or videos of herself including her breasts and/or buttocks and/or pubic region and/or engaged in the act of masturbation, thus acting in a manner which failed to maintain the honour and dignity of the profession.

The investigated member entered a plea of guilty to each of the charges, by written submission.

WITNESSES

No witnesses were called.

EXHIBITS FILED

- Exhibit 1—Notice of hearing and Canada Post confirmation of delivery, on September 29, 2020
- Exhibit 2—Declaration of awareness of rights, signed by Dandurand, dated September 15, 2020
- Exhibit 3—Submission on plea, signed by Dandurand, dated September 15, 2020
- Exhibit 4—Proof of Dandurand's membership in the Alberta Teachers' Association from July 1, 2018 to April 30, 2019
- Exhibit 5—Agreed statement of facts and acknowledgement of unprofessional conduct, signed by Dandurand and Coles, dated September 15, 2020
- Exhibit 6—Appendix to the agreed statement of facts
- Exhibit 7—Joint submission on penalty, signed by Dandurand and Coles, dated September 15, 2020

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Dandurand was born November 2, 1993. (Exhibit 5, page 3)
2. Dandurand started teaching physical education at School name redacted. in the 2018/19 school year. (Exhibit 5, page 3)

Decision of the Hearing Committee of PCC re R Dandurand, page 3

3. Dandurand coached [multiple sports] teams. (Exhibit 5, page 3)
4. Dandurand was a member of the Alberta Teachers' Association from July 1, 2018 to April 30, 2019. (Exhibit 4)
5. Dandurand was suspended by the Wild Rose School Division pending the investigation by the school division. (Exhibit 5, page 3)
6. Dandurand resigned on March 26, 2019, with an effective date of April 30, 2019. (Exhibit 5, page 3)
7. Dandurand is currently not a member of the Alberta Teachers' Association. (Exhibit 5, page 3)

Charge 1 and 2

1. Dandurand taught Student A, a Grade [X] student, physical education during the first semester of the 2018/19 school year. (Exhibit 5, page 4)
2. In January 2019, Dandurand began communicating with Student A for the purpose of coaching [a sport]. On or about February 20, 2019, Dandurand and Student A began messaging using the messaging feature of Instagram. Communication between Dandurand and Student A ended in March 2019. (Exhibit 5, page 4)
3. Dandurand communicated with Student A via Instagram. Her comments included (Exhibit 5, page 4)
 - a. I'm totally getting you stoned with me when you're 18.
 - b. Nah it is kinda [sic] shitty. Cause I'm always analyzing what you're thinking when you're around me. I analyze what I wear, I stress when I can't make your shitty days better.
 - c. Guess I'm a little fucked up if I care about what a [Student A's age] old thinks of me.
 - d. Because sometimes (not all times) you seem so much older than you are, and it sucks that we couldn't just have a normal friendship.
 - e. Yeaaaa [sic] it was honestly a blast. Not gonna [sic] lie, I kinda [sic] had a mini slut phase but everyone needs to at some point. You can't marry the person you only ever slept with in my opinion.
 - f. Just know I care a lot about you, and my heart hurts right now for you. You are so kind, funny, intelligent, handsome, and big hearted and you will make someone so happy and she will be proud to call you hers. It doesn't feel good now, but your whole life is ahead of you, and I'm so proud and so lucky that I have had the opportunity to be in it. I love you man, keep your chin up.
4. Dandurand also engaged in the following exchange with Student A (Appendix 1)

Dandurand: "Please tell me you're not thinking about that"
Student A: "I guess u dont [sic] know till u know-biggie"

Decision of the Hearing Committee of PCC re R Dandurand, page 4

Dandurand: “My best friend killed herself two years ago. Please don’t put me through that pain again. You have people that love you and support you through these shitty times.”

Student A: “Yeah, dont [sic] worry about it, and I’m sorry to hear about that. And I won’t. Dont [sic] say anything to my dd”

Dandurand: “Just promise me”

Student A “Dad. I wont [sic].”

Dandurand: “Dad?”

Student A: Dont [sic] tell I’m gonna [sic] kill myself.”

Charge 3 and 4

1. Dandurand taught Student B, a Grade [X] student, physical education during the first semester of the 2018/19 school year. (Exhibit 5, page 5)
2. Dandurand asked Student B, if he would like to assist her with coaching [a sport] team. (Exhibit 5, page 5)
3. Dandurand and Student B, began to communicate through Snapchat in October 2018. Communication ended in January 2019. (Exhibit 5, page 5)
4. Dandurand and Student B shared between 20 to 50 photos and videos using Snapchat. Photos included Dandurand in a bathing suit, in workout clothing, in bed with a blanket covering herself and a video of herself covered by a towel. (Exhibit 5, page 5)
5. Dandurand received photos of Student B in the act of masturbation. (Exhibit 5, page 5)
6. Dandurand spoke with Student B while she was masturbating. (Exhibit 5, page 5)
7. Dandurand provided Student B with a link that allowed him to control, with his phone, a vibrator that Dandurand owned. (Exhibit 5, page 5)
8. Dandurand shared with Student B that she had a piece of blue lingerie and a piece of red lingerie. (Exhibit 5, page 6)

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

Charge 4—Guilty

REASONS FOR DECISION

Charge 1

1. Dandurand submitted a plea of guilty and admitted her behaviour constituted unprofessional conduct. (Exhibit 3)
2. Through repeated inappropriate communication via social media, Dandurand discussed alcohol, and/or drugs, and/or suicide, and/or desire to consume drugs and/or alcohol with Student A, thus, Dandurand contravened article 4 of the Code of Professional Conduct, in that she did not treat the student with dignity and respect and was not considerate of his circumstances.
3. Dandurand's communication with Student A clearly articulates that she would really like to "get stoned" with him and "go for a beer" with him. The evidence also demonstrates that Dandurand discussed suicide with Student A. This discussion is inappropriate and does not treat the student with dignity and respect given his circumstances.

Charge 2

1. Dandurand submitted a plea of guilty and admitted her behaviour constituted unprofessional conduct. (Exhibit 3)
2. Through repeated inappropriate communication via social media, Dandurand discussed alcohol, and/or drugs, and/or suicide, and/or desire to consume drugs and/or alcohol with Student A, thus, Dandurand contravened article 18 of the Code of Professional Conduct, in that she acted in a manner which failed to maintain the honour and dignity of the profession.
3. Dandurand's communication with Student A clearly articulates that she would really like to "get stoned" with him and "go for a beer" with him. The evidence also demonstrates that Dandurand discussed suicide with Student A. This is inappropriate and fails to maintain the honour and dignity of the profession.

Charge 3

1. Dandurand submitted a plea of guilty and admitted her behaviour constituted unprofessional conduct. (Exhibit 3)
2. The evidence with respect to Charge 3 is somewhat unclear in terms of whether Dandurand exchanged nude and/or partially nude photos and/or videos of herself including her breasts and/or buttocks and/or pubic region with Student B. There is evidence that Dandurand sent between 20 and 50 photos which included herself in a bathing suit, in workout clothing, in bed with a blanket covering herself and a video herself covered by a towel. However, the evidence also seems to suggest that Dandurand was wearing clothing or covered by a blanket or towel in the photos. Nevertheless, the committee accepts that sending pictures to a

student when in a bathing suit or covered only by a blanket or towel is plainly inappropriate and unprofessional.

3. Further, the evidence is clear that Dandurand received photos of Student B while he was in the act of masturbating and that Dandurand spoke with Student B while she was masturbating.
4. Accordingly, the committee is satisfied that Charge 3 has been established on the balance of probabilities and that Dandurand contravened article 4 of the Code of Professional Conduct, in that she did not treat the student with dignity and respect and was not considerate of his circumstances.

Charge 4

- 1) Dandurand submitted a plea of guilty and admitted her behaviour constituted unprofessional conduct. (Exhibit 3)
- 2) The evidence with respect to Charge 4 is somewhat unclear in terms of whether Dandurand exchanged nude and/or partially nude photos and/or videos of herself including her breasts and/or buttocks and/or pubic region with Student B. There is evidence that Dandurand sent between 20 and 50 photos which included herself in a bathing suit, in workout clothing, in bed with a blanket covering herself and a video herself covered by a towel. However, the evidence also seems to suggest that Dandurand was wearing clothing or covered by a blanket or towel in the photos. Nevertheless, the committee accepts that sending pictures to a student when in a bathing suit or covered only by a blanket or towel is plainly inappropriate and unprofessional.
- 3) Further, the evidence is clear that Dandurand received photos of Student B while he was in the act of masturbating and that Dandurand spoke with Student B while she was masturbating.
- 4) Accordingly, the committee is satisfied that Charge 4 has been established on the balance of probabilities and that Dandurand contravened article 18 of the Code of Professional Conduct, in that she acted in a manner which failed to maintain the honour and dignity of the profession.

SUBMISSION ON PENALTY

1. Coles and Dandurand provided a written joint submission on penalty to the hearing committee recommending the following:
 - a. A letter of severe reprimand
 - b. A fine of \$5,000
 - c. A declaration that Dandurand be permanently ineligible for membership in the Alberta Teachers' Association

- d. A recommendation to the minister of education to cancel Dandurand's teaching certificate.
2. Coles recommended to the hearing committee that the fine imposed be payable within six months as there were no timelines discussed with Dandurand for payment.
3. Coles referred to five precedent cases with similar facts to support the submission on penalty.

PENALTY

The committee ordered the following penalties to encompass all four charges:

1. A letter of severe reprimand
2. A fine of \$5,000 payable within six months of receipt of the hearing committee's written reasons for decision
3. A declaration that Dandurand is permanently ineligible for membership in the Alberta Teachers' Association
4. A recommendation to the minister of education to cancel Dandurand's teaching certificate

REASONS FOR PENALTY

1. The joint submission on penalty identified various factors that the hearing committee considered: (page 3, Exhibit 7)
 - a. The nature of the charges to be severe.
 - b. Student A and Student B were [age of students] respectively at the time of the incidents.
 - c. Student A and Student B hid communication with Dandurand from their parents.
 - d. Dandurand's departure from the school resulted in Student A and B being subjects of rumours and speculations.
 - e. Dandurand was aware of the Code of Professional Conduct and her obligation to uphold it.
 - f. Dandurand was 25 years old at the time of the incidents.
 - g. Dandurand was in her first year of teaching and had no prior convictions of unprofessional conduct.
 - h. Dandurand participated in the investigation and admitted guilt and unprofessional conduct on all charges.
2. Teachers have the responsibility to treat students with dignity and respect and be considerate of their circumstances. Dandurand's actions were egregiously inappropriate. Dandurand exploited her relationship with both students for her own emotional and/or sexual gratification. Dandurand was not considerate of the vulnerable and impressionable nature of the youth involved and their circumstances.

3. Society has the right to expect teachers will act in a manner that establishes and maintains an appropriate trust relationship between teachers and students. Dandurand severed the fundamental trust that society places in teachers.
4. Teachers have the responsibility to maintain the honour and dignity of the teaching profession. Dandurand, through her actions, completely and utterly failed to fulfil her responsibility to respect the honour and dignity of the teaching profession.
5. Teachers are in a position of power over students and must maintain appropriate boundaries, therefore it is a teacher's fiduciary obligation to protect students; not to exploit the teacher student relationship. Dandurand's repeated inappropriate behaviour necessitated a significant penalty.
6. Apart from the fact of the guilty pleas, the committee noted that no evidence was presented that Dandurand had demonstrated remorse for the heinous harm that she caused to Student A and Student B, nor was any evidence provided that Dandurand had taken steps to learn from her actions. In the absence of such evidence, the committee concluded that it would be prudent to ensure that Dandurand will not be in a teaching position again. This is essential to maintaining public confidence in the teaching profession.
7. While Dandurand was a young and inexperienced teacher and was experiencing loss in her personal life [explanation of loss] at the time of the conduct in question, these circumstances are not sufficient to mitigate the seriousness and egregiousness of her conduct.
8. Through her actions, Dandurand brought dishonour and disrepute to the teaching profession.

Dated at the City of Edmonton in the Province of Alberta, Monday, January 18, 2021.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST PETER SIOR DAVIES

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Peter Sior Davies of Rocky Mountain House, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, November 21, 2011 at 0900.

Professional Conduct Committee members present as the hearing committee were Eric Frederick (chair), Cassandra Jager and Lynne Davies. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Michael Kischuk was secretary and Leslie Kaun was recorder. Cory Schoffer presented the case against the investigated member. The investigated member, Peter Davies, was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or composition of the hearing committee.

PLEA

The following charges were read by the secretary to the hearing committee:

1. Peter Sior Davies is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of September 1990 to June 1992, engaged in a sexual relationship with a student, thereby failing to treat the student with dignity and respect.
2. Peter Sior Davies is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of September 1990 to June 1992, engaged in a sexual relationship with a student, thereby failing to maintain the honour and dignity of the profession.

The investigated member entered a plea of guilty to each of the charges, by way of written submission.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

1. Notice of Hearing and Canada Post confirmation of delivery, on October 21, 2011
2. Submission on plea, signed by Davies, dated October 31, 2011
3. Agreed statement of facts, signed by Davies and Schoffer, dated October 31, 2011
4. Proof of Davies's membership in the Association from September 1, 1987 to September 30, 2010, inclusive
5. Declaration of awareness of rights, signed by Davies, dated October 31, 2011
6. Joint submission on penalty, signed by Davies and Schoffer, dated October 31, 2011

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Davies was born in 1960 and began working as a teacher, in 1987, for Rocky Mountain School Division No 15 in 1987, which later became part of the current Wild Rose School Division No 66. (Exhibit 3)
2. Davies taught at the School name redacted. in Rocky Mountain House from 1987 to 1997. (Exhibit 3)
3. Davies's employment with Wild Rose School Division No 66 terminated on October 31, 2010. (Exhibit 3)
4. Davies was a member of the Alberta Teachers' Association from September 1, 1987 to October 31, 2010. (Exhibits 3 and 4)
5. In 1990, there was a Grade 11 student at School name redacted. who will be referred to as ND in this report.
6. Davies had met ND when she was in Grade 9. Davies taught language arts and physical education to ND during her Grade 9 and Grade 10 years. Davies did not teach ND during her Grade 11 or Grade 12 years. (Exhibit 3)
7. In the fall of 1990, the relationship between Davies and ND became sexual, including sexual intercourse. (Exhibit 3)

8. Davies and ND participated in regular hiking trips and overnight camping trips together throughout ND's years in Grade 11 and Grade 12. Davies and ND took some of the trips alone and some with other people. (Exhibit 3)
9. The relationship between Davies and ND continued for a period of time after ND graduated from high school and was attending a college outside of the community. (Exhibit 3)
10. The relationship between Davies and ND then ceased for a number of years, while ND was away attending post-secondary school. (Exhibit 3)
11. Davies and ND re-established their relationship in recent years and their relationship is continuing. (Exhibit 3)
12. Davies was forthright and cooperative in his interviews with the presenting officer. He provided the presenting officer with all documents requested, answered all questions asked of him and confirmed the facts of the case. (Exhibit 3)

DECISION OF THE HEARING COMMITTEE

Charge 1 – guilty
Charge 2 – guilty

REASONS FOR DECISION

1. By his own admission, Davies confirmed that he had a sexual relationship with student ND while she was in Grade 11 and Grade 12, thus failing to treat the student with dignity and respect.
2. In a relationship between a teacher and a student, the parties are not on equal terms. The responsibility for maintaining boundaries falls solely on the teacher. By engaging in a sexual relationship with a student, Davies failed to uphold the honour and dignity of the profession.
3. Ultimately, the ongoing nature of the relationship between Davies and ND does not diminish the unprofessional nature of the actions that occurred between 1990 and 1992 while he was a teacher and she was a student.

PENALTY

The hearing committee declared Davies ineligible for Association membership and ordered that a recommendation be made to the minister of education to cancel Davies's teaching certificate.

REASONS FOR PENALTY

1. Society expects that teachers will establish professional relationships with students and maintain appropriate boundaries. By engaging in a sexual relationship with student ND, Davies failed to maintain professional boundaries, failed to treat the student with dignity and respect and failed to uphold the honour and dignity of the profession.
2. Teachers must not engage in intimate relationships with students. Both the profession and society in general view such actions as repugnant and reprehensible. Davies violated the trust placed in him and showed disregard for societal expectations of teachers.
3. Davies and ND were engaged in an inappropriate relationship while ND was in Grade 11 and Grade 12. The fact that the relationship continued after ND graduated and is still ongoing is not mitigating and does not diminish the unprofessional conduct of Davies between 1990 and 1992.

Dated at the City of Edmonton in the Province of Alberta, Monday, November 21, 2011.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST DOUGLAS S DAVIS

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Douglas Davis of Slave Lake, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, October 10, 2000.

Professional Conduct Committee members present as the hearing committee were E M Willette-Larsen (chair), E L Osborne and D L Schroeder. R W Rand of Frohlich Rand Kiss was counsel to the hearing committee, M C Arnal was secretary and L A Kaun was recorder. V A Riewe presented the case against the investigated member. The investigated member was not present and was not represented.

CONSTITUTION/JURISDICTION

There was no objection to either the constitution of the committee or its jurisdiction to hear this case.

PLEA

The following charge was read by the secretary to the hearing committee.

Douglas S Davis is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, during the 1998/1999 school year, began and carried on a sexual relationship with Student X, a student in his care.

D Davis entered a plea of "guilty" to the charge. After reviewing the exhibits referenced hereafter, the hearing committee determined that the plea was appropriate and found D Davis to be guilty of unprofessional conduct as charged.

WITNESSES

No witnesses were called.

The prosecuting officer entered an agreed statement of facts.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. D Davis was a member of The Alberta Teachers' Association during the 1998-99 school year. (Exhibits 1 and 4)
2. D Davis was employed as a teacher by Living Waters Catholic Regional Division No 42 from September 1997 to December 1999. (Exhibit 4)
3. In the spring of 1998, D Davis invited Student X to join a jazz blues band which D Davis had started in 1997-98. Frequently D Davis drove Student X home from practices which were often held from approximately 8:00 pm to 10:00 pm. (Exhibit 4)
4. During the 1998-99 school year, D Davis taught Student X grade 10 English and Social Studies. D Davis also provided study sessions and tutoring to Student X early in the morning and in the evenings, with a view to preparing her to challenge courses at the grade 11 level. (Exhibit 4)
5. During the 1998-99 school year, a romantic relationship developed between D Davis, age 49, and Student X, age 15. (Exhibits 4 and 6)
6. This relationship escalated into a sexual relationship during the school year and continued during the summer. (Exhibits 4 and 6)
7. Student X's family moved away from the community. D Davis pursued the relationship.
8. On or about September 10, 1999, the father of Student X, telephoned the principal of School name redacted. and informed him that his wife had found a number of documents in Student X's bedroom. These documents were intimate letters and notes between D Davis and Student X. Student X's father faxed copies of these to Principal name redacted. the principal.
9. Subsequently, Principal name redacted. contacted Joffre Plaquin, superintendent, and faxed the documents to him. On or about September 10, 1999, J Plaquin directed Principal name redacted. to advise D Davis that the school board would suspend him from teaching effective immediately.

10. D Davis began sick leave immediately following the suspension. He later resigned from his teaching contract with Living Waters Catholic Regional Division No 42 effective December 10, 1999. The suspension was subsequently withdrawn by J Plaquin.

PENALTY

The hearing committee imposes the following penalty:

1. That D Davis' membership in The Alberta Teachers' Association be canceled and that he be declared ineligible for membership in The Alberta Teachers' Association
2. That a recommendation be made to the minister of learning to cancel D Davis' teaching certificate

The committee also accedes to the request of the prosecuting officer and imposes a ban on the publication of the name of the victim.

REASONS FOR PENALTY

1. Teachers must not engage in **sexual** activities with their students.
2. D Davis failed to uphold the honor and dignity of the teaching profession by engaging in **sexual** activity with Student X.
3. D Davis showed a lack of sound judgment and responsibility by initiating and cultivating a romantic and **sexual** relationship with a student in his care.
4. D Davis' actions had a negative impact on Student X and her family and the teaching profession.
5. Students, parents, colleagues and communities have a right to expect that teachers will act in a manner which establishes and maintains trust between teachers and students. D Davis betrayed that elemental trust.
6. D Davis' deplorable activities create far-reaching and negative impacts on the teaching profession.
7. D Davis used his teaching position to manipulate and exploit Student X for **sexual** and romantic purposes and for his own gratification.

Report of the Hearing Committee of PCC
D S Davis, page 4

Dated at the City of Edmonton in the Province of Alberta, Tuesday, October 10, 2000.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST WADE STUART DEERING

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Wade Deering of High Prairie, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held with participants using video technology at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada and the Southern Alberta Regional Office, 100-3016 5 Avenue, NW, Calgary, Alberta on Monday, March 30, 2020 at 0900.

The participants were

1. Professional Conduct Committee members appointed as the hearing committee, Nelson Moulton (chair), Ismat Bandali and Wade Westworth;
2. Jason Kully of Field LLP as counsel to the hearing committee;
3. Lisa Everitt as secretary to the hearing committee;
4. Sudeep Dua as recorder; and
5. Marvin Hackman as presenting officer.

The investigated member, Wade Stuart Deering, did not participate and was not represented by counsel.

COMPOSITION/JURISDICTION

There was no objection to the constitution of the hearing committee or to its jurisdiction to hear the case.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Wade Stuart Deering is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period September 2011–June 2018, made comments to pupils and/or engaged in actions in his classroom which failed to treat a pupil or pupils with dignity and respect and be considerate of their circumstances.
2. Wade Stuart Deering is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the

Charge 1

1. By his own admission, Deering made comments to pupils in his classroom in which he failed to treat the pupils with dignity and respect and failed to be considerate of their circumstances.
2. In the evidence adduced, there were several examples of Deering making inappropriate comments to students from September 2011 to June 2018.
3. Deering commented on students' sexuality and joked about their sexual orientation, commented on pictures found in students' Facebook profiles in front of the class, teased students about their personal relationships, asked female students about the boys they were dating, and was flirtatious with female students.
4. Schools must have a safe learning environment and teachers must be considerate in such an environment. Children should not be exposed to these kinds of statements from a teacher and teachers should not insert themselves into students' social lives. Teachers are expected to maintain relationships with students that do not transgress boundaries or exploit the vulnerabilities of students.
5. Having a teacher tease or make fun of a student or having a teacher judge a student for their personal choices is offensive and creates a risk of harm to a student's self-esteem. A fundamental feature of the teacher-student interaction is mutual respect. The teacher-student relationship should be professional and formal, not personal and informal.
6. The committee finds that Deering failed to treat pupils with dignity and respect and be considerate of their circumstances.

Charge 2

1. By his own admission, Deering made inappropriate comments to pupils in his classroom.
2. In the evidence adduced, there were several examples of Deering making inappropriate comments and actions toward students from September 2011 to June 2018.
3. Deering commented on students' sexuality and joked about their sexual orientation, commented on pictures found in students' Facebook profiles in front of the class, teased students about their personal relationships, asked female students about the boys they were dating, and was flirtatious with female students.
4. By making these inappropriate comments, Deering's comments were damaging to the public's perception of the teaching profession and failed to maintain the honour and dignity of the profession. Teachers are expected to create a safe and caring environment and are

expected to act like role models. Students noted that Deering acted more like a friend than a teacher and his comments created a risk that students would feel uncomfortable.

5. The committee finds that Deering failed to act in a manner which maintained the honour and dignity of the profession.

Charge 3

1. By his own admission, Deering acknowledged that during the period September 2011 to June 2018, he engaged in texting and/or other electronic communications with students, or former students shortly after their graduation, where the comments made were inappropriate to an acceptable teacher–student relationship.
2. In the evidence adduced, there were several examples of Deering engaging in inappropriate communication to students or former students, during the period September 2011 to June 2018.
3. The messages generally began while the students were in school or very shortly after the students had graduated.
4. Deering’s messages to students and former students were flirtatious, laced with sexual innuendo and sexually suggestive comments, and included the use of offensive language and derogatory racial comments. He made comments to students and former students about their boyfriends and personal lives and made comments about the physical appearance of students and former students.
5. This was not an isolated incident as numerous students over various years received the messages from Deering by text or social media. The messages to students were sustained over a long period of time and many of the contact times of the communication were outside the respectful boundaries of relationships between teachers and students.
6. Communication from a teacher to a student should be confined to matters appropriate to the role of a teacher. Teachers are expected to maintain relationships with students that do not transgress boundaries or exploit the vulnerabilities of students. Deering’s communications crossed these boundaries and had a negative impact on many students, as his communications made students feel uncomfortable.
7. Deering failed to treat these students/former students with dignity and respect and be considerate of their circumstances.

Charge 4

1. By his own admission, Deering acknowledged that during the period September 2011 to June 2018, he engaged in texting and/or other electronic communications with students or

former students shortly after their graduation, where the comments made were inappropriate to an acceptable teacher–student relationship.

2. In the evidence adduced, there were several examples of Deering engaging in inappropriate communication to students or former students during the period September 2011 to June 2018.
3. The messages generally began while the students were in school or very shortly after the students had graduated.
4. Deering’s messages to students and former students were flirtatious, laced with sexual innuendo and sexually suggestive comments, and included the use of offensive language and derogatory racial comments. He made comments to students and former students about their boyfriends and personal lives and made comments about the physical appearance of students and former students.
5. This was not an isolated incident as numerous students over various years received the messages from Deering by text or social media. The messages to students were sustained over a long period of time and many of the contact times of the communication were outside the respectful boundaries of relationships between teachers and students.
6. Teachers are entrusted with the care of students and are placed in a position of authority. Society expects teachers to be role models and holds them to a high standard of behaviour in their professional lives and in their personal conduct away from the classroom. By his conduct, Deering failed to meet this standard.
7. Deering failed to act in a manner which maintained the honour and dignity of the profession.

Charge 5

1. By his own admission, Deering confirmed that during the period September 2011 to June 2018, he engaged in grooming-type activity with one or more current students or former students shortly after their graduation.
2. In the evidence adduced there were several examples of grooming-type activities with one or more current students or former students shortly after graduation.
3. Deering sought out personal connections with the girls, including one who was especially vulnerable because her sister was terminally ill and another who was dealing with her own mental health problems. Deering questioned the students and/or former students about their personal life, their personal relationships, their looks, their work, and their behaviour. His actions were sustained and he placed himself in their lives. In addition, Deering crossed the professional boundaries of the teacher-student relationship by giving gifts to some of the students.

4. Teachers are expected to maintain relationships with students that do not transgress boundaries or exploit the vulnerabilities of students. Students are entitled to expect that a teacher will not engage in inappropriate behaviour that impacts their safety and security.
5. Deering violated the boundaries of the teacher-student relationship by pushing female students and former students to interact with him in ways that were characterized as “uncomfortable” and “creepy.” By his actions, Deering failed to act in a professional manner.
6. Deering failed to treat these students with dignity and respect and be considerate of their circumstances.

Charge 6

1. By his own admission, Deering confirmed that during the period September 2011 to June 2018, he engaged in grooming-type activity with one or more current students or former students shortly after their graduation.
2. In the evidence adduced there were several examples of grooming-type activities with one or more current students or former students shortly after graduation.
3. Deering sought out personal connections with the girls, including one who was especially vulnerable because her sister was terminally ill and another who was dealing with her own mental health problems. Deering questioned the students and/or former students about their personal life, their personal relationships, their looks, their work, and their behaviour. His actions were sustained and he placed himself in their lives. In addition, Deering crossed the professional boundaries of the teacher-student relationship by giving gifts to some of the students.
4. Deering violated the boundaries of the teacher-student relationship by pushing female students and former students to interact with him in ways that was characterized as “uncomfortable” and “creepy.” By his actions, Deering failed to act in a professional manner.
5. Parents and society have a reasonable expectation that teachers will be role models and that they will not engage in inappropriate communication and interaction with individuals subject to their authority. Society holds teachers to a higher standard of behaviour given their position.
6. Deering failed to act in a manner which maintained the honour and dignity of the profession.

Charge 7

1. By his own admission, Deering admitted that at some point during the period March 2016 to September 2018, he had a sexual relationship with Student C while she was a student or shortly after her graduation.

2. Student C acknowledged she had a sexual relationship with Deering and this was confirmed by Student C's family and friends.
3. Deering demonstrated a very serious lack of judgment when he engaged in a sexual relationship with Student C. In a relationship between a teacher and a student, the parties are not on equal terms. The responsibility for maintaining proper boundaries rests solely with the teacher.
4. Even if the relationship began after Student C graduated, a power differential still existed between her and Deering. Deering had a responsibility, as a professional, to ensure that proper boundaries were maintained even once Student C was no longer a student at the school. By engaging in a sexual relationship with Student C, Deering violated the boundaries of the teacher-student relationship and exploited Student C's vulnerabilities. This conduct is reprehensible and completely unacceptable.
5. Deering failed to treat a student or former student with dignity and respect and be considerate of their circumstances.

Charge 8

1. By his own admission, Deering admitted that at some point during the period March 2016 to September 2018, he had a sexual relationship with Student C while she was a student or shortly after her graduation.
2. Student C acknowledged she had a sexual relationship with Deering and this was confirmed by Student C's family and friends.
3. Deering engaged in conduct that harmed the best interests of students, the public and the teaching profession. Deering's actions and boundary violations damaged the confidence and trust in teachers by the community and harmed the standing of teachers generally. He failed to consider the impact of his actions on the reputation of the teaching profession.
4. Deering failed to act in a manner which maintains the honour and dignity of the profession.

Charge 9

1. By his own admission, Deering admitted that at some point during the period January 2015 to September 2018, he had a sexual relationship with Student B while she was a student or shortly after her graduation.
2. This admission was supported by the evidence provided in the agreed statement of facts. The committee accepted that on the balance of probabilities, there was a sexual relationship between Student B and Deering.

3. Deering demonstrated a very serious lack of judgment when he engaged in a sexual relationship with Student C. In a relationship between a teacher and a student, the parties are not on equal terms. The responsibility for maintaining proper boundaries rests solely with the teacher. Even if the relationship began after Student B graduated, a power differential still existed between her and Deering. Deering had a responsibility, as a professional, to ensure that proper boundaries were maintained even once Student B was no longer a student at the school.
4. By engaging in a sexual relationship with Student B, Deering violated the boundaries of the teacher-student relationship and exploited Student B's vulnerabilities. This conduct is reprehensible and completely unacceptable.
5. Deering failed to treat a student or former student with dignity and respect and be considerate of their circumstances.

Charge 10

1. By his own admission, Deering admitted that at some point during the period January 2015 to September 2018, he had a sexual relationship with Student B while she was a student or shortly after her graduation.
2. This admission was supported by the evidence provided in the agreed statement of facts. The committee accepted that on the balance of probabilities, there was a sexual relationship between Student B and Deering.
3. Deering engaged in conduct that harmed the best interests of students, the public and the teaching profession. Deering's actions and boundary violations damaged the confidence and trust in teachers by the community and harmed the standing of teachers generally. He failed to consider the impact of his actions on the reputation of the teaching profession.
4. Deering failed to act in a manner which maintains the honour and dignity of the profession.

SUBMISSION ON PENALTY

Hackman and Deering provided a joint submission on penalty to the hearing committee recommending the following penalties to address all of the charges:

1. A letter of severe reprimand
2. A declaration of permanent ineligibility for membership in the Association
3. A recommendation for cancellation of Deering's teaching certificate

Hackman and Deering acknowledged through the signed joint submission on penalty their recognition that the hearing committee would make its own determination with respect to penalty (Exhibit 5).

PENALTY

The hearing committee is aware of its responsibility to give due deference to a joint submission on penalty by carefully considering the submission on its merits and deviating from the joint submission only if it would “bring the administration of justice into disrepute” or it is “unfit, unreasonable, or contrary to the public interest.”

The hearing committee considered the joint submission carefully and identified concerns with the penalty being proposed. While the committee acknowledged that cancellation of Deering’s certificate and the loss of his ability to engage in the profession is very severe, it was concerned that there was no monetary fine imposed which would serve as a further deterrent and punishment for the very serious conduct engaged in by Deering. The hearing committee was concerned that the penalty was insufficient and outside of the range of “reasonable” penalties, given the severity of the charges and the nature of the conduct at issue. The committee was of the view that an additional punitive measure of a monetary fine was necessary to ensure the penalty was fit, to ensure adequate protection of the public interest, and to ensure the proper administration of justice.

As a procedural matter, and upon the advice of legal counsel, the hearing committee made its concerns with the joint submission known and advised that it believed a \$2,500 fine in addition to the agreed penalties was also appropriate. It provided Hackman and Deering with an opportunity to speak to the hearing committee’s concerns that the recommended penalty was not sufficient.

Hackman did not have any objections to the imposition of a \$2,500 fine in conjunction with the joint submission. Deering, who did not attend the hearing, was called twice on the phone by the secretary to the committee to give a response. Deering did not answer on the first call and on the second call, a message was left on Deering’s voicemail with a request to call back within a specified period of time. Deering did not return the calls and therefore, the committee proceeded with its decision.

After this process and consideration of the facts and legal principles, the hearing committee determined the joint submission was not reasonable and that accepting it would be contrary to the public interest. As a result, it imposed a more severe penalty than what was proposed in the joint submission on penalty by Hackman and Deering. The hearing committee imposed the following penalties to cover all ten charges:

1. A letter of severe reprimand
2. A fine of \$2,500 payable to the Association within 90 days of receipt of the written decision of the hearing committee
3. A declaration that Deering is permanently ineligible for membership in the Association
4. A recommendation to the minister of education that Deering’s teaching certificate be cancelled

REASONS FOR PENALTY

The hearing committee considered the following factors in determining the penalty.

1. The hearing committee carefully considered the content of the joint submission on penalty, including the Jaswal factors listed. The committee accepted the penalty that the parties proposed but determined that a fine should also be levied because of the nature of Deering's actions and the resulting damage to the students, the community, and the teaching profession. The committee believed an additional deterrent to this behaviour was necessary.
2. An appropriate penalty must demonstrate to members of the teaching profession, as well as to members of the public, that the teaching profession will decisively respond to professional misconduct.
3. Due to the egregious nature of the offences, and due to a teacher's position of trust in relation to students, and due to a teacher's duty to act only in a manner that safeguards the interests of children generally, the hearing committee determined that a fine of \$2500, a declaration that Deering is permanently ineligible for membership in the Association, and a recommendation to the minister of education that Deering's teaching certificate be cancelled were all necessary.
4. In the case of Deering, the variety, repetition and duration of the unprofessional contact with students and the repeated behaviours require a penalty that is corrective, preventative, and will protect the interests of students and the public.
5. The committee did not accept Deering's alcoholism as a mitigating factor because some of his actions would have occurred while sober.
6. As a teacher and coach with his lengthy experience, Deering ought to have known that what he was doing was wrong and he should have known about his obligations under the Code of Professional Conduct.
7. The nature and gravity of the proven allegations are very serious. It is of the most serious conduct that a teacher can engage in. Deering engaged in sexual relationships with multiple students and/or former students and the Association and society in general deem this to be reprehensible. Deering also engaged in communications with students, both in class and out of class, which crossed clear boundaries and failed to maintain an appropriate teacher-student relationship. By doing so, Deering failed to treat students with dignity and respect and failed to be considerate of their circumstances and failed to maintain the honour and dignity of the teaching profession.

8. Deering had several opportunities to correct his behaviour. He failed to do so and thus demonstrated his ungovernability and unprofessionalism.
9. Deering clearly betrayed the fundamental trust given by society to the teaching profession. The public must be assured that the profession will punish those who transgress in this regard.
10. Deering's actions had a significant and damaging mental and emotional impact on the students, their families, and the community. By doing so, Deering failed to treat students with dignity and respect and was not considerate of their circumstances and failed to maintain the honor and dignity of the teaching profession.
11. Deering's actions were exploitative. Deering manipulated his students through a purposeful and progressive grooming strategy. Deering's persistent and repeated inappropriate communications and sexual relationships were sustained for a lengthy period of time. Through his action, Deering abused his position of authority and responsibility. Teachers are expected to be trustworthy individuals who provide healthy role modelling for young people who are vulnerable. By his actions, Deering failed to treat students with dignity and respect and failed to be considerate of their circumstances and failed to maintain the honour and dignity of the teaching profession.
12. While Deering admitted to the conduct and this is a mitigating factor, it does not excuse the very serious nature of his actions. Deering demonstrated a profound lack of judgment in his actions, despite any mitigating circumstances.
13. The committee recognizes that the penalty it has imposed is severe as it will take away Deering's ability to practice his chosen profession and it will require Deering to pay a monetary fine. The committee has determined that such a severe penalty is necessary given Deering's conduct, the number of times it occurred, and the impact it had on the students and the community.
14. Society views sexual relationships between teachers and students or former students as repugnant. The committee determined that the egregious level of wrongdoing in this case merits the most significant of sanctions. Deering's behaviour demonstrates that he is unfit to teach and that he should not be part of the teaching profession.
15. The penalty is intended to ensure Deering does not engage in this conduct again in the future. It is also intended to deter other members of the profession from engaging in such behaviours that bring harm to students and damage the honour and dignity of the teaching profession. It demonstrates that the profession will not tolerate teachers who exceed the boundaries of an acceptable teacher-student relationship.

16. Society has a right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers, parents and students. Deering violated this trust relationship and must be punished accordingly. The penalty is intended to protect the interests of children, the profession and society. The public must be assured that teachers who engage in unprofessional conduct will not go unpunished. The penalty reflects the profession's condemnation of Deering's unprofessional conduct.

Dated at the City of Edmonton in the Province of Alberta, Friday, May 22, 2020.

period September 2011–June 2018, made comments to pupils and/or engaged in actions which failed to maintain the honour and dignity of the profession.

3. Wade Stuart Deering is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period September 2011–June 2018, engaged in texting and/or other electronic communications with students, or former students shortly after their graduation, where the comments made were inappropriate to an acceptable teacher–student relationship, thereby failing to treat these students and/or former students with dignity and respect and be considerate of their circumstances.
4. Wade Stuart Deering is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period September 2011–June 2018, engaged in texting and/or other electronic communications with students, or former students shortly after their graduation, where the comments made were inappropriate to an acceptable teacher–student relationship, thereby failing to act in a manner which maintains the honour and dignity of the profession.
5. Wade Stuart Deering is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, at one or more point(s) during the period September 2011–June 2018, engaged in a grooming-type activity with one or more current students or former students shortly after their graduation, thereby failing to treat a student or students with dignity and respect and be considerate of their circumstances.
6. Wade Stuart Deering is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, at one or more point(s) during the period September 2011–June 2018, engaged in a grooming-type activity with one or more current students or former students shortly after their graduation, thereby failing to act in a manner which maintains the honour and dignity of the profession.
7. Wade Stuart Deering is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, at some point during the period March 2016–September 2018, had a sexual relationship with [Student C] while she was a student or shortly after her graduation, thereby failing to treat a student or former student with dignity and respect and be considerate of their circumstances.
8. Wade Stuart Deering is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, at some point during the period March 2016–September 2018, had a sexual relationship with [Student C] while she was a student or shortly after her graduation, thereby failing to act in a manner which maintains the honour and dignity of the profession.

9. Wade Stuart Deering is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, at some point during the period January 2015–September 2018, had a sexual relationship with [Student B] while she was a student or shortly after her graduation, thereby failing to treat a student or former student with dignity and respect and be considerate of their circumstances.
10. Wade Stuart Deering is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, at some point during the period January 2015–September 2018, had a sexual relationship with [Student B] while she was a student or shortly after her graduation, thereby failing to act in a manner which maintains the honour and dignity of the profession.

The investigated member entered a plea of guilty to each of the charges, by written submission

WITNESSES

No witnesses were called for this hearing.

EXHIBITS FILED

- Exhibit 1—Notice of hearing and Canada Post confirmation of delivery on March 2, 2020
- Exhibit 2—Declaration of awareness of rights, signed by Deering on February 14, 2020
- Exhibit 3—Submission on Plea, signed by Deering on February 14, 2020
- Exhibit 4—Agreed Statement of Facts signed by Deering and Hackman on February 14, 2020 and February 19, 2020 respectively
- Exhibit 5—Joint Submission on Penalty signed by Deering and Hackman on February 14, 2020 and February 19, 2020 respectively

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. An agreed statement of facts was submitted to the committee. Based on these agreed facts, the included exhibits, and Deering's submission on plea, the committee made a number of findings.
2. Deering was born August 14, 1976 (Exhibit 4).
3. Deering was a member of the Alberta Teachers' Association during the period from September 2011 through June 2018 (Exhibit 3 and Exhibit 4, paragraph 11).
4. Deering worked as a teacher for the Holy Family School Division at School name redacted. in High Prairie from September 1, 2005 to December 31, 2018 (Exhibit 4, paragraph 12).

5. Deering had issues related to alcohol and the school division became aware of this in the 2010/11 school year. From April 25 to June 13, 2011, Deering accessed a medical leave to receive treatment for alcoholism (Exhibit 4, paragraph 13).
6. Issues related to Deering consuming alcohol in the school were revealed in November 2015. Evidence in the form of empty liquor bottles and cans was found in Deering's classroom on February 16, 2016. Deering admitted he was struggling with alcoholism and seeking support (Exhibit 4, paragraph 14).
7. During the same time period, the superintendent, Betty Turpin, became aware that Deering had been communicating with Student A, over an estimated period of 21 months, through social media messages. Deering admitted to the division that he had made social media contact with past and current students. The school division placed Deering on unassigned duties effective September 6, 2016 while it undertook an investigation of Deering (Exhibit 4, paragraph 15).
8. The investigation revealed that Deering had communicated inappropriately, by social media, with several current and former students. The nature of the communication records found by the division showed the content of the communications was outside of the professional communication that a teacher should have with a student (Exhibit 4).
9. The school division, in its report, found that Deering had engaged in inappropriate commentary with students and that Deering needed to address his alcoholism. As a result of the investigation, Deering agreed to enter into a Last Chance Agreement with the school division on February 10, 2017 (Exhibit 4, paragraph 19 and tab 15).
10. The Last Chance Agreement signed by Deering mandated that he engage with medical care as recommended in the report of an independent medical exam (IME), attend Alcoholic Anonymous meetings, submit blood and urine testing at the division's request, and supply breathalyser samples to the principal on a regular basis. The Last Chance Agreement also required Deering to withdraw from any social media contact with students (Exhibit 4, tab 13).
11. Deering related to his students and interacted with students in class inappropriately.
12. Between September 2012 and June 2015, Deering belittled his students by commenting on their sexuality, joking about their sexual orientation, sharing their Facebook profiles in class without their permission and commenting about pictures on the profiles, commenting on their personal relationships, teasing the girls about their boyfriends and berating the students if they shared Deering's comments in class with their parents. Two students also noted that Deering acted more like a friend than a teacher (Exhibit 4, paragraphs 20-29).
13. On one occasion, during a sex education session on abstinence, Deering said "looks like it is too late for you two" to two students in the session (Exhibit 4, paragraphs 23-24).

14. Deering also asked female students about the boys they were dating and was flirtatious with some female students (Exhibit 4, paragraph 41).
15. Deering admits to treating his students inappropriately in class (Exhibit 4, paragraphs 151-152).
16. Deering communicated with students and former students using social media and texting on a regular and ongoing basis as early as 2010/2011 and until 2018. (Exhibit 4)
17. Deering communicated with at least five female and/or former female students in an inappropriate manner. He asked questions that were overly personal including asking about their gym routines and workouts; he asked for the student's pictures and wanted to know what the students were doing and with whom they were socializing. In addition, Deering's messages were flirtatious in nature, included the use of offensive language and derogatory racial comments, and were laced with sexual innuendo as well as sexually suggestive comments.

Some of the examples of what Deering wrote to the students or former students are as follows (Exhibit 4):

- a) "Easy tigress, not for a hottie who shops at Suzy Shier"
 - b) "U work tmrw? Bc im g tmmw and craving dipping sauce."
 - c) "How much for a Swiss Chalet lap dance?"
 - d) "The step program was weak.....a lot of aboriginal teachers passing just bc aboriginal."
 - e) "Filipinos a horny brood?"
 - f) In one instance, Deering was tracking the student over Facebook and wrote "...you know im snoopin'..."
 - g) "Gorgeous profile pic"
 - h) "prom night? Dress, meow, u look great"
 - i) "You look extremely fucking sexy if we are being honest"
 - j) "Very sexy, ... extremely, delectable"
 - k) "Nah ur hotness, worth 15% easily."
 - l) About a former boyfriend of one of the students, "fucking weird family."
18. Deering sent messages to another student through Facebook Messenger. He made comments about the student and another friend looking "really good," asked the student about her boyfriend and personal life, and told the student she should date someone else because her boyfriend was younger (Exhibit 4, paragraph 39).
 19. Electronic communications with the students and former students lasted, on average, two years at a time though in one case, when the student did not reply, Deering eventually stopped trying to communicate with that student. The communications with the girls were voluminous.

20. In the case of Student A, there were 169 pages of social media messages over a period of roughly 21 months. Many of the messages exchanged with Student A were inappropriate, rude, uncalled for, and made Student A uncomfortable. Deering asked her repeatedly about her summer hours of work, daily routine, her boyfriends and relationships, requested photos and her cell phone number, made inquiries related to her behaviour and drinking alcohol, and commented on her personal appearance (Exhibit 4, paragraphs 45-46 and tab 17).
21. Deering initiated communications with the students while they were still in school, but escalated the volume of communication once they had graduated (Exhibit 4).
22. Many of the contact times of the communication were outside the respectful boundaries and relationships between a teacher and student (Exhibit 4).
23. Many of the students and former students indicated that Deering's communications made them feel uncomfortable. In some instances, the students told Deering that his comments made them feel uncomfortable but this did not change Deering's behaviour. One student actively avoided contact with Deering. For example, when he coached the basketball team, she did not try out but in subsequent years, when he was not coaching, she did play basketball (Exhibit 4).
24. Deering admits to engaging in inappropriate texting and electronic communications with female students and former female students (Exhibit 4, paragraphs 153-154).
25. Deering groomed female students and former female students over time. His grooming was progressive in nature. Deering sought out personal connections with the girls, including one who was especially vulnerable because her sister was terminally ill and another who was dealing with her own mental health problems. His grooming was persistent and repeated and he violated the boundaries of the teacher-student relationship by pushing the girls to interact with him in ways that the students characterized as "uncomfortable" and "creepy." Deering questioned the students and/or former students about their personal life, their personal relationships, their looks, their work, and their behaviour. His actions were sustained and he placed himself in their lives. In addition to inappropriate communications, Deering crossed the professional boundaries of the teacher-student relationship by giving gifts to some of the students. This is an example of grooming behaviour (Exhibit 4).
26. Deering's grooming of the female students and former female students appeared to edge on harassment as he texted at all hours of the day and multiple times a day. In one example, Deering texted Student A more than 96 times in a 29-hour period and he also showed up at her place of work during the summer months. Deering's actions caused Student A's supervisor to create a safety plan for Student A in the event Deering showed up at her work place again (Exhibit 4, tab 17).

27. At the extreme end, Deering, by his grooming, exploited young female students and former students to garner their sympathy and empathy. These young women tried to protect Deering by excusing and covering up his unprofessional behaviours. Deering held a position of power over these students and former students and he was much older than they were. Deering's behaviour isolated the young women from their families and friends who were their support systems.

Illustrative examples of this are found in the following excerpts from the agreed statement of facts (Exhibit 4):

72. When asked to describe her friendship with Wade Deering, [Student B] said, "It's a close friendship, we both struggle." She said that Wade Deering spoke to her about his concerns and issues. Those conversations began shortly after the party. The party was held and the texts began to be exchanged shortly after she graduated (which is not consistent with onset of the texting reference in paragraph 71). When asked what issues Wade Deering spoke about, [Student B] said that Wade Deering stated that he suffers from addiction and about how he had lost his brother. [Student B] spoke to Wade Deering about suffering from a compulsive disorder. She said, "We just kind of support us [each other] with mental health issues." Wade Deering also spoke to her about issues that he had with his family—with his wife, his mother and his children.
- 101.[The stepmother of Student C] stated that [Student C] expressed to her that she feels special because she saved Wade Deering from alcoholism and suicide, but feels guilty for the position Wade Deering is in employment wise.
28. Deering admits to engaging in grooming type behaviour of female students and former female students shortly after their graduation (Exhibit 4, paragraphs 155-156).
29. At some point between March 2016 and September 2018, Deering had a sexual relationship with Student C while she was a student or shortly after her graduation. Student C, by her own acknowledgement, was in a relationship with Deering in September 2016 (Exhibit 4, paragraph 147).
30. Student C graduated from School name redacted. in June 2016 (Exhibit 4, paragraph 90).
31. In the summer of 2018, upon being questioned by her friends, who were also her co-workers at a summer job, Student C told them that she and Deering had been dating for two years. Prior to this point, Student C was very secretive about who her boyfriend was (Exhibit 4, paragraphs 120-123).
32. Student C admitted to her friends that she was uncomfortable and felt pressured in the relationship including some of the sexual activities that Deering asked her to engage in (Exhibit 4, paragraphs 124-125).

33. Student C blamed her friends when her relationship with Deering became known in the community (Exhibit 4, paragraph 128).
34. Student C was conflicted about her relationship with Deering. In her texts to a trusted family friend, she demonstrated emotional turbulence and distress when writing about her relationship with Deering (Exhibit 4, paragraph 117 and tab18).
35. Student C's family members noted that their relationships with their daughter and stepdaughter were negatively impacted by Student C's relationship with Deering (Exhibit 4, paragraphs 105-108, 112).
36. Deering admits to having a sexual relationship with Student C at some point between March 2016 through September 2018 (Exhibit 4, paragraphs 157-158).
37. Deering also had a sexual relationship with Student B while she was a student or shortly after her graduation. This sexual relationship overlapped with his relationship with Student C.
38. Student C was aware of Deering's relationship with Student B and Student C texted her friends about it (Exhibit 4, paragraph 65).
39. Student B was initially in the graduating class of 2014, Third-party potentially identifying information redacted.
 and so Student B, because of her family obligations, did not complete Grade 12 in the 2014/15 school year. She graduated in June 2015 (Exhibit 4, paragraph 59).
40. Student B and Deering met at a party held by Deering's neighbour when Student B was in Grade 11 or 12. Student B played on a sports team with the neighbour's children. Deering and Student B commenced significant communications after meeting at the party and communicated almost daily after that meeting. Student B admitted to a close relationship with Deering, stating "it's a close friendship, we both struggle." (Exhibit 4, paragraphs 71-73).
41. Deering also admitted that he asked Student B for a photograph of her in a bikini when she was in Grade 10 or 11, prior to their meeting at the party and prior to their engaging in daily communications (Exhibit 4, paragraph 86).
42. Student B was very protective and defensive of Deering as demonstrated through several interactions with other students and former students during the course of the investigation into Deering's conduct:
 - a) She asked another student to destroy pictures, Facebook postings, and texts in the student's possession because they might get Deering in trouble.

- b) She defended Deering to her friend saying he was a “good guy” and argued that rumours about Deering should be quelled.
 - c) She also told her friend that “if anyone asks me anything, I won’t throw Wade under the bus.” (Exhibit 4)
43. Deering admitted to having a sexual relationship with Student B at some point during the period January 2015 to September 2018 (Exhibit 4, paragraphs 89, 159, 160).

DECISION OF THE HEARING COMMITTEE

- Charge 1 —Guilty
- Charge 2 —Guilty
- Charge 3 —Guilty
- Charge 4 —Guilty
- Charge 5 —Guilty
- Charge 6 —Guilty
- Charge 7 —Guilty
- Charge 8 —Guilty
- Charge 9 —Guilty
- Charge 10—Guilty

REASONS FOR DECISION

1. All teachers have a responsibility to treat student(s) with dignity and respect. Any conduct of a member that, in the opinion of a hearing committee, is detrimental to the dignity or respect of a student or students is unprofessional (article 4 of the Association’s Code of Professional Conduct).
2. As a teacher, Deering was in a position of trust and authority over the victims. His actions with some of his students and former students resulted in those students not being treated with the necessary dignity and respect and consideration of their circumstances (article 4 of the Code of Professional Conduct).
3. All teachers also have an obligation to act in a manner which maintains the honour and dignity of the profession. Conduct of a member that, in the opinion of a hearing committee, fails to maintain the honour and dignity of the profession is unprofessional (article 18 of the Association’s Code of Professional Conduct).
4. Deering failed to maintain the honour and dignity of the teaching profession (article 18 of the Code of Professional Conduct).

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE REPORT OF THE
HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST JAMES P R DESJARDINS

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against James Desjardins of Red Deer, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, July 5, 2006.

A written request was received from one of the two complainants that the hearing be held in camera (Exhibit 1). The committee ruled that the hearing would be held in camera.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. James P R Desjardins is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about January 2001 to April 2005, failed to maintain an appropriate teacher-student relationship with Student A.
2. James P R Desjardins is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about November 3, 2004, failed to treat Student A with dignity and respect when he engaged in kissing, hugging and sexual touching with her.

The investigated member entered a plea of guilty to each of the charges by way of written submission (Exhibit 3).

At the request of the prosecuting officer, to be consistent with the written submission and guilty plea, Charge 1 was amended to read:

1. James P R Desjardins is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about January 2001 to April 2005, failed to treat Student A with dignity and respect that was considerate of her circumstances.

DECISION OF THE HEARING COMMITTEE

The hearing committee accepted Desjardins' pleas of guilty to Charges 1 and 2.

REASONS FOR DECISION

1. Desjardins violated his position of trust and authority as a teacher when he participated in an inappropriate e-mail relationship with a student.
2. Desjardins kissed, hugged and sexually touched Student A.
3. Desjardins tried to conceal his relationship with Student A.
4. Society expects that when students are under the care of a teacher, they will be treated with dignity and respect.
5. It is inappropriate and unacceptable for a teacher to engage in inappropriate relationships with students even if there is no current student–teacher relationship.
6. The honour and dignity of the profession is harmed by a teacher having an inappropriate relationship with a student.

PENALTY

The hearing committee imposed the following penalty for both charges:

1. Desjardins is ineligible for membership in The Alberta Teachers' Association for four years, subject to compliance with the bylaws of the Association.
2. A recommendation will be made to the Minister of Education that Desjardins' teaching certificate be suspended for four years.

REASONS FOR PENALTY

1. Desjardins broke a fundamental trust that society places on teachers.
2. Society has the right to expect that teachers will not establish inappropriate relationships with students.
3. Desjardins was intentional and knew that his relationship with Student A was inappropriate.

4. Desjardins tried to hide the relationship and encouraged Student A to do the same.
5. Desjardins did not show remorse about his actions that may have caused harm to the student.
6. Desjardins was forthright and cooperative in his interviews with the investigating officer confirming the facts. He provided the investigating officer with all documents requested and answered all questions asked of him.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, July 5, 2006.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST MORLEY W DUNLOP

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Morley W Dunlop of Camrose, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, April 25 and Wednesday, April 26, 2000.

Prior to the hearing, a conference call was held on April 20, 2000 at 1220. The conference call included the four members of the Professional Conduct Committee, defence counsel, the prosecuting officer, recording secretary and secretary. The prosecuting officer requested postponement due to the medical state of Witness name redacted. a witness for the prosecution. Defence counsel objected to a postponement and stated that it was the wish of the investigated member that the hearing proceed.

The request for postponement was denied with the committee ruling that the testimony of Witness name redacted. would be heard via speaker telephone. The committee's reasons were

1. the incapacity of the witness, supported by medical evidence and conceded by the defence, to travel at this time to testify in person;
2. the desire of M Dunlop to have the charges against him determined without further delay;
3. the powers given the committee under section 34 of the *Teaching Profession Act* to receive evidence;
4. the committee's awareness of the concern about being deprived of one way to assess credibility while noting, at the same time, there are other things to consider relative to that issue; and
5. M Dunlop would be accorded the opportunity, through his counsel, to fully cross-examine Witness name redacted. and, in that sense, "face" his accuser.

When the hearing commenced on April 25, 2000, Professional Conduct Committee members present as the hearing committee were E M Pilling (chair), E M Willette-Larsen, R M Dittmann and G G Buxton. R W Rand of Frohlich Rand Kiss was counsel to the hearing committee, E L Hjelter was secretary and L A Kaun was recorder. S M Fraser presented the case against the investigated member. The investigated member was present and was represented by J V Miller of Weir Bowen.

resulted in a loss of public confidence in the profession.

S Fraser argued that the penalty was appropriate in part because M Dunlop had neither learned from his previous conviction nor accepted responsibility for his behavior.

DECISION OF THE COMMITTEE

The Professional Conduct Appeal Committee confirms the finding of “guilty” on charges 1 and 2 and upholds the penalty imposed on M Dunlop by the hearing committee of the Professional Conduct Committee. Accordingly, the appeals of M Dunlop are dismissed.

REASONS FOR DECISION

1. While care is always required in matters of professional discipline when a member’s career is affected, precedent cases and case law have established that the standard of proof to be used in disciplinary proceedings is to be based on the balance of probability. The Professional Conduct Appeal Committee is satisfied that the hearing committee used this standard appropriately in arriving at its decisions and notes no reason to conclude otherwise.
2. The Professional Conduct Appeal Committee determined that the hearing committee had not erred in its review of the evidence.
3. The Professional Conduct Appeal Committee is satisfied that the evidence before the hearing committee was reasonably capable of supporting the findings of fact upon which it based its decision.
4. While the Professional Conduct Appeal Committee acknowledges that there were inconsistencies in the testimony of some witnesses, the committee concurs with the critical elements identified by the hearing committee.
5. The Professional Conduct Appeal Committee concurs with the reasons provided by the hearing committee for the penalty imposed.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, September 13, 2000.

Report of the Professional Conduct Appeal Committee
Morley W Dunlop, page 5

CONSTITUTION/JURISDICTION

There was no objection to either the constitution or jurisdiction of the committee.

PLEA

The following charges were read by the secretary to the hearing committee:

1. Morley W Dunlop is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, acted in a sexually harassing manner toward [Witness name redacted.] and by so doing, failed to act in a manner consistent with maintaining the honor and dignity of the profession.
2. Morley W Dunlop is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, acted in a sexually harassing manner toward [Witness name redacted.] and by so doing, failed to act in a manner consistent with maintaining the honor and dignity of the profession.
3. Morley W Dunlop is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, acted in a sexually harassing manner toward [Witness name redacted.] and by so doing, failed to act in a manner consistent with maintaining the honor and dignity of the profession.

On behalf of the investigated member, defence counsel entered a plea of "not guilty" to the charges.

WITNESSES

The prosecution called [Witness name redacted.] [Witness name redacted.], Bryan Enzenauer, Winston (Mac) MacKenzie and [Witness name redacted.] [Witness name redacted.] sworn testimony was provided from her residence in Calgary via speaker telephone in the presence of lawyer, Susan Hrychuk of Parlee McLaws.

The defence called Morley Dunlop, Dr Linda Keep and Hugh Nester.

Before [Witness name redacted.] testified via speaker telephone, J Miller requested that the April 20, 2000 conference call be noted on the record. J Miller requested that his objection to the witness being allowed to testify by speaker phone be recorded. J Miller cited the following:

1. M Dunlop has the right to face his accusers.
2. The committee would not be able to determine the credibility of the witness without having her present.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. M Dunlop was a member of The Alberta Teachers' Association at the time of the offences. (Exhibit 8)
2. M Dunlop is employed as a teacher by Battle River Regional Division No 31. (Exhibit 8)
3. M Dunlop is a teacher at New Norway School. (Exhibit 8)
4. M Dunlop attended the Calgary Auto Auction in July 1999.
5. M Dunlop attended this auction as a registered auto dealer.
6. In testimony, [Witness name redacted.] indicated that she was a driver at the auction. M Dunlop got into the car that she was driving. A conversation ensued that [Witness name redacted.] found disgusting. During this conversation, M Dunlop related an incident in which he was in a hot tub with his wife and her girlfriend. He stated that he was getting a "blow job" from his wife. The girlfriend had to "finish him off". [Witness name redacted.] stated that M Dunlop asked her what exciting things she had done. She replied that she did not discuss her sex life. M Dunlop got in and out of several vehicles driven by [Witness name redacted.] that day. On one occasion, M Dunlop stated to [Witness name redacted.] "I hope you don't think I'm a pervert".
7. [Witness name redacted.] reported the incidents to management.
8. In testimony, [Witness name redacted.] indicated that she was a driver at the same auction. M Dunlop entered vehicles driven by [Witness name redacted.] several times during the day. While in one of [Witness name redacted.] vehicles, M Dunlop asked if she gave "head" and "sucked cock". [Witness name redacted.] testified that the more M Dunlop spoke, the more vulgar he got. M Dunlop indicated that he had a mistress. M Dunlop asked [Witness name redacted.] for a "blow job". [Witness name redacted.] was very angry about the incidents. She searched out her husband, an on-site employee of the Calgary Auto Auction, and reported them to him. [Witness name redacted.] husband reported the incidents to management.
9. In August 1999, M Dunlop returned to the Calgary Auto Auction. B Enzenauer, M Dunlop's business partner, accompanied him.

10. [Witness name redacted.] and [Witness name redacted.] recognized M Dunlop at the auction and took action to warn other female drivers about him.
11. In testimony [Witness name redacted.] stated that she was a driver at the August auction. She testified that M Dunlop repeatedly approached her while she was in vehicles. She felt singled out, uncomfortable and threatened by his demeanor. She mentioned M Dunlop's behavior to [Witness name redacted.]
12. In testimony, [Witness name redacted.] [Witness name redacted.] and [Witness name redacted.] stated that a requirement of their employment was to cooperate fully with the requests of prospective buyers. This placed them in a vulnerable position in terms of responding to M Dunlop's advances.
13. At the end of the auction, [Witness name redacted.] and [Witness name redacted.] sought out a management representative to confront M Dunlop. [Witness name redacted.] and [Witness name redacted.] expressed anger and disgust with M Dunlop's July behavior towards them. They were also upset with M Dunlop's behavior towards [Witness name redacted.] particularly in view of her youth. [Witness name redacted.] was 18 years old.
14. Upon discovering M Dunlop's profession as a teacher, [Witness name redacted.] [Witness name redacted.] and [Witness name redacted.] were appalled.

DECISION OF THE HEARING COMMITTEE

The hearing committee considered the three charges before it and ruled the following:

- Charge 1—Guilty
- Charge 2—Guilty
- Charge 3—Dismissed

REASONS FOR DECISION

Charge 1—M Dunlop sexually harassed [Witness name redacted.] while she was a driver at the Calgary Auto Auction in July 1999. M Dunlop made sexually explicit remarks. In doing so, M Dunlop failed to maintain the honor and dignity of the profession.

Charge 2—M Dunlop sexually harassed Witness name redacted. while she was a driver at the Calgary Auto Auction in July 1999. M Dunlop made sexually explicit remarks. In doing so, M Dunlop failed to maintain the honor and dignity of the profession.

Charge 3—While Witness name redacted. felt threatened by M Dunlop's behavior, there is insufficient evidence to support the charge.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following on M Dunlop as a total penalty for Charge 1 and Charge 2:

1. That a recommendation be made to the minister of learning to suspend M Dunlop's teaching certificate for a period of one year, that being the 2000–2001 school year
2. That M Dunlop's membership in The Alberta Teachers' Association be suspended for a period of one year, that being the 2000–2001 school year, and that reinstatement of membership would be contingent upon M Dunlop's providing to The Alberta Teachers' Association written proof of ongoing and frequent psychological counseling
3. That M Dunlop pay a fine of \$2,000 to The Alberta Teachers' Association

REASONS FOR PENALTY

1. Society expects that teachers will conduct themselves in an appropriate manner and maintain the honor and dignity of the profession.
2. Sexually harassing behavior is not acceptable for a teacher regardless of other roles that a teacher may assume.
3. This is M Dunlop's second appearance before a hearing committee of the Association. The behavior for which M Dunlop has been found guilty on this occasion is similar to that for which he was disciplined previously. The previous penalty did not result in a change of behavior. Therefore, a more severe sanction is necessary.
4. M Dunlop's actions show a continuing pattern of behavior that is reprehensible and which must cease.
5. There is no evidence to suggest that M Dunlop exhibits inappropriate behavior towards students or staff at his school.

Report of the Hearing Committee of PCC
Dunlop, page 6

6. Evidence was provided that M Dunlop has made significant contributions to school and community.
7. Evidence was provided indicating that M Dunlop is a competent teacher.
8. Evidence was provided that M Dunlop has been receiving psychological counseling since November 1999. The committee believes that continued psychological counseling is essential.

Dated at the City of Edmonton in the Province of Alberta, Thursday, April 27, 2000.

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE

IN THE MATTER OF AN APPEAL BY MORLEY W DUNLOP OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE WITH RESPECT TO CHARGES OF UNPROFESSIONAL CONDUCT AGAINST HIM

The Professional Conduct Appeal Committee reports that the appeal by Morley W Dunlop of the decision of the hearing committee of the Professional Conduct Committee with respect to charges of unprofessional conduct against him was heard in accordance with the *Teaching Profession Act*. The appeal hearing was held at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, August 24, 2000. The Professional Conduct Appeal Committee met on September 13, 2000 for deliberation and decision.

Professional Conduct Appeal Committee members present were G T Atkinson (chair), M R Hlewka, L B Joberg, J H Lummis and B R Mahon. R W Rand of Frohlich Rand Kiss was counsel to the committee, E L Hjelter was secretary, assisted by M C Arnal, and L A Kaun was recorder. S M Fraser represented Provincial Executive Council. The appellant was present and represented by J V Miller of Weir Bowen.

CONSTITUTION/JURISDICTION

There was no objection either to the constitution of the Professional Conduct Appeal Committee or its jurisdiction to hear the appeal.

MATERIALS REVIEWED

The chair confirmed that prior to the hearing, each committee member had received and reviewed the decision of the hearing committee dated April 27, 2000 and the record of proceedings dated July 7, 2000.

The committee received and reviewed the appellant's notice of appeal.

SUBMISSION OF THE APPELLANT

The committee received submissions from M Dunlop's legal counsel. On behalf of M Dunlop, J Miller appealed the findings of "guilty" on charges 1 and 2 and the penalty imposed by the hearing committee of the Professional Conduct Committee.

J Miller submitted that the hearing committee of the Professional Conduct Committee should not

Report of the Professional Conduct Appeal Committee
Morley W Dunlop, page 2

have found M Dunlop guilty of the two charges. However, should the finding of guilt be upheld, J Miller submitted that a more appropriate penalty would be a severe reprimand, a fine and a course of psychological treatment.

The grounds of M Dunlop's written submission of appeal were as follows:

1. The proceedings before the hearing committee did not proceed in accordance with the principles of natural justice.
2. The hearing committee erred in deciding that the appellant's conduct, totally unrelated to the duties of the profession, was deserving of sanction.
3. The hearing committee failed to consider properly the issue of credibility of the witnesses and parties before it.
4. The hearing committee did not adequately consider the issue of whether the complainants reasonably appeared to, or in fact did, consent to and encourage the appellant's conduct for which the complaint was made.
5. The hearing committee did not consider the psychological evidence called on behalf of the appellant as to the effect of the complainants' conduct upon the appellant's behavior.
6. The hearing committee allowed one complainant to testify by telephone, thereby depriving the appellant of the ability to face his accuser and fully test that complainant's credibility by an in-person cross-examination.
7. The penalty imposed by the hearing committee is disproportionately severe compared to penalties previously imposed on other members for more serious conduct.
8. The hearing committee did not perform a thorough and neutral analysis of the evidence before it.
9. The evidence before the hearing committee was not reasonably capable of supporting the findings of fact upon which it based its decision.
10. The hearing committee relied upon previous disciplinary proceedings of the appellant as a basis for its decision as to penalty.
11. In making its decision, the hearing committee relied on information that was not disclosed to the appellant.

12. The hearing committee failed to give adequate reasons for its decision.

During the course of the hearing, J Miller abandoned point 11.

In addition, J Miller made a lengthy oral submission. J Miller argued that the hearing committee did not adequately address the standard of proof required with regard to guilt or innocence. J Miller cited inconsistencies in testimony and argued, additionally, that a breach of natural justice had occurred when the hearing committee accepted the testimony of a witness by telephone.

J Miller contended that M Dunlop's actions did not constitute sexual harassment. J Miller argued that M Dunlop perceived the verbal discourse with the two women to be consensual and not unwelcome.

J Miller argued that the actions occurred outside the member's school and community in a non-teaching context and did not constitute conduct detrimental to maintaining the honor and dignity of the profession.

With regard to penalty, J Miller argued that a one year suspension is too harsh having regard to the severe financial and personal implications. J Miller noted that M Dunlop started psychological counseling in November 1999 and is willing to continue.

SUBMISSION OF THE RESPONDENT

S Fraser submitted that the Alberta Court of Appeal has indicated that the standard of proof in disciplinary cases should be measured on the basis of the balance of probabilities. A disciplinary committee is not required to state its awareness of the standard of proof.

S Fraser argued that inconsistencies within the testimony of witnesses did not impugn the key elements of the case.

S Fraser argued that when a witness was not available for the hearing because of medical reasons, S Fraser had requested postponement of the hearing. J Miller objected. Procedures were established to take testimony by telephone. J Miller objected. S Fraser noted that a lawyer from Parlee McLaws had been assigned by E C Fraser, coordinator of Member Services, to be present at the bedside of this witness to ensure that proper procedures were followed.

S Fraser contended that M Dunlop engaged in conversations that were unacceptable to a reasonable person. S Fraser argued that, since these conversations took place in their workplace, the women involved had little opportunity to object and felt that their employment was at risk.

S Fraser argued that the teaching profession had been affected because M Dunlop's actions

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST JARED JOHN ESZCZUK

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Jared John Eszczuk of Rocky Mountain House, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, May 12, 2010 at 0900.

Professional Conduct Committee members present as the hearing committee were Brenton Baum (chair), Catherine LeBlanc and Joe Rodgers. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Gaylene Schreiber was secretary and Leslie Kaun was recorder. Cory Schoffer presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Jared John Eszczuk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about November 1, 2006 to June 20, 2007 inclusive, engaged in conduct for which he, on April 14, 2009, pleaded guilty to an indictable offence and received a conditional discharge, to wit: Between the 1st day of November, 2006, and the 20th day of June, 2007, both dates inclusive, at or near Rocky Mountain House, Alberta, did commit a sexual assault by touching [Student name redacted.] [Student name redacted.] [Student name redacted.] [Student name redacted.] [Student name redacted.] and [Student name redacted.] contrary to Section 271 of the *Criminal Code* of Canada.
2. Jared John Eszczuk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about November 1, 2006 to June 20, 2007 inclusive, engaged in unacceptable physical contact with students in a manner that failed to treat the students with dignity and respect.

The investigated member entered a plea of guilty to each of the charges by way of written submission (Exhibit 3).

WITNESSES

No witnesses were called.

EXHIBITS FILED

Exhibit 1—Notice of hearing and Canada Post confirmation of delivery

Exhibit 2—Statutory Declaration, signed by Eszczuk

Exhibit 3—Submission on Plea, signed by Eszczuk

Exhibit 4—Agreed Statement of Facts including: Appendix A (Agreed Statement of Facts filed in the Court of Queen’s Bench of Alberta), Appendix B (Probation Order), Appendix C (Criminal Code section 730), Appendix D (Forensic Psychological Assessment)

Exhibit 5—Submission on Penalty, signed by Eszczuk

EVIDENCE ADDUCED INDICATED THAT:

1. Eszczuk had been properly served with notice of the hearing (Exhibit 1).
2. Eszczuk was a member of the Alberta Teachers’ Association, and taught at School name redacted. School name redacted. Red Deer Catholic Regional Division No 39, in Rocky Mountain House, between November 1, 2006 and June 20, 2007, during which time the incidents that led to the criminal charge occurred (Exhibit 3).
3. Eszczuk was suspended from employment with pay on June 21, 2007 (Exhibit 4, Appendix D), and ceased to be employed by Red Deer Catholic Regional Division No 39 on March 15, 2008 (Exhibit 4).
4. On April 14, 2009, Eszczuk pleaded guilty to an indictable offence under section 271 of the *Criminal Code* for which he received a conditional discharge (Exhibit 4, Appendix B).
5. The agreed statement of facts states that Eszczuk touched five female Grade redacted. students between November 1, 2006 and June 20, 2007. The touching consisted of rubbing, patting and/or slapping girls’ buttocks and this occurred in various locations throughout the school, during regular school hours, and in the presence of other staff and students (Exhibit 4, Appendix A).
6. Within the agreed statement of facts presented to the Court of Queen’s Bench, it was stated that Eszczuk acted without sexual intent. However, he admitted that the touching violated the complainants’ sexual integrity (Exhibit 4, Appendix A).

7. During the 2006/07 school year, prior to these complaints coming forward, Eszczuk received several verbal warnings from school administration that he had to stop this type of interaction with female students. His behavior did not stop completely and he was given a formal reprimand letter in April, 2007 (Exhibit 4, Appendix A).
8. Eszczuk underwent an extensive forensic psychological assessment for three full days on April 1, 2 and 3, 2009. During this time, he completed questionnaires dealing with personality, mood, sexual history and fantasy and child abuse; a mental status review; and mental ability and memory testing. The assessor found no evidence to infer that Eszczuk is prone to recurrent sexually-arousing fantasies, urges, impulses or behaviours involving “pre- or pubertal female children” (sic). (Exhibit 4, Appendix D).
9. In his summary, the forensic psychologist found that the measurable risk factor for Eszczuk to sexually abuse or endanger any elementary or high school student he might encounter in any future context is “extremely low” or “virtually zero”. The psychologist’s stated “near zero probability” was based on the results of the tests and the psychologist’s knowledge of existing research into the features of males who engage in some form of paraphilic behaviour (Exhibit 4, Appendix D).
10. Eszczuk pleaded guilty to both charges (Exhibit 3).

DECISION OF THE HEARING COMMITTEE

The committee accepted Eszczuk’s guilty pleas on each of the charges, based upon the exhibits filed.

REASONS FOR DECISION

1. Eszczuk pleaded guilty to an indictable offence under section 271 of the *Criminal Code* relative to incidents that occurred while he was a member of the Association.
2. Pursuant to section 24(4) of the *Teaching Profession Act*, while Eszczuk pleaded guilty to an indictable offence after he ceased to be a member of the Association, the incidents that led to the criminal charge occurred while he was a member. Therefore, Charge 1 of unprofessional conduct can be dealt with under the *Teaching Profession Act*.
3. Eszczuk admitted to engaging in unacceptable physical contact with students in a manner that failed to treat the students with dignity and respect. Society expects teachers to refrain from inappropriately touching students.
4. Teachers are expected to conduct themselves in a manner that maintains the honour and dignity of the profession.

5. Eszczuk continued to commit these offences with students over an extended period of time, even after he received verbal reprimands for the behaviour.

PENALTY

The hearing committee imposed the following penalty:

1. Eszczuk is declared ineligible for membership in the Alberta Teachers' Association for a period of one year.
2. A recommendation will be made to the minister of education that Eszczuk's teaching certificate be suspended for a period of one year.

REASONS FOR PENALTY

1. Eszczuk pleaded guilty to an indictable offence under section 271 of the *Criminal Code* but received a conditional discharge. Eszczuk will not have a criminal record for this offence if the conditions are met.
2. Eszczuk failed to treat students with dignity and respect when he engaged in unacceptable physical contact with them. He continued these actions despite repeated instruction from school administration to cease his behaviour.
3. By committing these actions with students, Eszczuk failed to maintain the honour and dignity of the profession.
4. Evidence indicated that Eszczuk's actions were without **sexual** intent.
5. The forensic psychological assessment indicated that Eszczuk has an "extremely low" or "virtually zero" risk for **sexual** abuse of students in the future.
6. Eszczuk was forthright and cooperative with the investigating officer.
7. Evidence suggests that Eszczuk is truly contrite and genuinely apologetic for his misguided behaviour which caused discomfort for students, parents and colleagues.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, May 12, 2010.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST ESIM FAYAD

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Esim Fayad of Lac La Biche, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, March 18, 2013 at 0900.

Professional Conduct Committee members present as the hearing committee were Eric Frederick (chair), Lyne Bacon and Lynne Davies. Ayla Akgungor of Field LLP was counsel to the hearing committee, Gaylene Schreiber was secretary and Leslie Kaun was recorder. Marvin Hackman presented the case against the investigated member. The investigated member, Esim Fayad, was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or the jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Esim Fayad is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2011/12 school year, made comments, to a student(s), that were of a sexual nature and inappropriate to the acceptable teacher-student relationship, thus failing to treat the student(s) with dignity and respect.
2. Esim Fayad is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, in or around March 1986, engaged in a sexual relationship with a student, Student name redacted. thus failing to treat Student name redacted. with dignity and respect.

The investigated member entered a plea of guilty to each of the charges, by written submission.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

- Exhibit 1—Notice of hearing and Canada Post confirmation of delivery, on February 7, 2013
- Exhibit 2—Submission on plea, signed by Fayad, dated February 27, 2013
- Exhibit 3—Agreed statement of facts, signed by Fayad and Hackman, dated February 27, 2013
- Exhibit 4—Submission on penalty, signed by Fayad, dated February 27, 2013 and appended victim impact statement, dated September 27, 2012, relating to ATA Discipline Case

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Fayad began working as a teacher for Lac La Biche School Division No 51 in 1982 and continued until he resigned in 1990. (Exhibit 3)
2. Fayad was a member of the Alberta Teachers' Association from September 1, 1982 to June 30, 1990 and from September 1, 2002 to June 30, 2012. (Exhibit 2)
3. Fayad began working as a teacher for Northern Lights School Division No 69 (formerly Lac La Biche School Division No 51) in 2002 and continued until June 30, 2012. (Exhibit 3)
4. Superintendent Nippard filed a complaint with the Association on April 13, 2012 in which he alleged that Fayad made inappropriate comments of a sexual nature to female students on at least two occasions, once in 2010 and again in 2012. The allegations were confirmed through a school division investigation prior to the complaint being filed with the Association. (Exhibit 3)
5. During the 2011/12 school year, Fayad made a comment of a sexual nature to a Grade 12 student, [Student name redacted]. (Exhibit 3)
6. The comment was overheard by another student, [Student name redacted], who was in close proximity. [Student name redacted] recalled Fayad saying that he had a dream about [Student name redacted]. The way that Fayad made the statement caused [Student name redacted] believe the dream was of a sexual nature. She reported that when [Student name redacted] queried Fayad about the content of the dream, Fayad said to [Student name redacted] "All I can say is it was very good; you were pretty good." [Student name redacted] noted that she was disgusted. (Exhibit 3)

7. [Student name redacted.] reported to the investigating officer that Fayad said to her that he had dreamt about her but could not say what it was about “because it was obscene.” (Exhibit 3)
8. Prior to this interaction with [Student name redacted.] in or around June 2010, Fayad was reprimanded by Associate Superintendent Ron Taylor for making an inappropriate comment of a sexual nature to a female student. In the 2010 situation, while the student was viewing a picture of a belt on a computer screen, Fayad commented to her that she would look good in the belt if she were not wearing anything else. (Exhibit 3)
9. In the course of investigation, former student [Parent name redacted.], parent of [Student name redacted.] revealed to the investigating officer that when she was a student, it was well known that Fayad would seek out students for special attention. She recalled Fayad was overly nice to fellow student [Student name redacted.] and that they were seen together in and out of school. (Exhibit 3)
10. [Parent name redacted.] acknowledged to the investigating officer that she had a relationship with Fayad after she reached 18 years of age but was unwilling to provide any details of her social interactions or relationship with Fayad while she was his student. (Exhibit 3)
11. Other former students interviewed ([Student name redacted.], [Student name redacted.], [Student name redacted.]) reported that there was an ongoing relationship between Fayad and [Student name redacted.] while she was a student in high school. (Exhibit 3)
12. In 1985/86, Fayad engaged in a sexual relationship with [Student name redacted.] [Student name redacted.] was a Grade 10 student at [School name redacted.] in Lac La Biche where Fayad taught and was 15 years of age at the beginning of Grade 10. She and Fayad began a sexual relationship circa March 1986. Fayad was her teacher at the time.
13. [Student name redacted.] provided the details of that relationship in a written statement dated September 15, 2012. (Exhibit 3):
 - a) Fayad taught [Student name redacted.] Math 10 and Physics 10.
 - b) Fayad started to flirt with [Student name redacted.] and she flirted back.
 - c) When [Student name] turned 16 in March of 1986, the relationship included sexual intercourse.
 - d) Fayad would make arrangements to pick up [Student name] at her house at midnight. [Student name] would sneak out of her house and wait by the road for Fayad. [Student name] remembered Fayad asking her to crouch down on the floor of his car as they drove through town.

- e) [Student name redacted.] and Fayad engaged in **sex** at Fayad's house several times over the next few months and would "hang out" at his sporting goods store on the weekends. They would "make out" in the back of the store. On one instance, Fayad pulled [Student name redacted.] into a utility closet at the school for **sex**.
- f) [Student name redacted.] was another student with whom Fayad was in a **sexual** relationship. [Student name redacted.] remembered Fayad talking to her and [Student name redacted.] simultaneously regarding rumours going around school about him and warning them to be careful about conversations. [Student name redacted.] noted that Fayad did not explicitly say what the girls were supposed to be quiet about, but that they both knew what he meant.
- g) [Student name redacted.] reported that after Grade 10, she moved to Edmonton and Fayad contacted her there and they met up "a couple of more times."

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—guilty

REASONS FOR DECISION

Charge 1

1. Fayad made comments which were overtly **sexual** in nature, on two occasions, to students. It is inappropriate and unprofessional to make comments of a **sexual** nature to students.
2. Fayad failed to treat the students with dignity and respect when he made statements about obscene dreams and speculated about what a student would look like wearing only a belt.
3. When Fayad made **sexual** comments to students, he violated the trust relationship between teacher and students and made them uncomfortable. He did not treat them with dignity, nor was he considerate of their circumstances.

Charge 2

1. Fayad engaged in a **sexual** relationship with [Student name redacted.] who was a sixteen-year-old student enrolled in Fayad's Math 10 and Physics 10 classes.
2. Fayad did not treat [Student name redacted.] with dignity and respect, nor was he considerate of her circumstances, when he engaged her in a **sexual** relationship.

3. It is solely the responsibility of the teacher to maintain appropriate teacher–student boundaries.
4. Fayad failed to maintain appropriate boundaries with a student and exploited the power difference within the teacher–student relationship for his own gratification.

PENALTY

The hearing committee imposed the following penalty to address both charges:

- 1) Fayad is declared ineligible for membership in the Alberta Teachers' Association
- 2) A recommendation will be made to the minister of education to cancel Fayad's teaching certificate.

REASONS FOR PENALTY

1. Students and society expect that teachers will refrain from making statements of a sexual nature to students.
2. When Fayad made inappropriate sexual statements to students, he caused the students discomfort and thus failed to treat them with dignity and respect and to be considerate of their circumstances.
3. Students and society expect that teachers will refrain from engaging in sexual relationships with students.
4. The fact that Fayad engaged in a sexual relationship with a student is reprehensible, repugnant and deplorable.
5. Teachers are in a position of power over students; therefore, it is a teachers' fiduciary obligation to protect students, not exploit their vulnerability through the teacher–student relationship.
6. In the submission on penalty, the hearing committee was provided with documentation to demonstrate that Fayad had also been found guilty in 1991, by the then Discipline Committee of the Alberta Teachers' Association, of having a sexual relationship with student Student name redacted.
Student name redacted. (Exhibit 4)

Report of the Hearing Committee of PCC re E Fayad, page 6

7. The hearing committee concluded that Fayad's actions in the present case demonstrate a pattern of behaviour which must preclude him from ever teaching again.

Dated at the City of Edmonton in the Province of Alberta, Monday, March 18, 2013.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST CHEYNO FINNIE

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Cheyno Finnie of Lethbridge, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, October 2, 2002.

The investigated member was present and was not represented by counsel. The investigated member verbally confirmed that he was aware of his right to have legal counsel and waived that right.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee.

1. Cheyno Finnie is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between September 1, 1996 and June 30, 1998, failed to treat Student X, a student in the town of Community redacted. in the school at which he taught, with dignity and respect in a manner that was considerate of her circumstances.
2. Cheyno Finnie is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between September 1, 1996 and June 30, 1998, failed to maintain the honor and dignity of the profession when he had a sexual relationship with Student X, a student in the town of Community redacted. at the school at which he taught.

The prosecuting officer requested amendments to the charges. The amended charges, as accepted by the investigated member and the committee, were:

1. Cheyno Finnie is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between September 1, 1997 and June 30, 1998 failed to treat Student X, a student in the town of Community redacted. in the school at which he taught, with dignity and respect in a manner that was considerate of her circumstances.

2. Cheyno Finnie is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between September 1, 1997 and June 30, 1998, failed to maintain the honor and dignity of the profession when he had a sexual relationship with Student X, a student in the town of [Community redacted.] at the school at which he taught.

The investigated member entered a plea of "guilty" to the charges through written submission (Exhibit 4) and verbal statement.

Citing section 32 of the *Teaching Profession Act*, K Moench requested that the hearing be held "in camera" in response to a request by complainant, Eric Johnson, Superintendent of Schools, Horizon School Division No 67. (Exhibit 3) The committee agreed with this request.

DECISION OF THE HEARING COMMITTEE

The hearing committee accepted the plea of "guilty" to Charges 1 and 2.

PENALTY

Having accepted the respondent's guilty plea on both charges, the hearing committee imposes the following penalties on C Finnie:

1. That C Finnie's membership in the Association be suspended from October 2, 2002 to June 30, 2004.
2. That a recommendation be made to the minister of learning that C Finnie's teaching certificate be suspended from October 2, 2002 to June 30, 2004.

REASONS FOR PENALTY

1. C Finnie's actions were deplorable.
2. As a teacher, C Finnie was in a position of trust and authority over Student X when he initiated the sexual relationship. As such, he failed to treat Student X with dignity and respect and to be considerate of her circumstances.
3. Society has a right to expect that teachers will act in a manner that establishes and maintains a trust relationship between teachers and students. C Finnie violated this trust relationship.
4. A teacher should not be engaged in sexual activity with students. Society and the profession

Report of the hearing committee of PCC
Finnie, p 3

- view these actions as repugnant, despicable and reprehensible.
5. In his statement to the committee, C Finnie acknowledged the following:
 - a) He took full responsibility for the relationship and his actions.
 - b) He recognized that he had committed a serious breach of trust with the student and the community.
 - c) He recognized that his actions harmed not only the student and her family, but also his colleagues and the profession.
 - d) He expressed sincere remorse.
 6. C Finnie was forthright and cooperative with the investigating officer. He provided the investigating officer with all documents requested and answered all questions asked of him.
 7. The committee acknowledges that C Finnie has resigned his teaching position with Horizon School Division and considered that he has suffered considerable personal loss.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, October 2, 2002.

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE

IN THE MATTER OF AN APPEAL BY PROVINCIAL EXECUTIVE COUNCIL OF THE ALBERTA TEACHERS' ASSOCIATION OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE WITH RESPECT TO CHARGES OF UNPROFESSIONAL CONDUCT AGAINST CHEYNO FINNIE

The Professional Conduct Appeal Committee reports that the appeal by Provincial Executive Council of the Alberta Teachers' Association of the decision of the hearing committee of the Professional Conduct Committee with respect to charges of unprofessional conduct against Cheyno Finnie was heard in accordance with the *Teaching Profession Act*. The appeal hearing was held at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, January 13, 2003 at 0900.

Professional Conduct Appeal Committee members present were Greg T Atkinson (chair), Beth Malcolm-Worsfold, Ed G Somerville, Helen A Stewart and Richard Vermette. James T Casey of Field Atkinson Perraton was counsel to the committee, Marc C Arnal was secretary and Leslie A Kaun was recorder. Kurt E Moench represented Provincial Executive Council. The respondent, C Finnie, was present and was not represented by legal counsel.

Prior to his submission, K Moench requested that the hearing be closed to the public, as per section 52 of the *Teaching Profession Act*. He further requested that Student X and her father be allowed to participate in the hearing if special leave was granted to hear Student X's testimony. K Moench also requested that neither Student X nor her father be named in the report of the Professional Conduct Appeal Committee. After deliberation, the committee granted all three requests.

K Moench sought special leave to introduce further evidence through a written victim impact statement and oral testimony by the victim. K Moench argued that this evidence would demonstrate the impact that the teacher's actions had on the student and the school community and that the evidence could not have been presented to the hearing committee even with the exercise of reasonable diligence. He explained his decision not to call Student X at the hearing by the hearing committee of the Professional Conduct Committee, citing a strong desire to ensure the anonymity of Student X and to avoid raising emotional trauma which would surely result from her having to write or think about the events once again.

C Finnie argued that the evidence was available at the time of the hearing and that his actions since being charged had been aimed at minimizing any further hardship for Student X. He argued that according to section 53 of the *Teaching Profession Act*, the appeal hearing should be based on the transcript and that the request to introduce additional evidence arose from Student X's dissatisfaction with the penalty imposed.

After deliberation, the committee granted special leave to K Moench to introduce the further evidence. The committee decided that the victim's testimony and victim impact statement were not available at the time of the original hearing, in the sense that there were valid reasons for the

information not being submitted. Given her experiences with C Finnie, Student X did not want to participate in the hearing before the Professional Conduct Committee. The committee also felt that the additional evidence could be significant in the determination of penalty.

The committee received the victim impact statement signed by Student X (Exhibit 2). Student X was sworn in and provided testimony on the impact of the events both at the time they occurred and subsequently. Student X felt pressured to stay after school and meet there on Sunday, she was encouraged by C Finnie to lie to her family and friends to protect his employment and his marriage, she felt that she was going against her morals, and she felt estranged from her family and friends. Student X has had to seek counselling to deal with familial and relationship issues, she has experienced problems in her relationships with men in terms of honesty and trust. C Finnie declined the opportunity to cross-examine the witness.

SUBMISSION OF THE APPELLANT

K Moench restated the arguments presented at the initial hearing and he quoted from the letter of appeal submitted by Gordon R Thomas on behalf of Provincial Executive Council. K Moench concluded his presentation by asking that the penalty be varied and that membership in the Association be cancelled and that a recommendation be sent to the minister of learning to cancel C Finnie's teaching certificate.

SUBMISSION OF THE RESPONDENT

C Finnie stated at the outset that he was surprised that Provincial Executive Council could appeal the penalty. C Finnie argued that the hearing committee of the Professional Conduct Committee had heard the evidence in this case and that it had ruled on it. He then reread the statement that he had presented at the initial hearing.

DECISION OF THE COMMITTEE

The Professional Conduct Appeal Committee decided to vary the penalty of the hearing committee of the Professional Conduct Committee by cancelling C Finnie's membership in the Alberta Teachers' Association and recommending to the minister of learning that C Finnie's teaching certificate be cancelled.

REASONS FOR DECISION

1. C Finnie's actions were not considerate of Student X's circumstances, he failed to treat Student X with dignity and respect, and in so doing brought dishonour to the profession.

2. The committee considered six factors in assessing the appropriateness of the penalty:
 - The nature of the incidents
 - The frequency of the incidents and the duration of the relationship
 - The impact on the victim
 - Specific deterrence to C Finnie
 - General deterrence
 - Protection of the public interest

Based on its review of these factors, the committee found that the penalty was insufficient.

3. In addition, the committee reviewed precedent cases and found them supportive of the increased penalty.

Dated at the City of Edmonton in the Province of Alberta, Monday, January 13, 2003.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST GREGORY FRITZKE

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Gregory Fritzke of Medicine Hat, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Friday, February 4, 2011 at 0900.

Professional Conduct Committee members present as the hearing committee were Ruth Kuik (chair), Lyne Bacon and George Epp. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Gaylene Schreiber was secretary and Leslie Kaun was recorder. Brenda Haubrich presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or the jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Gregory Fritzke is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on October 28, 2010, was convicted of an indictable offence, to wit: on or about the 18th day of February 2008, at or near Medicine Hat, Alberta, did transmit, make available, distribute, sell, import, export or possess for the purpose of transmission, making available, distribution, sale or exploration, child pornography, contrary to section 163.1(3) of the Criminal Code of Canada.
2. Gregory Fritzke is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on October 28, 2010, was convicted of an indictable offence, to wit: between the 18th day of February 2008, and the 6th day of November 2008, both dates inclusive, at or near Medicine Hat, Alberta, did access child pornography, contrary to section 163.1(4.1) of the Criminal Code of Canada.

It was noted that there was an error in the date of conviction cited in each of the two charges and the presenting officer sought to amend the charges to correct the date. The hearing committee formed the opinion that the member, aware of the date of his convictions, would suffer no prejudice and allowed the amendments. The amended charges were read aloud by the secretary as follows:

Report of the Hearing Committee of PCC
G Fritzke ND848, page 6

4. Fritzke's employment has already been terminated and he has suffered substantial financial loss.

Dated at the City of Edmonton in the Province of Alberta, Monday, March 21, 2011.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE
IN THE MATTER OF AN APPEAL BY PROVINCIAL EXECUTIVE COUNCIL
OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL
CONDUCT COMMITTEE WITH RESPECT TO A CHARGE
OF UNPROFESSIONAL CONDUCT AGAINST GREGORY FRITZKE

The Professional Conduct Appeal Committee reports that the appeal by Provincial Executive Council of the decision of the hearing committee of the Professional Conduct Committee with respect to a charge of unprofessional conduct against Gregory Fritzke was heard in accordance with the *Teaching Profession Act*. The appeal hearing was held at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, October 26, 2011.

Professional Conduct Appeal Committee members present were Sheila Fraser (chair), Don Ewing, Craig Polk and Debra Scharff. Richard Rand of Rand Kiss Turner was counsel to the committee, Sandra Marcellus was secretary and Leslie Kaun was recorder. Robert Mazzotta represented the appellant, Provincial Executive Council. The respondent, Fritzke, was not present and was not represented by legal counsel but did send a written submission to the appeal committee, in care of the secretary.

SUBMISSION OF THE APPELLANT

On behalf of the appellant, Mazzotta did not question the finding of guilt but submitted that the original penalty of a severe reprimand was too lenient, given the nature of the offence.

Mazzotta argued that since Fritzke was found guilty of having an inappropriate verbal and physical relationship with a student and thus of failing to treat the student with dignity and respect, the penalty must be commensurate with the severity of the offence and with the penalties levied in similar precedent cases.

Mazzotta cited 20 precedent cases, all of which resulted in suspension or cancellation of the teacher's membership in the Association and a recommendation to the minister of education to take the same action on the teacher's teaching certificate.

Even though Fritzke's membership had already been cancelled and a recommendation had been made to the minister to cancel his certificate, both as a result of a previous hearing of another offence, Mazzotta argued that each offence and resulting sanction should stand on its own. He submitted that this offence also requires cancellation of membership and certificate and to do otherwise would set a dangerous and potentially harmful precedent.

Mazzotta pointed out the committee's obligation, under section 23 of the *Teaching Profession Act* (TPA), to act in the best interests of the profession, the public and current and future students and argued that penalties must be sufficient to serve as a deterrent.

SUBMISSION OF THE RESPONDENT

In his written submission, Fritzke requested that the appeal committee overturn the original finding of guilt. This request is too late and does not meet the requirements of an appeal under the TPA and therefore was not considered by the appeal committee.

Fritzke's submission purported to introduce new evidence which was not provided to the original hearing committee. Fritzke did not attempt to seek leave to do so or to explain why such evidence was unavailable at the time of the original hearing. The appeal committee can only base its decision on the information that was before the hearing committee and therefore did not consider this evidence.

Fritzke submitted that he has already suffered both professionally and financially from the previous finding of unprofessional conduct and resulting sanction. He questioned the credibility of the witness and argued that such a weak case does not warrant such a severe penalty as the cancellation of his membership and certificate.

DECISION OF THE COMMITTEE

The committee concluded that the original penalty was too lenient and ordered that in addition to the letter of severe reprimand, Fritzke is declared ineligible for membership in the Association and a recommendation will be made to the minister of education to cancel his teaching certificate.

REASONS FOR DECISION

1. The hearing committee found Fritzke guilty of unprofessional conduct. The hearing committee found that "The incident at Fritzke's house included some degree of undress and touching and may have had sexual overtones." In the reasons for guilt, the committee wrote that through his actions, Fritzke failed to uphold his obligation to treat students with dignity and respect. He became engaged in electronic and verbal communications which exceeded the boundaries of acceptable communications between a teacher and a student.
2. Having made that finding, the hearing committee had to provide a penalty that was within the range of penalties levied in similar cases. The penalty of a severe reprimand is outside the

range of penalties in cases of similarly inappropriate relationships between students and teachers.

3. The penalty was unreasonably lenient for the severity of the offence. It would have created a dangerous precedent and would not sufficiently deter similar behaviour.
4. Despite the fact that Fritzke had already been declared ineligible for membership and the cancellation of his teaching certificate had already been recommended, the Association must continue to act in the best interest of the profession, the public and students in each and every case brought before a hearing committee. Equally, the Association must be seen to give due regard to each complaint and if there is a finding of guilt as a result of that complaint, must apply the appropriate penalty.
5. The fact that Fritzke suffered because of a separate wrong doing and consequent penalty does not lessen the need for an appropriate penalty for this offence.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, October 26, 2011.

1. Gregory Fritzke is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on August 17, 2010, was convicted of an indictable offence, to wit: on or about the 18th day of February 2008, at or near Medicine Hat, Alberta, did transmit, make available, distribute, sell, import, export or possess for the purpose of transmission, making available, distribution, sale or exploration, child pornography, contrary to section 163.1(3) of the Criminal Code of Canada.
2. Gregory Fritzke is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on August 17, 2010, was convicted of an indictable offence, to wit: between the 18th day of February 2008, and the 6th day of November 2008, both dates inclusive, at or near Medicine Hat, Alberta, did access child pornography, contrary to section 163.1(4.1) of the Criminal Code of Canada.

In the absence of Fritzke and the absence of a written plea, the hearing committee directed pleas of not guilty to each charge on his behalf.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

- Exhibit 1—Notice of Hearing and Canada Post confirmation of delivery, on January 17, 2011
Exhibit 2—Proof of Gregory Fritzke's membership in the Association from September 1, 2007 to August 31, 2009 inclusive
Exhibit 3—Letter from Grant W Henderson, Superintendent of Schools, Medicine Hat School District No 76, to Gregory Fritzke, accepting Fritzke's resignation, dated September 14, 2010
Exhibit 4—Court document, Information, dated January 19, 2009
Exhibit 5—Certificate of Conviction related to Charge 2, dated November 5, 2010
Exhibit 6—Certificate of Conviction related to Charge 1, dated November 5, 2010
Exhibit 7—Copy of letter from Gregory Fritzke to Brenda Haubrich, relating to penalty, sent by e-mail, dated January 28, 2011

EXHIBITS FILED INDICATED THAT:

1. Fritzke was a member of the Association from September 1, 2007 until at least August 31, 2009 inclusive. (Exhibit 2)
2. Fritzke was employed as a teacher by Medicine Hat School District No 76 until his resignation was accepted, effective October 13, 2010. (Exhibit 3)

3. Fritzke pled guilty to, and was convicted of, an indictable offence on August 17, 2010 under of the Criminal Code of Canada. The charge read: on or about the 18th day of February, 2008 at or near Medicine Hat, Alberta, did transmit, make available, distribute, sell, import, export, or possess for the purpose of transmission, making available, distribution, sale or exportation, child pornography, contrary to section 163.1(3) of the Criminal Code of Canada. (Exhibit 6)
4. Fritzke pled guilty to, and was convicted of, an indictable offence on August 17, 2010 under the Criminal Code of Canada. The charge read: between the 18th day of February, 2008 and the 6th day of November, 2008, both dates inclusive, at or near Medicine Hat, Alberta, did access child pornography, contrary to section 163.1 (4.1) of the Criminal Code of Canada. (Exhibit 5)

DECISION OF THE HEARING COMMITTEE

The hearing committee found Gregory Fritzke guilty on Charge 1 and Charge 2.

REASONS FOR DECISION

1. Fritzke was convicted of indictable offences under sections 163.1(3) and 163.1(4.1) of the Criminal Code of Canada, and is therefore guilty of unprofessional conduct under section 23.2(a) of the *Teaching Profession Act*.
2. The *Teaching Profession Act* 23.2 (a) stipulates that if a member has been convicted of an indictable offence, the conduct of the member on which the conviction is based is deemed to constitute unprofessional conduct.

PENALTY

1. The hearing committee recommends to the minister of education that Gregory Fritzke's teaching certificate be cancelled.
2. The hearing committee declares Gregory Fritzke ineligible for membership in the Alberta Teachers' Association.

REASONS FOR PENALTY

1. Fritzke was convicted of two indictable offences under section 163.1(3) and 163.1(4.1) of the Criminal Code of Canada.
2. Conviction of indictable offences is considered a violation of the Code of Professional Conduct.

3. Due to the grievous nature of the indictable offences in question and due to a teacher's position of trust in relation to pupils and due to a teacher's duty to only act in a manner that safeguards the interests of children generally, the committee ruled that Fritzke can no longer be a member of the Association, nor should he be considered suitable for certification.

Dated at the City of Edmonton in the Province of Alberta, Friday, February 4, 2011

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST GREGORY FRITZKE

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Gregory Fritzke of Medicine Hat, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, March 21, 2011.

Professional Conduct Committee members present as the hearing committee were Brenton Baum (chair), Lily Lee and Lynne Davies. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Michael Kischuk was secretary, assisted by Philip McRae, and Leslie Kaun was recorder. Brenda Haubrich presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. Gregory Fritzke is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between September 2003 and August 30, 2004, engaged in an inappropriate verbal and physical relationship with a female student, thus failing to treat the student with dignity and respect.

The investigated member entered a plea of not guilty to the charge, by way of written submission.

WITNESS

The presenting officer called Student name redacted.

EXHIBITS FILED

1. Notice of hearing and Canada Post confirmation of delivery on January 27, 2011
2. Written submission from Fritzke to the hearing committee, dated March 3, 2011
3. Written submission from Fritzke to the hearing committee, dated March 17, 2011
4. Proof of Fritzke's membership in the Association from January 1, 2003 to August 31, 2005 inclusive
5. Letter from Superintendent Henderson, to Fritzke, accepting his resignation, dated September 14, 2010
6. Google map of Medicine Hat indicating four locations

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Fritzke was employed by Medicine Hat School District No 76 during the time of the incidents. (Exhibit 4)
2. Fritzke was the vice-principal at [School name redacted.] which [Student name redacted.] attended for Grades 7 and 8.
3. Fritzke first became involved with [Student name redacted.] when she was sent to the office on a discipline matter near the midpoint of the 2003/04 school year.
4. [Student name redacted.] was in Grade 8 at that time and turned 14 in February 2004.
5. [Student name redacted.] thought that Fritzke had been preferential in dealing with her, that he favoured her and liked her more than other students because
 - a) [Student name redacted.] felt that the consequences from the discipline incident were reduced by Fritzke and
 - b) Fritzke overlooked an incident between [Student name redacted.] and another student that involved punching.
6. [Student name redacted.] had a crush on Fritzke and sought out opportunities to walk by and encounter him, such as
 - a) [Student name redacted.] did laps around the building as exercise, going by Fritzke's office during breaks and
 - b) [Student name redacted.] bought football fundraiser candy from Fritzke in his office.
7. [Student name redacted.] was secretive because she viewed Fritzke as older, grey and heavy and was embarrassed to let anyone know about her feelings of attraction to him.

Report of the Hearing Committee of PCC
G Fritzke ND848, page 3

8. One time, in the hallway, Fritzke asked [Student name redacted.] to smell a sample of his cologne which reaffirmed her belief that he liked her more than other students.
9. In the spring of 2004, [Student name redacted.] and some friends sent e-mail to Fritzke as a joke, using school e-mail. [Student name redacted.] continued to send e-mail to Fritzke. This led to an incident in the library where Fritzke confronted her and told her to stop harassing him. [Student name redacted.] friends told her that Fritzke was not actually angry about the e-mails.
10. [Student name redacted.] sent an e-mail to Fritzke to apologize about the e-mail incident.
11. Fritzke continued to exchange e-mails with [Student name redacted.] when she was at school and at home.
12. These e-mails were sent with a frequency of once or twice a week from school and two or three times a week from home.
13. Fritzke asked [Student name redacted.] for her home e-mail address as his wife could access his school e-mail account.
14. [Student name redacted.] was moving to a new school for Grade 9. In response to a question from [Student name redacted.] about getting her report card, Fritzke suggested that she come to school to collect it and get a goodbye hug. She elected not to go.
15. Fritzke asked [Student name redacted.] to change to Yahoo Messenger instant messaging, at or near the end of the school year, because he was familiar with it. [Student name redacted.] changed to Yahoo Messenger as requested and they began chatting using the instant messaging system.
16. During the chats, Fritzke communicated with [Student name redacted.] about her family interactions.
17. The chats sometimes included [Student name redacted.] using a webcam which allowed Fritzke to see her but she couldn't see him. They played a game of 21 questions, usually about details of Fritzke's life and interests.
18. The chats became more flirtatious, with Fritzke making comments about [Student name redacted.] sexual activity, her body parts and his sexual prowess.
19. During the summer, Fritzke and [Student name redacted.] continued to send messages to each other. [Student name redacted.] participated in sports and she planned her route to practices so that it took her past Fritzke's house.
20. [Student name redacted.] provided Fritzke with her soccer practice schedule. Fritzke sent messages to [Student name redacted.] about when he would be outside. [Student name redacted.] left home 10 minutes early to go to practices so that she and Fritzke would have a chance to talk in person when she went past his house.

21. Sometimes [Student name redacted.] had friends with her during these visits and sometimes Fritzke's family was present. The conversations were not intimate when others were present.
22. One time, Fritzke sent a message to [Student name redacted.] that his wife and children would be away and asked if [Student name redacted.] would be willing to come over to his house during that time.
23. There was an encounter between Fritzke and [Student name redacted.] at Fritzke's house that was alleged to be physical. While the hearing committee did not doubt the certitude of [Student name redacted.] belief in her recollections, the hearing committee was unable to establish the exactness of the details of this incident. The testimony of [Student name redacted.] was less credible at this point due to inconsistencies of fact, the lack of contextual details of the alleged incident, the passage of seven years since the events occurred and the fact that the testimony had been repeated in more than one venue. There was a blurring of detail and the recollection may have been a conflation of more than one event.
24. On the balance of probabilities, the hearing committee finds that the incident at Fritzke's house included some degree of undress and touching and may have had sexual overtones but the hearing committee was unable to establish particulars of all that occurred.
25. Fritzke denied an incident at his house had ever occurred. (Exhibit 2)
26. Following the incident, Fritzke and [Student name redacted.] continued to exchange e-mail once or twice a week for a period of time. Fritzke asked [Student name redacted.] to delete their e-mails and messages and not to tell anyone.
27. [Student name redacted.] never disclosed the details or nature of the relationship to anyone until, during her first year of university, she viewed a television news story about Fritzke being charged in connection with child pornography. [Student name redacted.] disclosed the details to her husband after continued questioning by him.
28. [Student name redacted.] then reported the incident to the police.
29. The hearing committee accepted that the witness presented the facts as she understood them, in recollecting events that had occurred seven years earlier, when she was 14-years-old and in Grade 8. The hearing committee noted that her testimony contained inconsistencies that indicated her recollection could be inaccurate/conflated. Her testimony was internally inconsistent. [Student name redacted.] presented as a well-prepared witness but remained distant, reserved, disconnected and displayed a lack of affect. The witness made very little eye contact with the hearing committee. The appearance of the witness and her demeanour brought into question the credibility and completeness of her testimony.

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

REASONS FOR DECISION

1. Teachers are expected to treat students with dignity and respect. Through his actions, Fritzke failed to uphold this obligation.
2. Fritzke became engaged in inappropriate verbal and electronic communications with a student. This communication exceeded the boundaries of acceptable communication between a teacher and student.
3. Fritzke failed to terminate the relationship but instead escalated the relationship to a personal level that calls into question his integrity and intentions.
4. Fritzke was involved in a physical interaction that exploited the student's vulnerability.

PENALTY

The presenting officer requested that the hearing committee consider imposing the maximum penalty of declaring Fritzke ineligible for membership in the Association and recommending that the minister cancel his teaching certificate. The presenting officer did not recommend a financial penalty.

Fritzke was declared ineligible for Association membership in a separate, earlier proceeding.

The hearing committee imposes a penalty of a letter of severe reprimand.

REASONS FOR PENALTY

1. Fritzke exceeded appropriate professional boundaries in his communications with a student, both verbally and electronically, and failed to treat the student with dignity and respect.
2. Fritzke was in a position of trust and authority and thus required to act in the best interests of the student.
3. The evidence was not sufficient to substantiate the exact details of what transpired in Fritzke's house and the hearing committee was reluctant to levy the maximum penalty without being confident of the incidents.

THE ALBERTA TEACHERS' ASSOCIATION

DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST WILLIAM GHENT

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against William Ghent of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, October 1, 2002.

Kurt E Moench presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee.

1. William Ghent is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about March 21, 2002, was convicted of an indictable offence under section 271 of the Criminal Code of Canada to wit: that he, on or about the 17th day of January, 1999, at or near Calgary, Alberta, did unlawfully commit a sexual assault upon a minor, contrary to Section 271 of the Criminal Code.
2. William Ghent is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about March 21, 2002, was convicted of an indictable offence under section 271 of the Criminal Code of Canada to wit: that he, on or about the 17th day of January, 1999, at or near Calgary, Alberta, being in a position of trust or authority towards or in a relationship of dependency with a young person, did for a sexual purpose unlawfully touch, directly or indirectly with a part of the body or with an object, a part of the body of said minor contrary to Section 153(1)(a) of the Criminal Code.
3. William Ghent is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, during the 1998/1999 school year acted in a manner which failed to maintain the honor and dignity of the profession.
4. William Ghent is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, during the investigation of his professional conduct refused to cooperate with the investigating officer.

K Moench proposed three amendments to Charges 1 and 2. The hearing committee allowed the amendments and, determining that there would be no material prejudice to the investigated member, directed that the hearing proceed. The amended charges read as follows:

1. William Ghent is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about March 6, 2002, was convicted of an indictable offence under section 271 of the Criminal Code of Canada to wit: that he, on or about the 17th day of January, 1999, at or near Calgary, Alberta, did unlawfully commit a sexual assault upon a minor, contrary to Section 271 of the Criminal Code.
2. William Ghent is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about March 6, 2002, was convicted of an indictable offence under the Criminal Code of Canada to wit: that he, on or about the 17th day of January, 1999, at or near Calgary, Alberta, being in a position of trust or authority towards or in a relationship of dependency with a young person, did for a sexual purpose unlawfully touch, directly or indirectly with a part of the body or with an object, a part of the body of said minor contrary to Section 153(1)(a) of the Criminal Code.

In the absence of W Ghent, the hearing committee entered a plea of "not guilty" to the charges.

DECISION OF THE HEARING COMMITTEE

The hearing committee found W Ghent guilty of unprofessional conduct on each of the four charges.

REASONS FOR DECISION

1. W Ghent was convicted of two indictable offences under the Criminal Code of Canada, sections 153(1)(a) and section 271. He therefore is guilty of unprofessional conduct under section 22(2)(a) of the *Teaching Profession Act*.
2. W Ghent brought dishonour and disrepute to the teaching profession because of his conviction of two indictable offences and his conduct giving rise to those convictions.
3. Society has a right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. W Ghent violated this trust relationship.

4. W Ghent did not cooperate with the Alberta Teachers' Association. He did not report his indictable offence as required in section 22(2)(b) of the *Teaching Profession Act*. He was uncooperative with the investigating officer, as evidenced by his failure to respond to numerous telephone calls and two letters initiated by K Moench.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalties:

1. On Charge 1, that W Ghent's membership in the Alberta Teachers' Association be cancelled and that a recommendation be sent to the minister of learning to cancel W Ghent's teaching certificate. A \$1,000 fine is imposed.
2. On Charge 2, that W Ghent's membership in the Alberta Teachers' Association be cancelled and that a recommendation be sent to the minister of learning to cancel W Ghent's teaching certificate. A \$2,000 fine is imposed.
3. On Charge 3, a \$1,000 fine is imposed.
4. On Charge 4, a \$2,000 fine is imposed.

REASONS FOR PENALTY

1. W Ghent is guilty of two indictable offences which involved inappropriate physical contact with a student and involved abusing his position of authority and trust.
2. Teachers must not engage in any sexual activities with their students. Society views such actions as repugnant and reprehensible. W Ghent's actions showed disregard for society's expectations of teachers.
3. Society has the right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. W Ghent exploited a vulnerable student who viewed her teacher as understanding and caring.
4. W Ghent's actions represent a major breach of trust and a serious violation of the Code of Professional Conduct. W Ghent's actions brought dishonour to the teaching profession.
5. W Ghent brought negative attention to the teaching profession because his actions received widespread media coverage.
6. There is no evidence that W Ghent accepted responsibility for his actions or demonstrated

any remorse.

7. There is no evidence that W Ghent informed the Association of his conviction of indictable offences.
8. W Ghent failed to cooperate with the investigating officer despite his lawful duty to do so.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, October 1, 2002.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST BRAD ASHLEY GLENN

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Brad Ashley Glenn of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, October 7, 2013 at 0900.

Professional Conduct Committee members present as the hearing committee were Cassandra Jager (chair), Joe Rodgers and Cindy Gerodo. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Michael Kischuk was secretary and Leslie Kaun was recorder. Marvin Hackman presented the case against the investigated member. The investigated member, Brad Glenn, was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Brad Ashley Glenn is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between December 4, 2009 and May 26, 2010, engaged in conduct for which he, on April 18, 2013 was convicted of an indictable criminal offence where Glenn, being in a position of trust or authority towards or in a relationship of dependency with (Student A), a young person, did for a sexual purpose, unlawfully touch, directly or indirectly, with a part of the body or with an object, a part of the body of (Student A) contrary to section 153(1)(a) of the *Criminal Code* of Canada.
2. Brad Ashley Glenn is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, in or around November 2009 to May 2010, engaged in a sexual relationship with (Student A) knowing that she was a high school student at the time, thus failing to treat (Student A) with dignity and respect.

The investigated member entered a plea of guilty to each of the charges by written submission.

WITNESSES

No witnesses were called.

EXHIBITS FILED

Exhibit 1—Notice of hearing dated September 24, 2013

Exhibit 2—Canada Post confirmation of delivery on September 26, 2013

Exhibit 3—Declaration of awareness of rights, signed by Glenn, dated September 30, 2013

Exhibit 4—Submission on plea, signed by Glenn, dated September 30, 2013

Exhibit 5—Proof of Glenn's membership in the Association from February 1, 2001 to
May 31, 2010, inclusive

Exhibit 6—Conviction certificate dated October 16, 2012

Exhibit 7—Agreed statement of facts, dated April 18, 2012, presented in Provincial Court

PRELIMINARY MATTER

The hearing committee noted a discrepancy in the conviction date between Charge 1 and the conviction certificate. The date in Charge 1 was April 18, 2013 and the date in the conviction certificate was April 18, 2012.

The committee received a submission from Hackman that this was simply a typographic error and the charge could be amended. He advised that he had contacted Glenn by telephone when the error was noticed and obtained Glenn's agreement that Charge 1 should be amended to show the date as April 18, 2012.

The hearing committee accepted the amendment to Charge 1.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Glenn was a teacher employed by Edmonton School District No 7, teaching at School name redacted. High School and then moving to School name redacted. School, at the time of the incidents. (Exhibit 7)
2. Glenn was a member of the Alberta Teachers' Association at the time of the incidents. (Exhibit 5)
3. Student A was in Glenn's Grade 10 English class in 2007 at School name redacted. School. (Exhibit 7)

Report of the Hearing Committee of PCC re B Glenn, page 3

4. Glenn initially had a normal teacher–student relationship with Student A while she was enrolled in his English class. They shared some common interests and had good rapport. (Exhibit 7)
5. Student A had a troubled home life and significant health problems but was a good student. (Exhibit 7)
6. Student A wrote a letter to Glenn about late assignments in which she also asked for advice about her home life. He responded by letter. Student A’s parent found the letter and filed a complaint with the school administration. The principal spoke to Glenn but no further action was taken. (Exhibit 7)
7. During the subsequent school year, 2008/09, Glenn no longer taught Student A but he continued to encourage her and be part of her support network while they were both at School name redacted. School. (Exhibit 7)
8. In February 2009, Student A was “kicked out” of her family home and stayed with friends until the end of the school year. (Exhibit 7)
9. At the beginning of the 2009/10 school year, Glenn transferred to School name redacted. High School. The relationship between him and Student A continued and they became Facebook friends. (Exhibit 7)
10. In October 2009, Student A moved into her own apartment and the relationship changed. Glenn began visiting Student A at her job and at her residence. Glenn provided Student A with his cell phone number and asked her to text him if she needed anything. (Exhibit 7)
11. In November 2009, Student A turned 17 and the relationship became sexual. (Exhibit 7)
12. In December 2009, colleagues of Glenn attempted to persuade him from continuing his close relationship with Student A. Although they were not aware of the extent of the relationship, they believed that the relationship was inappropriate. Glenn did not alter his behaviour. (Exhibit 7)
13. Glenn provided over \$1000 to Student A when she had financial difficulties. (Exhibit 7)
14. Glenn and Student A had sexual relations in his car, her apartment and his home. (Exhibit 7)
15. Security personnel from the school district noted that images of Glenn and Student A together were repeatedly captured on security videos at Glenn’s school in the late evening and early morning hours. The videos showed them interacting in a manner that was overly friendly and beyond the normal teacher–student roles. The school district initiated an investigation. (Exhibit 7)

16. In May 2010, after the school district became aware of the extent of the relationship between Glenn and Student A, their sexual relationship ended. (Exhibit 7)
17. In the course of the school district's investigation, Glenn disclosed that he had been in regular contact with Student A since October 2009 and admitted to having an inappropriate relationship with her. Glenn resigned effective June 1, 2010 before he could be suspended. (Exhibit 7)
18. In the course of the school district's investigation, Student A disclosed that her relationship with Glenn was sexual. (Exhibit 7)
19. Student A reported the relationship to the police. (Exhibit 7)
20. Glenn was arrested on September 22, 2010 and convicted on April 18, 2012 of an indictable offence under section 153 (1)(a) of the *Criminal Code* of Canada; specifically, that Glenn being in a position of trust or authority towards or in a relationship of dependency with Student A, a young person, did for a sexual purpose unlawfully touch directly or indirectly with a part of the body or an object, a part of the body of (Student A). Glenn plead guilty to the charge.(Exhibit 6)

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

REASONS FOR DECISION

1. Glenn was convicted of an indictable offence.
2. Accordingly, Glenn engaged in unprofessional conduct within the meaning of sections 23(2) and 41(2) of the *Teaching Profession Act*.
3. By his own admission and as shown in evidence adduced, Glenn engaged in a sexual relationship with a student and continued that relationship over a period of time.

PENALTY

To address both charges collectively, the hearing committee imposes the following penalty on Glenn:

1. Declaration of ineligibility for future membership in the Alberta Teachers' Association
2. Recommendation to the minister of education to cancel his teaching certificate

REASONS FOR PENALTY

1. Glenn was convicted of an indictable offence under circumstances where the facts giving rise to his conviction require the most severe penalty that can be imposed, as contemplated by section 42(3) of the *Teaching Profession Act*.
2. Glenn violated his position of trust as a teacher when he failed, in the most profound way, to maintain an appropriate relationship with Student A. His actions constituted a breach of trust and were reprehensible, repugnant and deplorable and thus merit the most severe penalty.
3. When Glenn engaged in an ongoing sexual relationship with Student A, he failed to treat her with dignity and respect.
4. Glenn was in a position of power over Student A; therefore, it was Glenn's fiduciary obligation to protect Student A and not exploit her vulnerability.
5. Students and society expect that teachers will refrain from engaging in sexual relationships with students.

Dated at the City of Edmonton in the Province of Alberta, Monday, October 7, 2013.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST MICHAEL GREGORY

The Hearing Committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Michael Gregory of Okotoks, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, March 15 and Thursday, May 25, 2006.

Professional Conduct Committee members present as the Hearing Committee were Kirk Jensen (chair), Denise Peterson and George Epp. Kara Gillespie of Field LLP was Counsel to the Hearing Committee, Ernest Clintberg was Secretary and Leslie Kaun was recorder. Brenda Haubrich presented the case against the investigated member. The investigated member was not present and was not represented.

On March 15, 2006, the committee received a written submission from Gregory that included an agreed statement of facts, a plea of guilty to each of the charges and a joint submission on penalty (Exhibit 2). The committee found there was insufficient detail in the submission to allow the committee to make an informed determination about whether or not to accept the guilty pleas. The hearing was adjourned until such time as the prosecuting officer, Haubrich, could gather sufficient information for the committee to proceed.

The hearing was reconvened on May 25, 2006 and Haubrich provided an amended submission that included an amplification of the agreed statement of facts (Exhibit 4).

CONSTITUTION/JURISDICTION

There was no objection to either the composition or the jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read by the Secretary to the Hearing Committee:

1. Michael Gregory is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period 1992 to 2005, failed to treat students with dignity and respect.

2. Michael Gregory is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period 1992 to 2005, failed to maintain the honour and dignity of the profession.

The investigated member entered a plea of guilty to each of the charges, by way of written submission.

WITNESSES

No witnesses were called.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Confirmation of membership was submitted declaring that Gregory was a member of The Alberta Teachers' Association during the period September 1, 1986 to August 31, 2005 inclusive (Exhibit 3).
2. The committee received confirmation that the Notice of Hearing had been delivered to the investigated member within the required time frame (Exhibit 1).
3. Gregory taught for Calgary School District No 19 from September 1, 1986 until August 31, 2005 (Exhibit 3).
4. During the period 1992 to 2005, Gregory engaged in incidents of inappropriate behaviour with students in his outdoor education program (Exhibit 4).
5. Gregory acknowledged that his outdoor education program included behaviours and conversation not appropriate for a program leader who is a teacher in a public school setting (Exhibit 4).
6. Gregory participated in hazing types of activities directed at students and allowed his students to act in the same manner (Exhibit 4).
7. Gregory created a climate where the following activities were permitted and fostered by his example These include
 - (a) throwing ski poles, rocks, cow pies, a D cell battery, canoe paddles and a dead fish at students;
 - (b) wrestling students to the ground and pounding on them to teach them a lesson;
 - (c) writing on a student's legs with a marker while classmates held her down;

- (d) telling female students they were like tree stumps because they had no breasts;
 - (e) teasing female students that they were lesbians;
 - (f) discussing the size of breasts of girls who were friends of the high school student leaders on trips;
 - (g) saying “run” to a student and then throwing rocks and trying to hit him;
 - (h) using a sling shot to shoot peas or Skittles at students and leaving a welt on a student;
 - (i) throwing a female student in the river; and
 - (j) taking part in campfire conversations about the dating and partying lives of student leaders and encouraging the telling of stories filled with **sexual** innuendo (Exhibit 4).
10. Gregory abused, endangered and demeaned students by
- (a) telling a student to take a swing at Gregory and head-butting the student after avoiding the swing and then pummeling the student on the ground;
 - (b) force feeding a student Gregory’s belly button hair;
 - (c) receiving a back message from a student at a campfire;
 - (d) having a student braid Gregory’s hair in a classroom; and
 - (e) duct taping a student to a tree with student help (Exhibit 4).
11. Gregory told students that what happened on the trip stayed on the trip (Exhibit 4).
12. Gregory discussed with students intimate details regarding his own health issues in a manner which created strong emotions of sadness and worry among the youth and their parents (Exhibit 4).
13. Gregory carried on an inappropriate relationship with two female high school students with whom he
- (a) discussed his emotional, health and marital issues;
 - (b) initiated and participated in frequent text messaging, e-mailing and phoning at all hours of the day and night; and
 - (c) speculated how it would be to have a **sexual** relationship with them (Exhibit 4).
14. Gregory discussed with the two female high school students that his wife did not have **sex** with him any longer and that **sex** was necessary so that his prostate cancer did not get worse (Exhibit 4).
15. Gregory communicated his threat of suicide to two female high school students and insisted that they attend to him out on the river flats. At his request, the students complied. He reported to the two students that he had a gun with him. (Exhibit 4).

16. While in a canoe, Gregory offered two female high school students alcohol with the excuse that it would help them relax around him after the conversation of suicide the previous night (Exhibit 4).
17. In the course of the investigation, Gregory suggested to the two female students that they amend their statements to school administration to exclude mention of the gun and the beverage. They complied and submitted amended statements (Exhibit 4).

DECISION OF THE HEARING COMMITTEE

1. When the committee reconvened on May 25, 2006, the committee accepted the plea of guilty on Charges 1 and 2.

REASONS FOR DECISION

1. Gregory's actions clearly showed disregard for the safety, well-being and dignity of the students in his care.
2. Gregory mentally and physically abused his students.
3. Gregory coerced and manipulated students for his own benefit.
4. Gregory attempted to conceal his wrongdoing through misuse of his authority as a teacher and program leader.
5. Gregory provided alcohol to students.
6. Society expects that when students are under the care of a teacher, they will be treated with dignity and respect.
7. Gregory did not act in a manner which maintained the honour and dignity of the profession.
8. Gregory engaged in activities which adversely affected the quality of his professional service.

PENALTY

The hearing committee imposed the following penalty on Charge 1, to run concurrently:

1. Gregory is declared ineligible for membership in The Alberta Teachers' Association for a period of one year.
2. A recommendation will be made to the Minister of Education to suspend Gregory's teaching certificate for one year.

The hearing committee imposed the following penalty on Charge 2, to run concurrently:

1. Gregory is declared ineligible for membership in The Alberta Teachers' Association for a period of one year.
2. A recommendation will be made to the Minister of Education to suspend Gregory's teaching certificate for one year.

The penalties on Charge 1 and Charge 2 shall run consecutively for a total of two consecutive years.

REASONS FOR PENALTY

1. Gregory put students at risk by being in possession of a firearm while he was having suicidal ideations. Gregory was deceptive and manipulative with students when he coerced students to come to his aid.
2. Gregory allowed and participated in dangerous, demeaning and disrespectful acts with his students.
3. Gregory had a negative impact on students and families when he caused them undue emotional distress.
4. Gregory provided alcohol to students.
5. Gregory initiated and maintained inappropriate conversations with students.
6. Gregory's admitted abuse of students occurred over a 14-year period.
7. Documentation of his current medical status did not negate the severity of his impropriety over the 14-year period.
8. By developing and maintaining inappropriate relationships, Gregory failed to treat students with dignity and respect and used his position of trust and authority for his own benefit.

9. Gregory broke a fundamental trust that society places on teachers. Society has the right to expect teachers will not establish inappropriate relationships with students. Society views such actions as repugnant. Gregory clearly betrayed this trust and brought disrepute to the profession.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, May 25, 2006.

THE ALBERTA TEACHERS' ASSOCIATION

DECISION AND REASONS FROM THE REPORT OF THE HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL CONDUCT AGAINST RONALD HANSEN

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Ronald Hansen of St Albert, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, October 2, 2008 at 0900.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Ronald Hansen is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about March 2006 to June 2006, engaged in an inappropriate teacher–student relationship with a student, [Student A], thereby failing to treat the student with dignity and respect.
2. Ronald Hansen is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about March 2006 to June 2006, engaged in an inappropriate teacher–student relationship with a student, [Student A], thereby failing to maintain the honour and dignity of the profession.

Hansen entered a plea of guilty to the charges by way of a written submission.

DECISION OF THE HEARING COMMITTEE

1. Charge 1—Guilty
2. Charge 2—Guilty

REASONS FOR DECISION

1. Hansen betrayed the trust that students, parents and the public have a right to expect of teachers, ie, that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students.

2. Hansen created an inappropriate relationship with a student, a relationship that crossed acceptable professional boundaries.
3. Hansen violated the trust of a vulnerable student through both his actions and words.
4. Hansen purposefully engaged in sexually explicit conversations with a student.
5. Hansen purposefully engaged in behaviours that demonstrated increasingly sexual overtones with a student.

PENALTY

The hearing committee imposes the following penalties for both charges:

1. A recommendation to the minister of education to cancel Hansen's teaching certificate
2. A letter of severe reprimand
3. A declaration that Hansen is ineligible for membership in the Alberta Teachers' Association

REASONS FOR PENALTY

1. The actions of Hansen toward his student were inappropriate. Society has the right to expect that teachers will only form relationships that preserve the dignity and respect of students.
2. The hearing committee finds that this breach of trust on the part of Hansen caused harm to the student, the student's family, and the profession.
3. Regardless of what Hansen believes his personal motives may have been, in fostering the relationship with his student as he did, Hansen abused the authority and power inherent in his role as teacher.
4. Over the course of several months, Hansen's behaviour with this student was consistent with that of those who exploit children by fostering a sense of emotional dependency and then escalate to sexually explicit interactions between them.
5. While Hansen pleaded guilty to the charges, the committee was left concerned that his denial, rejection and resentment of any implication that his relationship with the student was romantic or sexually motivated was, at worst, a deliberate attempt to mislead the committee or, at best, an indication that he is still deluding himself.

Dated at the City of Edmonton in the Province of Alberta, Friday, November 28, 2008

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST NORMAN HOWES

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Norman Howes of Red Deer, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, September 29, 2020.

Professional Conduct Committee members present as the hearing committee were Rick Kremp (chair), Ismat Bandali and Brice Unland. Katrina Haymond of Field LLP was counsel to the hearing committee, Chris Gibbon was secretary and Sudeep Dua was recorder. Dave Matson presented the case against the investigated member. The investigated member, Norman Howes, was not present and was not represented by counsel.

COMPOSITION/JURISDICTION

There was no objection to the composition of the hearing committee or its jurisdiction to hear the case.

PRELIMINARY MATTERS

Matson presented a court ordered publication ban for student's identification. Matson requested that the committee refer to the student in a generic manner, such as Student A.

Counsel to the committee suggested the committee make a decision on proceeding without the member present or a signed declaration from Howes acknowledging his rights. Matson presented the committee with a letter from Howes (Exhibit 1) that addressed this concern. Howes stated in his letter to Matson that he was appointing his wife to represent Howes for all matters regarding ATA's discipline process. The committee was satisfied that both Howes and his wife, who was designated as his agent, were aware that the hearing was proceeding, and decided to proceed with the hearing in the member's absence, in accordance with section 40 of the *Teaching Profession Act* (TPA).

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Norman Joseph Howes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between November 1, 2018 and December 28, 2018, engaged in conduct for which he, on June 26, 2019, was convicted of an indictable offence, to wit:
Between the 1st day of November, 2018, and the 28th day of December, 2018, both dates inclusive, at or near Red Deer, Alberta, did make, print, publish or possess for the purpose of publishing, child pornography, contrary to section 163.1(2) of the *Criminal Code of Canada*.
2. Norman Joseph Howes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between November 1, 2018 and December 28, 2018, engaged in conduct for which he, on June 26, 2019, was convicted of an indictable offence, to wit:
Between the 1st day of November, 2018, and the 28th day of December, 2018, both dates inclusive, at or near Red Deer, Alberta, did, for a sexual purpose, unlawfully touch, directly or indirectly, with a part of the body or with an object, a part of the body of a person under the age of sixteen years, contrary to section 151 of the *Criminal Code of Canada*.
3. Norman Joseph Howes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between November 1, 2018 and December 28, 2018, engaged in conduct for which he, on June 26, 2019, was convicted of an indictable offence, to wit:
Between the 1st day of November, 2018, and the 28th day of December, 2018, both dates inclusive, at or near Red Deer, Alberta, did by means of telecommunication, communicate with a person who was or who the accused believed to be under the age of 18 years, for the purpose of facilitating the commission of an offence with respect to that person under section 163.1, contrary to section 172.1(1)(a) of the *Criminal Code of Canada*.

In the absence of the investigated member, the hearing committee entered a plea of not guilty to the charges.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

- Exhibit 1—Representation letter from Howes, dated May 7, 2020
- Exhibit 2—Court ordered publication ban, dated June 26, 2019
- Exhibit 3—Notice of hearing and Canada Post confirmation of delivery, dated September 2, 2020
- Exhibit 4—Confirmation of Howes’s membership in the Alberta Teachers’ Association, dated September 9, 2020
- Exhibit 5—Three conviction certificates dated November 29, 2019
- Exhibit 6—Global news article, dated June 26, 2019
- Exhibit 7—Letter from Superintendent Stu Henry to Registrar Lila Borhot, dated January 7, 2019

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Howes was a member of the Alberta Teachers’ Association from September 1, 1999 to December 31, 2018. (Exhibit 4)
2. Howes was a teacher in the Red Deer School Division at the time of the incident(s) that resulted in the charges laid against him by RCMP.
3. Howes pled guilty and was convicted under Sections 163.1(2), 151,163.1, and 172. 1(1)(a) of the *Criminal Code of Canada* on June 26, 2019 (Exhibit 5). The charges read:
 - a. Between the 1st day of November, 2018, and the 28th day of December, 2018, both dates inclusive, at or near Red Deer, Alberta, did make, print, publish or possess for the purpose of publishing, child pornography, contrary to section 163.1(2) of the *Criminal Code of Canada*.
 - b. Between the 1st day of November, 2018, and the 28th day of December, 2018, both dates inclusive, at or near Red Deer, Alberta, did, for a sexual purpose, unlawfully touch, directly or indirectly, with a part of the body or with an object, a part of the body of a person under the age of sixteen years, contrary to section 151 of the *Criminal Code of Canada*.
 - c. Between the 1st day of November, 2018, and the 28th day of December, 2018, both dates inclusive, at or near Red Deer, Alberta, did by means of telecommunication, communicate with a person who was or who the accused believed to be under the age of 18 years, for the purpose of facilitating the commission of an offence with respect to that person under section 163.1, contrary to section 172.1(1)(a) of the *Criminal Code of Canada*.
4. Section 23(2)(a) of the TPA states that if a member has been convicted of an indictable offence, the conduct of the member on which the conviction is based is deemed to constitute unprofessional conduct. Additionally, section 41(2)(a) of the TPA also provides that if a member has been convicted of an indictable offence, the hearing committee has no authority

to find that the conduct of the member on which the conviction is based does not constitute unprofessional conduct.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

REASONS FOR DECISION

1. Howes pled guilty in a court of law to the three charges. (Exhibit 5)
2. Howes was convicted of three indictable offenses under sections 163.1(2), 151 and 172.1(1)(A) of the *Criminal Code of Canada* on June 26, 2019, and is therefore guilty of unprofessional conduct under section 23(2)(a) of the TPA.
3. Section 23(2)(a) of the TPA states that if a member has been convicted of an indictable offence, the conduct of the member on which the conviction is based is deemed to constitute unprofessional conduct. Additionally, section 41(2)(a) of the TPA also provides that if a member has been convicted of an indictable offence, the hearing committee has no authority to find that the conduct of the member on which the conviction is based does not constitute unprofessional conduct

SUBMISSION ON PENALTY

1. The hearing committee received a verbal submission on penalty from the presenting officer recommending the following:
 - a. A declaration that Howes will be permanently ineligible for membership in The Alberta Teachers' Association
 - b. A recommendation to the minister of education to cancel Howes's teaching certificate.
2. The presenting officer also cited five precedent cases of similar circumstances that all contained the same penalty.

PENALTY

The hearing committee ordered the following penalty:

1. A declaration that Howes will be permanently ineligible for membership in The Alberta Teachers' Association

2. A recommendation to the minister of education to cancel Howes's teaching certificate.

REASONS FOR PENALTY

1. Teachers are held to a high standard by the public and the profession. Howes's actions fall grossly below those standards. Howes failed to uphold the honour and dignity of the profession and severely jeopardized the public's trust in the profession.
2. Howes's actions showed disregard for society's expectation of teachers. There is a need to deter this type of behaviour and make it known that it will not be accepted by the profession or the public. The Association and the public take these heinous actions very seriously and thus appropriate penalties must be imposed for such repugnant behaviour
3. Due to the egregious nature of the offences and due to a teacher's position of trust in relation to students and the public, the hearing committee ruled that Howes should be permanently ineligible for membership in the Association.
4. Children are the most vulnerable members of society and the penalty must ensure the protection of students from such transgressions.
5. The committee agreed that similar to the precedent cases provided by the presenting officer, these penalties were in order

Dated at the City of Edmonton in the Province of Alberta, November 2, 2020.

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST JOCELYN CHRISTINE JASTER

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Jocelyn Jaster of Lloydminster, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, June 23, 1999 at 0900.

In the absence of the investigated member and as the hearing committee had not received representation on behalf of the investigated member, a plea of "not guilty" was entered for each charge.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalty:

Charge 1

—Cancellation of J Jaster's membership in The Alberta Teachers' Association

—Recommendation to the Minister of Learning that J Jaster's teaching certificate be canceled.

Charge 2

—Cancellation of J Jaster's membership in The Alberta Teachers' Association.

—Recommendation to the Minister of Learning that J Jaster's teaching certificate be canceled.

—A fine of \$1,000.

Charge 3

—Cancellation of J Jaster's membership in The Alberta Teachers' Association.

—A fine of \$2,000.

REASONS FOR PENALTY

Charge 1

—J Jaster’s actions were deplorable. She breached the position of trust between teacher and student. Her actions may well have created a negative, long-term impact on the student and have certainly adversely affected his relationship with members of the community in which he lives.

Charge 2

—J Jaster established and engaged in a sexual relationship with a student. Society and the profession view these actions as repugnant, despicable and reprehensible.

—Society, composed of students, parents, teachers and the public, has a right to expect that teachers will act in an honorable and dignified manner.

—J Jaster’s actions betrayed the trust relationship between teachers and society.

—By these actions, which gained quick and wide-spread notoriety in a small community, J Jaster has brought dishonor to the profession.

Charge 3

—J Jaster brought dishonor to the teaching profession by failing to cooperate as required under the provisions of the *Teaching Profession Act*. Teachers expect that their colleagues will not act in a manner that harms the standing of teachers.

—J Jaster’s lack of cooperation shows disrespect for the profession, the Association, its processes and the manner in which it regulates itself.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE REPORT OF THE
HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST RAYMOND JEWAN

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Raymond Jewan of Red Deer, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, September 19, 2005 at 0900.

CHARGES AND PLEA

1. Raymond Jewan is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of October 2003 to December 2003, developed and maintained an inappropriate relationship with a student.
2. Raymond Jewan is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of October 2003 to December 2003, knowingly provided misleading information to his school principal and his district superintendent.
3. Raymond Jewan is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of October 2003 to December 2003, was present and aware that alcohol was provided to an underage student.

The hearing committee received a written submission from the investigated member in which he entered a plea of guilty to each of the charges.

DECISION OF THE HEARING COMMITTEE

The hearing committee accepted the plea of guilty on all three charges.

REASONS FOR DECISION

1. Jewan admitted guilt and the hearing committee confirmed his guilt based on evidence adduced on all three charges.
2. It is inappropriate and unprofessional for a teacher to enter into sexually explicit conversations when those conversations are not of an instructional nature.
3. It is unprofessional and a breach of trust to allow a relationship with a student to cross the boundaries of what is acceptable.
4. Jewan knew that the relationship was inappropriate when he asked Student A to lie and maintain a fiction disavowing the sexual nature of their relationship.
5. Jewan knew of, permitted and enabled Student A to consume alcohol in his presence.
6. Jewan withheld information and minimized the full extent of his relationship with Student A.

PENALTY

The hearing committee imposed the following penalty for all three charges:

1. A fine of \$1,000
2. Jewan's membership in the Alberta Teachers' Association is suspended for six months effective immediately.
3. A recommendation will be forwarded to the minister of education that Jewan's teaching certificate be suspended for six months effective immediately.
4. The \$1,000 fine must be paid by Jewan prior to reinstatement of his membership in the Alberta Teachers' Association and reinstatement of his teaching certificate.

REASONS FOR PENALTY

1. By developing and maintaining an inappropriate relationship, Jewan failed to treat Student A with the dignity and respect she deserved from her teacher.
2. Jewan broke a fundamental trust that society (ie teachers, students, parents, and the community) places on teachers.
3. Jewan was deceptive to his supervisors about the full extent of his activities.

4. Jewan encouraged Student A to lie about the sexual nature of their relationship.
5. Society has the right to expect that teachers will act in a manner that establishes and maintains a trust relationship between teachers and students. Jewan exploited a vulnerable student.
6. Allowing, promoting or enabling an underage student to drink alcohol is unacceptable behaviour for a teacher.
7. Jewan, in a position of trust and authority, created opportunities to be alone with Student A for the purpose of developing an inappropriate relationship. This is unacceptable and brings dishonour to the profession.

Dated at the City of Edmonton in the Province of Alberta, Monday, September 19, 2005.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE REPORT OF THE
HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST PAUL KIRK

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Paul Kirk of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, December 5 and Tuesday, December 6, 2005.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Paul Kirk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about May 7, 1981, physically contacted Student A in a sexual manner.
2. Paul Kirk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between the dates of May 1, 1981 and December 31, 1981, failed to treat Student A with respect in that he disclosed to colleagues information about Student A that was contrary to her best interests.

Kirk entered, by way of his written submission, a plea of not guilty to Charge 1 and a plea of guilty to Charge 2. The hearing committee elected not to accept the guilty plea to Charge 2, not being satisfied that the admissions made by Kirk in that regard were consistent with guilt.

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty
Charge 2—not guilty

THE ALBERTA TEACHERS' ASSOCIATION

DECISION AND REASONS FROM THE REPORT OF THE
HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEEIN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST PAUL KIRK

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Paul Kirk of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, December 5 and Tuesday, December 6, 2005.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Paul Kirk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about May 7, 1981, physically contacted Student A in a sexual manner.
2. Paul Kirk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between the dates of May 1, 1981 and December 31, 1981, failed to treat Student A with respect in that he disclosed to colleagues information about Student A that was contrary to her best interests.

Kirk entered, by way of his written submission, a plea of not guilty to Charge 1 and a plea of guilty to Charge 2. The hearing committee elected not to accept the guilty plea to Charge 2, not being satisfied that the admissions made by Kirk in that regard were consistent with guilt.

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—not guilty

REASONS FOR DECISION

Charge 1

1. Kirk's affidavit (Exhibit 2) and his earlier letter (Exhibit 4) contained much hearsay and speculation. The committee found them credible only for those statements specifically corroborated by other witnesses and documents. The following statements from the affidavit and said letter were substantiated by other evidence:
 - (a) Kirk was a teacher at School A at the time of the incident.
 - (b) Student A was a student in Kirk's psychology class.
 - (c) Kirk was an assistant principal at School A.
 - (d) Kirk did drive Student A to her home on or about May 7, 1981.
 - (e) Student A, during this drive home, disclosed to Kirk that she had been sexually assaulted by a classmate.
2. The committee did not accept as credible Kirk's protestations of innocence regarding the physical sexual contact in part because Teacher B and Student B closely corroborated the testimony of Student A, despite the fact that nearly 25 years have passed since the incident. Further, Teacher B and Student B had nothing to gain nor did they appear to hold antipathy towards Kirk. Their testimony was consistent with each other's and with that of Student A. Both witnesses clearly and confidently articulated their respective memories of the description of physical sexual contact by Kirk on Student A as disclosed to them by Student A.
3. The actions of Teacher B and Student B, in taking Student A's disclosure forward shortly after the incident, exhibited courage and diligence, thus lending credibility to their and Student A's testimony.
4. Student A's testimony was credible and was partly corroborated through witness statements and documents. Teacher B's and Student B's testimonies were consistent with that of Student A. In testimony Student A appeared sincere, forthright, clear and thoughtful. Any gaps in her recollection of events were understandable given the passage of time and the trauma she described. On the other hand, her recollecting and recounting of certain details had a ring of truth to them and she gave no indication of simply reciting from a prepared text. Her evidence appeared to be presented by a person who was seeking to bring an end to a significantly unfortunate, traumatic and disturbing occurrence in her life rather than someone acting out of malice, rancour or with any hope of personal gain.

5. Students have a reasonable expectation that teachers will not abuse their positions of trust and authority by engaging in physical sexual contact with them. Such actions fail to treat the student involved with dignity and respect.
6. Kirk brought dishonour and disrespect to the teaching profession by engaging in physical sexual contact with a student who was particularly vulnerable given the circumstances that she elected to relate to a trusted teacher and the fact that she was alone with him, relying on him for advice, counselling support and, indeed, even for a ride to her home.
7. Kirk was afforded the opportunity to come before the hearing committee but he chose not to be available to be examined on his version of events and to assist the committee in its search for the truth.

Charge 2

1. The committee did not find credible evidence to establish guilt and was left concerned that Kirk's purported admission regarding this charge was not substantiated by his affidavit or any corroborating evidence.

PENALTY

The hearing committee ordered that

1. Paul Kirk is declared ineligible for membership in the Association;
2. a recommendation be sent to the minister of education to cancel Paul Kirk's teaching certificate;
3. the Association send a letter of severe reprimand to Kirk;
4. the Association, upon receiving notice from the minister of education of the cancellation of Kirk's teaching certificate, notify all teacher certification bodies in Canada of Kirk's lack of standing.

REASONS FOR PENALTY

1. Kirk, while in a position of trust and authority, took advantage of Student A when she was a vulnerable student, thereby violating her right to safety and security.
2. Teachers must never engage in sexual activity with students.
3. Society views such actions as repugnant and reprehensible.

4. Kirk's actions showed disregard for society's expectations of teachers.
5. Society has a reasonable expectation that teachers will act in a manner that maintains a trust relationship with their students. Kirk exploited this relationship when he took advantage of Student A.
6. Kirk's actions harmed the honour and dignity of the profession.
7. The physical **sexual** contact caused significant emotional harm to Student A.
8. The youthful age of the victim, and the circumstances in which she relied on Kirk for help, guidance and support, exacerbated the severity of Kirk's breach of trust and authority. The responsibility for an appropriate teacher-student relationship rested solely with Kirk in his position of teacher and school administrator.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, December 6, 2005.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST BRUCE HAROLD KIRKLAND

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Bruce H Kirkland of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Friday, March 15, 2002 at 0900.

Professional Conduct Committee members present as the hearing committee were Ron M Dittmann (chair), Judith L Edge, Ron R St Jean and Sandy Antonini. Richard W Rand of Frohlich Rand Kiss was counsel to the hearing committee, Marc C Arnal was secretary and Leslie A Kaun was recorder. Susan M Fraser presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

The prosecuting officer, S Fraser, did not object to the composition nor the jurisdiction of the committee to hear the case.

AMENDMENT OF CHARGE

On application by the prosecuting officer, Charge 1 was amended such that a typographical error referencing "October 3, 2002" was changed to read "October 3, 2001".

PLEA

The following charges were then read by the secretary to the hearing committee:

- 1 Bruce Kirkland is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, based on the events that occurred between September 1, 1986 and December 31, 1986, both dates inclusive, at or near Edmonton, Alberta, was convicted on October 3, 2001 of an indictable offence under Section 246.1 of the Criminal Code of Canada.

- 2 Bruce Kirkland is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between September 1, 1986 and December 31, 1986, both dates inclusive, at or near Edmonton Alberta, committed a sexual assault on Student name retracted. a student, thereby failing to treat him with dignity and respect and in consideration of his circumstances.
- 3 Bruce Kirkland is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between September 1, 1986 and December 31, 1986, both dates inclusive, at or near Edmonton, Alberta, in that he committed a sexual offence against a young person, thereby failing to maintain the honor and dignity of the profession.

The investigated member, by way of written submission, entered a plea of "guilty" to each of the charges.

WITNESSES

No witnesses were called.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. B Kirkland was employed by Edmonton School District No 7 as a teacher from September 1976 to June 1999. (Exhibit C)
2. B Kirkland was a member of the Alberta Teachers' Association at the time of the actions which led to his conviction under the *Criminal Code*. (Exhibit C)
3. From September 1980 to June 1999, B Kirkland was a teacher at School name redacted. School in Edmonton. He was the head of the Physical Education Department from 1982 to 1999. As well, he was assigned duties as a counsellor from 1989 to 1999. (Exhibit C)

4. B Kirkland resigned as a teacher from Edmonton School District No 7 in June 1999. (Exhibit C)

5. B Kirkland pled guilty to one charge of sexual assault under Part XIX (indictable) of the Criminal Code as follows:

Between the 1st day of September, 1986 and the 31st day of December, 1986, both dates inclusive, at or near Edmonton, Alberta, committed sexual assault on [Student name redacted.] contrary to section 246.1 of the Criminal Code of Canada. (Exhibit C)

6. [Student name redacted.] was a student at [School name redacted.] School, although not a student of B Kirkland. [Student name redacted.] attended a gathering of students at B Kirkland's home. Because there was some liquor consumed (not supplied by B Kirkland), several students stayed overnight. [Student name redacted.] chose to sleep in B Kirkland's bed while others slept in a spare room or in the living room. At some point during the night, B Kirkland touched [Student name redacted.] [Student name redacted.] in a way that [Student name redacted.] found offensive. [Student name redacted.] rolled away and the touching stopped. (Exhibit C)

7. After the incident, [Student name redacted.] continued to visit B Kirkland at his home. [Student name redacted.] continued to maintain contact by telephone with B Kirkland after graduation. [Student name redacted.] indicated that there were no further incidents. (Exhibit C)

8. B Kirkland pled guilty to the offence. (Exhibit C)

9. The honorable Mr Justice Marceau sentenced B Kirkland to a term of 12 months to be served in the community. (Exhibit C)

10. The arrest and conviction were widely reported in the newspapers.

(Exhibit F)

11. B Kirkland was forthright and cooperative with the investigating officer.

(Exhibit C)

12. B Kirkland expressed remorse for his actions and wished to cooperate in bringing closure to this matter. (Exhibit C)

13. B Kirkland recognized that he has contravened the Code of Professional Conduct. (Exhibit C)

DECISION OF THE HEARING COMMITTEE

The hearing committee accepted the guilty plea on each of the three charges.

PENALTY

The hearing committee imposes the following penalties on B Kirkland:

Charge 1 — eligibility for membership in the Alberta Teachers' Association be suspended for a period of five years and that a recommendation be made to the minister of learning that the defendant's teaching certificate be suspended for a period of five years.

Charge 2 — eligibility for membership in the Alberta Teachers' Association be suspended for a period of five years and that a recommendation be made to the minister of learning that the defendant's teaching certificate be suspended for a period of five years.

Charge 3 — eligibility for membership in the Alberta Teachers' Association be suspended for a period of five years and that a recommendation be made to the minister of learning that the defendant's teaching certificate be suspended for a period of five years.

The hearing committee directs that the suspensions of membership be served concurrently. The committee also recommends that the suspensions of certificate be served concurrently.

A fine in the amount of \$500 on each charge for a total of \$1,500 to be paid by B Kirkland to The Alberta Teachers' Association.

REASONS FOR PENALTY

1. A teacher who is convicted of an indictable offence is guilty of unprofessional conduct.
2. As a teacher, B Kirkland was in a position of trust and authority over Student name redacted. when the assault occurred. As such, he failed to treat Student name redacted. with dignity and respect and to be considerate of his circumstances.
3. Society has a right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. B Kirkland violated this trust relationship.
4. A teacher should not be engaged in sexual activity with students. Society views such actions as repugnant and reprehensible.
5. A teacher convicted of an indictable offence brings dishonor and disrepute to the profession.
6. B Kirkland's arrest and conviction were widely reported in the media, which exacerbated the damage to the profession.
7. B Kirkland pled guilty in court to the charge against him, thereby sparing Student name redacted. the need to testify. (Exhibit G)
8. B Kirkland was fully cooperative with the investigating officer in this matter and acknowledged his guilt. (Exhibit G)
9. The court sentenced B Kirkland to serve his sentence in the community as he was deemed to be of low risk to the community .
10. The nature of the offence was described by the Court as not being a major sexual assault. (Exhibit E)
11. The offence was an isolated incident. Although Student name redacted. spent time with B Kirkland after the assault in question, there was no repeat of the behavior.

Report of the Hearing Committee of PCC
Kirkland, page 6

Dated at the City of Edmonton in the Province of Alberta, Friday, March 15, 2002.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST GARY JOHN KOZENS

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Gary John Kozens of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, December 5, 2002 at 0900.

Ihor Z Kruk presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

The committee was advised of a court-ordered ban prohibiting the publishing of names of any victims of the member and accordingly, the committee directed that the student referenced in these proceedings be only described hereafter as "Student A."

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee.

1. Gary John Kozens is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, based on events that occurred between December 31, 1980 and December 31, 1981, both dates inclusive, was convicted of an indictable offence on September 26, 2002, under section 149(1) of the *Criminal Code*.
2. Gary John Kozens is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between December 31, 1980 and December 31, 1981, both dates inclusive, at or near Edmonton, Alberta, did partake in sexual activities with Student A, a student, thereby failing to treat her with dignity and respect and in consideration of her circumstances.

The investigated member entered a plea of guilty to each of the charges by means of a written submission. The hearing committee accepted the guilty plea on both charges.

PENALTY

The hearing committee of the Professional Conduct Committee assessed the following penalty:

1. Charge One: cancellation of G Kozens' membership in the Alberta Teachers' Association and a recommendation to the minister of learning that G Kozens' teaching certificate be cancelled.
2. Charge Two: cancellation of G Kozens' membership in the Alberta Teachers' Association and a recommendation to the minister of learning that G Kozens' teaching certificate be cancelled.

REASONS FOR PENALTY

1. Society has the right to expect that teachers will act in a manner which establishes and maintains the trust relationship between teachers and students. G Kozens' behaviour betrayed that trust.
2. Society has the right to expect that teachers will not indecently assault students or engage in sexual activities with students. G Kozens' actions showed disregard for societal expectations of teachers.
3. Teachers who engage in such deplorable activities create a negative impact on their victims, on families, on communities and on the teaching profession.
4. Society has the right to expect that a teacher will form appropriate relationships which will preserve the dignity and respect of students. G Kozens acknowledged that his behaviour was inappropriate.
5. G Kozens' behaviour was deplorable, reprehensible and repugnant in that he used his teaching position to exploit a young female student for sexual purposes.
6. The profession expects that teachers will act in a manner which maintains the honour and dignity of the teaching profession. Through his actions, G Kozens violated those expectations.

Dated at the City of Edmonton in the Province of Alberta, Thursday, December 5, 2002.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST JAMEY BRIAN KRISTIAN

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Jamey Brian Kristian of Red Deer, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, March 15, 2017 at 0930.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Jamey Brian Kristian is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between July 1, 2012 and October 31, 2012, engaged in conduct for which he, on September 15, 2015, was convicted of an indictable offence, to wit: Did, for a sexual purpose, touch, directly or indirectly, with a part of the body or with an object, a part of the body of a person under the age of sixteen years, contrary to section 151 of the *Criminal Code of Canada*.
2. Jamey Brian Kristian is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between August 1, 2012 and January 31, 2013, engaged in conduct for which he, on September 15, 2015, was convicted of an indictable offence, to wit: Did, surreptitiously observe or make visual recording of persons in circumstances that give rise to a reasonable expectation of privacy and did thereby commit voyeurism in various changerooms, contrary to section 162(1)(A) of the *Criminal Code of Canada*.
3. Jamey Brian Kristian is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between July 1, 2012 and October 31, 2012, engaged in conduct for which he, on September 15, 2015, was convicted of an indictable offence, to wit: Did, make, print, publish, or possess for the purpose of publishing, child pornography depicting a child, contrary to section 163.1(2) of the *Criminal Code of Canada*.
4. Jamey Brian Kristian is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between September 1, 2012 and January 31, 2013, engaged in conduct for which he, on

September 15, 2015, was convicted of an indictable offence, to wit: Did, make, print, publish, or possess for the purpose of publishing, child pornography (various changerooms), contrary to section 163.1(2) of the *Criminal Code of Canada*.

5. Jamey Brian Kristian is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between March 5, 2006 and January 24, 2014, engaged in conduct for which he, on September 15, 2015, was convicted of an indictable offence, to wit: Did, possess child pornography, contrary to section 163.1(4) of the *Criminal Code of Canada*.
6. Jamey Brian Kristian is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between June 23, 2007 and June 22, 2012, engaged in conduct for which he, on September 15, 2015, was convicted of an indictable offence, to wit: Did, commit a sexual assault upon a child, contrary to section 271 of the *Criminal Code of Canada*.

In the absence of the investigated member, the chair directed a plea of not guilty to each of the charges.

DECISION OF THE HEARING COMMITTEE

- Charge 1—guilty
- Charge 2—guilty
- Charge 3—guilty
- Charge 4—guilty
- Charge 5—guilty
- Charge 6—guilty

REASONS FOR DECISION

1. The findings of guilt are based on the evidence that Kristian, while a member of the Alberta Teachers' Association, engaged in misconduct for which he subsequently was convicted of six indictable offences under the *Criminal Code* and pursuant to section 41(2) of the *Teaching Profession Act*.

PENALTY

The committee imposes the penalty of

1. permanent ineligibility of membership in the Alberta Teachers' Association and
2. a recommendation to the minister of education for permanent cancellation of Kristian's teaching certificate.

REASONS FOR PENALTY

1. Kristian was convicted of six indictable offences under Canada's *Criminal Code* [sections 151, 162(1)(A), 163.1(2), 163.1(2), 163.1(4), and 271] for which he was sentenced to a lengthy prison term in a federal penitentiary.
2. There was evidence of planned predatory behaviour, including grooming of students, over extended periods of time, various circumstances, and settings. These acts involved at least three minor children. (Exhibit 10)
3. Kristian preyed on vulnerable students causing them severe emotional and psychological damage. This reprehensible behaviour caused harm to the students and their families.(Exhibit 10)
4. Kristian took advantage of his position of authority and trust to exploit minors. (Exhibit 10)
5. At a minimum, the public has a right to expect that children will be protected from the heinous acts and behaviours in which Kristian engaged.
6. Kristian failed to demonstrate respect for the students he abused and as such, failed to maintain the honour and dignity of the profession.
7. The egregious nature of the offences requires that Kristian be permanently removed from the teaching profession. (Exhibits 3 through 8)

Dated at the City of Edmonton in the Province of Alberta, Wednesday, March 29, 2017.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST DOUGLAS B LANG

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Douglas Lang of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held online, via video conference, on Monday, June 14, 2021 at 0900.

The participants were:

1. Professional Conduct Committee members appointed as the hearing committee JoAnn Blachford (chair), Brenna Liddell and Nelson Moulton;
2. Richard Rand of Rand & Company LLP as counsel to the hearing committee;
3. Shelley Magnusson as secretary;
4. Sudeep Dua as recorder; and
5. Dan Coles as presenting officer assisted by Tanya Thiessen.

The investigated member, Douglas Lang, was not present and was not represented by counsel.

COMPOSITION/JURISDICTION

There were no objections to the composition of the hearing committee or its jurisdiction to hear the case.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Douglas Ben Lang is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the time period of or about October 16, 2018 to February 23, 2019, communicated using text messages with Student A about drug use and/or Lang's sexual activity and/or Student A's sexual activity and/or shared images and/or videos with Student A that were of a sexually graphic nature, thus failing to treat Student A with dignity and respect and failing to be considerate of Student A's circumstances contrary to article 4 of the Code of Professional Conduct.
2. Douglas Ben Lang is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the time period of or about February 2, 2019 to February 11, 2019, communicated using text messages with Student B about Lang's sexual activity and/or Student B's sexual activity and/or shared images and/or

videos with Student B that were of a sexually graphic nature, thus failing to treat Student B with dignity and respect and failing to be considerate of Student B's circumstances contrary to article 4 of the Code of Professional Conduct.

The investigated member entered a plea of guilty to each of the two charges, by written submission. (Exhibit 3)

WITNESSES

There were no witnesses called.

EXHIBITS FILED

- Exhibit 1—Declaration of awareness of rights, signed by Lang, dated May 21, 2021
- Exhibit 2—Notice of hearing and Canada Post confirmation of delivery on May 11, 2021
- Exhibit 3—Submission on plea, signed by Lang, dated May 21, 2021
- Exhibit 4—Proof of Lang's membership in the Alberta Teachers' Association from September 1, 2017 to March 31, 2019
- Exhibit 5—Agreed statement of facts and appendices, signed by Lang and Coles, dated May 21, 2021 and May 26, 2021 respectively
- Exhibit 5—Joint submission on penalty, signed by Lang and Coles, dated May 21, 2021 and May 26, 2021 respectively

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED

1. Lang was confirmed to be a member of the Alberta Teachers' Association during the period of September 1, 2017 and March 31, 2019. (Exhibit 4)
2. Lang taught fulltime in the High Prairie School Division (formerly High Prairie School Division No 48) during the 2017/18 and 2018/19 school years at [*name of school redacted*]. (Exhibit 5)
3. Lang met Student A during the 2017/18 school year when he taught him social studies. (Exhibit 5)
4. Lang also knew the family of Student A, specifically Student A's mother as they were planning an international trip for students. (Exhibit 5)
5. Lang acted as a mentor for Student A. (Exhibit 5)
6. Lang did not teach Student A during the 2018/19 school year. (Exhibit 5)

7. Lang would converse in person with Student A in the school hallways or if Student A stopped by Lang's classroom. Student A would sometimes eat his lunch in Lang's classroom. (Exhibit 5)
8. Lang was suspended by the school division on March 4, 2019. (Exhibit 5)
9. Lang resigned on March 8, 2019. (Exhibit 5)
10. On March 14, 2019, Lang was charged with four offences related to providing a child with sexually explicit material and child luring. The Crown stayed those charges and they were never proven in court. (Exhibit 5)
11. Lang was a member of the Association at all relevant times related to the charges against him. (Exhibit 4)
12. Lang was 58 years old with 34 years of teaching experience at the time of the charges. (Exhibit 6)

Charge 1

13. Lang used the Facebook Messenger application to communicate with Student A.
14. Lang sent messages to Student A between October 16, 2018 and February 23, 2019. (Exhibit 5, appendix A)
15. Messages included text-based messages, pictures and videos of a sexually explicit nature shared between Lang and Student A. (Exhibit 5, appendix A)
16. Messages included text-based messages and pictures related to drug usage shared between Lang and Student A. (Exhibit 5, appendix A)
17. Examples of messages between Lang and Student A include the following (Exhibit 5, appendix A):
 - a. On or about October 24, 2018, Student A sent Lang a video from the website eBaum's World. Student A then sent a picture of four vaginas to Lang with the title, "Mileage chart." Lang replied with an image of a naked female body edited to appear as though a piece of cake had been cut from the female's [buttocks] and there is a candle with the number 18 that appears on the female figure's upper [buttocks] and lower back.
 - b. On or about October 24, 2018, Lang sent to Student A an image of a vagina with what appears to be male ejaculate dripping from the vagina.
 - c. On or about November 6, 2018, Student A sent a video to Lang with the title, "Your girlfriend is out of control AGAIN" to which Lang replied, "I get them soooooooo [sic] hot!!"

- d. On November 18, 2018, Lang sent a message to Student A that read, “So, how did things go last night?!”
 - e. Student A responded, “Didn’t happen but got close my man.”
 - f. Lang responded, “Keep the condoms handy. I am glad you asked for them.”
 - g. Student A replied that he would. Lang stated, “I made use of a couple of Bare Skins last night.”
 - h. Student A stated, “You get more ass then most people I know.”
 - i. Lang responded, “Dare I say, I am good at what I do!!”
 - j. On January 1, 2018, Lang sent a message to Student A, which stated, “So, have you gotten lucky these holidays?” Student A replied, “Close but not yet im [*sic*] still tryin [*sic*].” Lang replied, “Just be patient” to which Student A replied, “Yeup [*sic*] trin [*sic*] to make you proud.” Lang replied, “Ha ha. Just make yourself proud.” and “And have strong orgasms!!!”
 - k. Lang shared images promoting the use of marijuana and made several references with and to Student A regarding drug and alcohol use.
 - l. Lang shared a series of messages to and with Student A inviting him to meet Lang at his place for a quick high.
18. Lang acknowledged that he could not separate his professional role as a teacher with his personal life.

Charge Two

19. Lang used the Facebook Messenger application to communicate with Student B.
20. Lang sent messages to Student B between February 2, 2019 and February 11, 2019.
21. Examples of messages between Lang and Student B include the following (Exhibit 5, appendix B).
- a. On February 4, 2019, without any message being received from Student B, Lang sent an image of what appears to be a vagina lying on concrete. The captions on the image stated, “It’s so cold outside” and “Somebody’s pussy fell off.”
 - b. On February 4, 2019 at 10:56 PM Lang messaged the student a picture from a weather forecast with the comment, “Wow what a large cock” and then continued with the comment, “Nice stroking by the weatherman.”
 - i. Further messages included Lang advising Student B, “Don’t get so drunk that you aren’t sure which liquid you drink and which is the lube!! If you use lube, that is!!”
 - ii. Student B responded, “Lol. Nah just a good ol [*sic*]curtesy spit will do”
 - iii. Lang responded, “Yikes, must hurt your partner if you do anal” and “ouch!!! Actually lube works well if you put a bit inside the condom. Trust me.”
 - c. On February 5, 2019, Student B wrote to Lang, “School is cancelled,” and then, “We’ll [*sic*] busses are at least.” Lang responded, “Exactly. I am sitting here thinking all sorts of rude fantasies!” Student B replied, “Lol. We can think together if me and (name redacted) come in.” Lang replied, “I am already getting hard.” Student B replied,

- “Hhahaha. [*sic*]” Lang, in response, wrote, “You make me laugh.” Student B replied, “U [*sic*] make me laugh!!” Lang stated, “Do come see me if you venture in to school.”
- d. On February 5, 2019, in the 12:55 PM communications, a series of graphic videos and pictures were shared between Student B. Lang then commented, “you are one kinky bastard! And I love it!!! We need to trade/share our own kinky stories!!!”
 - e. On February 5, 2019 a video titled, “I heard youve [*sic*] got a sweet tooth” was shared by Student B. with a comment from Student B, “lol when u come back.” Lang responded, “how about a facial?!!!” to which Student B responded, “maybe” and Lang responded, “Again, such a tease.”

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

REASONS FOR DECISION

Charge 1

1. Lang, by his own admission stated that he had communicated using text messages with Student A about drug use and/or Lang’s sexual activity and/or Student A’s sexual activity and/or shared images and/or videos with Student A that were of a sexually graphic nature, thus failing to treat Student A with dignity and respect and failing to be considerate of Student A’s circumstances contrary to article 4 of the Code of Professional Conduct.
2. Evidence from Facebook Messenger confirmed that Lang engaged in multiple inappropriate graphic conversations with Student A.
3. Evidence from Facebook Messenger showed that Lang sent and received multiple sexually explicit images with Student A.
4. Evidence from Facebook Messenger showed that Lang sent and received multiple sexually explicit videos with Student A.
5. Evidence from Facebook Messenger showed that Lang sent and received multiple messages regarding drug use with Student A.
6. Any conduct of a member that, in the opinion of the hearing committee, is detrimental to the dignity of a student is unprofessional. The committee determined that Lang’s behaviour was unprofessional.

Charge 2

1. Lang, by his own admission stated that he had communicated using text messages with Student B and/or Lang's sexual activity and/or Student B's sexual activity and/or shared images and/or videos with Student B that were of a sexually graphic nature, thus failing to treat Student B with dignity and respect and failing to be considerate of Student B's circumstances contrary to article 4 of the Code of Professional Conduct.
2. Evidence from Facebook Messenger confirmed that Lang engaged in multiple inappropriate graphic conversations with Student B.
3. Evidence from Facebook Messenger showed that Lang sent and received multiple sexually explicit images with Student B.
4. Evidence from Facebook Messenger showed that Lang sent and received multiple sexually explicit videos with Student B.
7. Any conduct of a member that, in the opinion of the hearing committee, is detrimental to the dignity of a student is unprofessional. The committee determined that Lang's behaviour was unprofessional.

SUBMISSION ON PENALTY

1. The hearing committee received a written joint submission on penalty from Coles and Lang recommending the following penalty:
 - a) A letter of severe reprimand
 - b) A fine of \$2,000.00 to be paid within 12 months of receipt of the written decision. Failure to pay the fine will result in the member being declared ineligible to apply for re-instatement
 - c) A declaration that Lang is permanently ineligible for membership in the Alberta Teachers' Association and
 - d) A recommendation to the minister of education to cancel Lang's teaching certificate.
2. In presenting the submission, Coles noted that Lang had participated in the development of the submission to the committee and had plead guilty to the charges.
3. Coles submitted that the penalty was appropriate given the circumstances.
4. Coles referred to three precedent cases with similar facts to support the joint submission on penalty.

PENALTY

The hearing committee imposed the following penalties:

1. A letter of severe reprimand
2. A declaration that Lang is permanently ineligible for membership in the Alberta Teachers' Association,
3. A fine of \$2,000.00 to be paid within 365 days of receipt of the written decision. and until the fine is paid, the member will be declared ineligible to apply for re-instatement. This declaration is made in contemplation of the provisions of section 93 (1) and 95 (3) subsection (e) and (g) of the governing bylaws of the Alberta Teachers' Association in place on June 14, 2021 and
4. A recommendation to the minister of education to cancel Lang's teaching certificate.

REASONS FOR PENALTY

1. The hearing committee considered the joint submission on penalty. It recognized the requirement to provide a high level of deference to the joint submission and should only vary the recommendation if it is unreasonable, unfit or contrary to the public interest or if the recommendation brings the administration of justice into disrepute. The committee accepted the recommendation contained within the joint submission because, given the circumstances and relevant factors, it was reasonable, fit and within the public interest.
2. The hearing committee considered the following to be factors in its decision:
 - a. The nature and gravity of the charges were of a severe nature.
 - b. Lang was 58 years old at the time of the incidents. Lang had 34 years of teaching experience at the time of the incidents.
 - c. Lang has no previous convictions of unprofessional conduct.
 - d. Both students that Lang interacted with leading to the professional conduct charges were 15 years old at the time of the incidents.
 - e. Lang was suspended from his employment with the school division.
 - f. Lang resigned his position from the school division soon after allegations were brought forward.
 - g. Lang has acknowledged his behaviour and actions and is currently seeking counselling. Lang was cooperative with the investigating/presenting officer.
3. The public and the profession expect that teachers will behave in a manner that treats students with dignity and respect. The penalty reflects the profession's condemnation of Lang's reprehensible and unprofessional conduct.
4. The committee believes that Lang's actions could well have a long-term impact on the students and may have a negative effect on their future relationships. Significant harm must result in a significant penalty.

Decision of the Hearing Committee of PCC re D Lang, page 8

5. Society has the right to expect teachers will act in a manner that treats students with dignity and respect and will be considerate of their circumstances.
6. The public must be assured that teachers who do not uphold the values outlined in the Code of Professional Conduct will not go unpunished.
7. Lang's behaviour demonstrates that he is unfit to teach and should never again be part of the teaching profession.

Dated at the City of Edmonton in the Province of Alberta, Thursday, August 5, 2021.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST LISA LAPRADE

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Lisa Laprade of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, June 1, 2015 at 0900.

Professional Conduct Committee members present as the hearing committee were Wayne Prokopiw (chair), Roxane Holmes and Joe Rodgers. Katrina Haymond of Field LLP was counsel to the hearing committee, Gaylene Schreiber was secretary and Leslie Kaun was recorder. Joyce Sherwin, assisted by Robert Mazzotta, presented the case against the investigated member. The investigated member, Lisa Laprade, was present and was represented by Elvis Iginla, of Iginla & Company, assisted by Sarah Miller, student-at-law.

CONSTITUTION/JURISDICTION

The hearing committee received three documents (Exhibits 2, 3 and 4) that had information pertaining to Laprade's certification and her employment, but did not specify whether Laprade was a "member" of the Association during the relevant period. The committee sought clarification from the parties, heard submissions from Laprade regarding her employment and certification history, and received advice from counsel to the committee. The committee has jurisdiction to consider complaints with respect to an "investigated person", which is defined in section 16 of the *Teaching Profession Act* ("the act") as a "member" of the Association or if section 24(4) of the act applies, a "former member." A "member" is defined in section 1(f) of the act as a member in good standing of the Association. The committee was satisfied that it had jurisdiction to hear the case, based on Exhibit 4 which showed that the Association had received fees for Laprade's membership, remitted by her employer, beginning December 1, 2012 and ending August 31, 2013. As such, she was a "member" as contemplated in the act during that period of time, and the committee has jurisdiction to consider unprofessional conduct during that period of time.

There were no objections from Iginla or Sherwin to the jurisdiction of the committee to hear the case.

Report of the Hearing Committee of PCC re L Laprade, page 10

3. If Laprade's conduct was not caused by her medical condition, there is no legitimate excuse for her conduct.
4. If Laprade's medical condition did cause her to engage in the behaviour that was the subject of the hearing, then her medical condition presents a significant risk to the public and she is not safe to return to work as a teacher.
5. Laprade was 39 years old when the incidents occurred, and was 20 years senior to Student E. She had significant experience as a teacher and ought to have known better.
6. All teachers must comply with the Code of Professional Conduct.
7. Laprade has not made restitution, has not offered an apology for her conduct, and has demonstrated a lack of remorse. In fact, the only excuse she has offered was that she was mentoring Student E. Laprade is not a counsellor and had no qualifications to mentor Student E with respect to any issues he was facing.
8. Student E was an at-risk student and therefore, Laprade's conduct was even more serious.
9. The optics of what occurred caused problems within the school and in the community. Thomas had to expend time and energy dealing with the ramifications.
10. Laprade did not cease the inappropriate relationship, despite being ordered to do so.
11. The penalty sought is consistent with precedent cases, including Fayad (2013), Lim (2012), Mastel (2014) and Hansen (2006).
12. In the circumstances, it would be inappropriate for Laprade to return to the classroom as the degree of risk to the public is too significant.
13. In addition, the penalty should send an appropriate message to the public.

Submissions of Defence Counsel

Iginla recommended a penalty of a \$5,000 fine, noting that Laprade was currently unemployed. As well, he suggested that Laprade would be willing to submit to any directions from the committee regarding future monitoring of her health and conduct.

Iginla submitted the following:

1. Laprade was diagnosed, at the age of 23, with bipolar disorder, which causes mood swings and may cause sexual indiscretions and a lack of judgment. He indicated that Laprade's conduct was out of character, and was due to her medical diagnosis, noting that she had

diminished capacity due to her medical condition. Therefore, it is inappropriate to hold her to the same standard.

2. Laprade has been vigilant about monitoring her health condition; however, she did confide to certain people within the school district that she was concerned about her mental state.
3. At some point, Student E confided in her that he also had bipolar disorder. Given that they both had the same medical condition, she tried to mentor and guide him. Her decisions were misguided but it was her compassion for Student E that led her to make poor decisions.
4. Laprade did not believe that the relationship was inappropriate, given that she did not believe that Student E was her student after the spring of 2013.
5. She has no history of misconduct and has admitted responsibility for her actions.
6. The cases cited by Sherwin are distinguishable because none of the members had any medical issues and therefore there were no mitigating factors as is the case here.
7. Laprade's moral culpability is diminished due to her medical condition.
8. In the circumstances, it is not appropriate to end her career, but is instead appropriate to impose conditions to ensure that there is appropriate monitoring of her behaviour.

After Iginla made his submissions, Miller reviewed a binder containing 12 court decisions where the courts specifically considered what principles should apply in sentencing to an offender who has a mental illness. Miller reviewed a written brief, outlining the facts and the principles articulated by the courts in each of those decisions.

The committee considered the submission on penalty as outlined by Iginla and Miller, including previous court decisions; principles in case law; and additional documents including medical definitions, letters from attending psychiatrists, and a letter from Laprade's father (Exhibits 6 and 7).

Considerations of the Committee

1. The committee found that Laprade suffers from bipolar disorder, a thyroid condition, anxiety and depression. She was diagnosed with bipolar disorder at the age of 23. Laprade continues to suffer with these ailments.
2. The committee reviewed the DSM-IV, the *Diagnostic and Statistical Manual of Mental Disorders*, the standard criteria for the classification of mental disorders of the American Psychiatric Association. The DSM-IV-TR #296.0-296.89 describes bipolar disorder as an episodic illness characterized in most patients by the intermittent, lifelong appearance of

episodes of illness in between which most patients experience an interval in which they more or less return to their normal state of health.

3. The committee considered that Laprade was in the care of a doctor for these illnesses at the time of the events which led to the charges, spoke to her doctor about her mental health concerns at the time, and continues to engage actively in treatment. The committee found that this showed that Laprade was aware of her illness and was taking steps to mitigate its symptoms.
4. The committee also considered the seriousness of the conduct. Although the conduct is extremely serious and is far outside of the range of conduct that is expected of members of the profession, for the reasons noted above, the committee did not find that Laprade and Student E actually engaged in a sexual relationship.

Court Decisions Reviewed

1. The committee put significant weight on the court decisions and case law provided by Miller as it relates to sentencing principles of proportionality and blameworthiness of an individual suffering from a mental disorder. Although the cases were primarily decided in the criminal context, the principles in the cases are equally applicable in the professional discipline context.
2. In *R. v. Ayorech*, 2012 ABCA 82, the Court of Appeal held that “mental disorders...can significantly mitigate a sentence, even if the evidence does not disclose that the mental illness was the direct cause of the offence or that it was carried out during a period of delusions, hallucinations, or such.” The court, citing *R. v. Resler*, also held that the “gravity of the offence is not, of course, lessened by the personal circumstances of the offender. However, the mental disorder diminishes the degree of responsibility of the offender. Impaired reasoning, delusional disorders, and like mental conditions distinguish those afflicted from the ordinary offender who is fully accountable for his or her conduct.”
3. In *R. v. Ayorech*, the Alberta Court of Appeal also noted that “the relative importance of deterrence and denunciation is attenuated when sentencing mentally ill offenders. This principle applies even if there is little prospective of complete cure and rehabilitation.”
4. Other court decisions were presented (*R. v. Resler*, 2011 ABCA 167; *R. v. Muldoon*, 2006 ABCA 321; *R. v. Tremblay*, 2006 ABCA 252; and *R. v. Legg*, 2014 ABPC 238) that supported the finding articulated in *R. v. Ayorech*.
5. In *R. v. Legg*, the court also referenced a number of cases to support the conclusion that an offender’s bipolar disorder was an exceptional circumstance that reduced the accused’s moral blameworthiness.

Precedent Cases Reviewed

The committee also considered the precedent cases cited by the presenting officer, ie, Fayad 2013, Lim 2012, Mastel 2014 and Hansen 2006

1. In the case of Fayad, the committee considered that the charges for which Fayad was found guilty included charges of having a sexual relationship with a student. In contrast, there was no conclusive evidence nor charges of a sexual relationship between Laprade and Student E. Therefore, the committee considered that the precedent value was limited.
2. In the case of Lim, the charges included Facebook conversations with a Grade 12 student that were personal, romantic and sexually explicit. In this case, the committee saw similarities between the type and nature of the communication and the age of the student, but was not presented with evidence to support a pattern of grooming in Laprade's behaviour. The order for Lim was a three-year suspension of membership in the Association and a recommendation to the minister of education for a three-year suspension of Lim's teaching certificate.
3. In the case of Mastel, the charges included a male teacher and his grooming of a high risk junior high school female student. There was evidence of physical intimacy of a sexual nature. In this way, the case differed from Laprade. The order against Mastel comprised ineligibility for membership in the Association and a recommendation to the minister of education to cancel his certificate.
4. In the case of Hansen, the male teacher was found guilty of having an inappropriate teacher-student relationship which consisted of a pattern of grooming, over a period of time, with a high school, female student, for the purposes of escalating the relationship to a sexual one. In this case, there was inappropriate communication that was similar to Laprade's. The committee saw the Hansen case differently than Laprade's in that his behaviour included a sustained pattern of grooming, whereas grooming was not specifically alleged against Laprade. The order against Hansen comprised ineligibility for membership in the Association and a recommendation to the minister of education to cancel his certificate.

In each of the precedent cases cited by Sherwin, there was no indication in the reports to suggest that a mental health condition of the investigated member may have been a mitigating factor in considering penalty.

Other Considerations

1. The committee also considered the following mitigating factors:
 - a) Laprade had been teaching for a number of years, in a variety of settings and had no reports of previous misconduct.
 - b) Although Sherwin argued that the hearing committee should consider the fact that

Laprade did not apologize for her behaviour, the failure to offer an apology is not an aggravating factor, particularly where the member admits responsibility for her conduct, as is the case here.

- c) Through Miller, Laprade expressed remorse for the harm caused to the profession.
 - d) The committee noted that although there were four discrete charges, they all stemmed from the same actions and events.
2. The committee considered the following aggravating factors:
 - a) Laprade was initially dishonest during the school investigation.
 - b) Laprade continued to have a relationship with Student E after she had been given clear instruction to cease, and after the concerns of her colleagues and the community were revealed to her.
 - c) Until the hearing was held, Laprade continued to make excuses for her behaviour and attributed her involvement to a mentoring relationship with Student E.
 - d) Although Student E was 19 years old, he was an at-risk student.
 3. If Laprade did not have a mental illness, the principle of general deterrence would have been a significant factor and may have led the committee to order cancellation. However, as noted by the courts in *R. v. Ayorech* and the other cases cited on Laprade's behalf, general deterrence is not a significant factor when the offender is suffering from a mental illness. Although general deterrence is not a significant factor, the committee nevertheless determined that given the serious nature of the conduct, a period of suspension was nevertheless warranted. This will ensure that Laprade gets whatever treatment she needs, and will ensure that she understands the importance of the need for ongoing treatment to manage her illness should she return to the teaching profession.
 4. Although cancellation of certificate and eligibility for membership was not appropriate given the unique circumstances of this case, the committee ordered a penalty that recognizes the harm to Student E and contemplates protecting future students.
 5. The committee also sought to strike a balance between the harm to the public and the profession with due consideration to the potential impact of Laprade's illness on her actions.
 6. The committee views Laprade's actions as having constituted a serious offence against Student E, the community, the profession and the public's trust in the profession. The committee proportionately tempered the penalty to maintain the protection of students, the public and the profession as a primary obligation of the committee.
 7. Laprade has taken responsibility for her actions and is remorseful. The committee recognized the extenuating circumstances related to Laprade's mental health and balanced that with the gravity of the offence. The committee concluded that the penalty imposed strikes an appropriate balance.

Report of the Hearing Committee of PCC re L Laprade, page 15

8. Laprade is entitled to apply to Provincial Executive Council for reinstatement after the period of ineligibility has elapsed. Council may consider any information that is relevant to its determination, and may grant or refuse her application. If her application is granted, Council will be able to impose whatever conditions Council believes are appropriate to ensure that the public is protected from any risk of a recurrence of the behaviour attributable to Laprade's medical condition.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, June 3, 2015.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE
IN THE MATTER OF AN APPEAL BY PROVINCIAL EXECUTIVE COUNCIL
OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL
CONDUCT COMMITTEE WITH RESPECT TO CHARGES
OF UNPROFESSIONAL CONDUCT AGAINST LISA LAPRADE

The Professional Conduct Appeal Committee reports that the appeal by Provincial Executive Council of the decision of the hearing committee of the Professional Conduct Committee with respect to charges of unprofessional conduct against Lisa Laprade was heard in accordance with the *Teaching Profession Act* (TPA). The appeal hearing was held at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, March 14, 2016.

Professional Conduct Appeal Committee members present were Brenton Baum (chair), Karen Atkinson and Trevor Smith. Ayla Akgungor of Field LLP was counsel to the committee, Michael Kischuk was secretary and Leslie Kaun, assisted by Jean Archambault, was recorder. Joyce Sherwin, assisted by Robert Mazzotta, represented Provincial Executive Council, the appellant. The respondent, Lisa Laprade, was not present but was represented by Christopher Bataluk of Iginla & Company.

COMPOSITION AND JURISDICTION

There were no objections by the appellant to the composition or jurisdiction of the committee.

While Bataluk stated on the record, on behalf of the respondent, that he had no objections to the composition or jurisdiction of the committee to hear the appeal, he did raise a preliminary objection which had implications for the jurisdiction of the committee.

PRELIMINARY MATTER

The respondent objected to the timeliness of the appeal.

Submissions of the respondent on the preliminary objection

The respondent argued that Provincial Executive Council was out of time to advance its appeal and that there were concerns about procedural fairness. The respondent noted that Laprade's representative received the report of the hearing committee on or about July 6, 2015, commencing a 30-day window to advance an appeal in accordance with section 49(3)(a) of the TPA. At the end of the thirty days, Laprade believed the matter was closed.

The respondent submitted that Provincial Executive Council initiated its appeal on September 27, 2015, after an overly long delay, and that there was no reason the decision could not have been provided to members of Council at the same time as it was sent to Laprade. No explanation for the delay was provided.

The respondent argued that Council essentially had 90 days within which to advance an appeal and it was unfair that it would have a longer period within which to advance an appeal than Laprade. The respondent argued that there are many ways to deliver the decision to Council in a timely manner given modern communication technology. The respondent urged that the phrase “shall, on receiving the decision of a hearing committee” in section 47(2) of the TPA suggests immediacy in forwarding the decision to Council.

Submissions of the appellant on the preliminary objection

The appellant responded that the TPA prescribes the discipline process, including appeals, and the Association complied with all provisions of the TPA. The decision was served on Laprade’s representative on July 3, 2015 and was received by Laprade’s representative on July 6, 2015, consistent with sections 46 and 47(2)(a) of the TPA. Council received the decision on September 25, 2015 at its first meeting following the hearing, thus beginning its 30-day period for appeal. Council initiated its appeal on September 30, 2015, well within the 30-day appeal window specified in section 49(3)(b). The TPA allows for two different methods to provide the decision to the investigated member (the decision must be served on the investigated member) and to Council (the decision is to be forwarded to Council) and this may result in different dates of receipt of the decision for the investigated member and Council. The dates may be nonconcurrent. Council also extended the timeline for commencement of the appeal proceeding until March 31, 2016, consistent with section 50 of the TPA.

The appeal had initially been scheduled to commence on January 6, 2016 but was rescheduled to March 14, 2016 by the mutual consent of all parties.

Decision of the appeal committee on the preliminary objection

The appeal committee determined that the appeal timelines within the TPA had been followed and retained jurisdiction to hear the appeal for the following reasons:

1. Section 47 allows for two different methods for delivery of the decision to the investigated member and to Council.
2. The TPA prescribes a process for service of the decision on the investigated member. Section 47(2)(a) provides that the executive secretary shall, on receiving the decision of a hearing committee and the record of the hearing, serve a copy of the decision on the investigated person. Section 64 of the TPA requires that when a document must be served on any person pursuant to the TPA, it must be served personally, by registered mail or, in certain cases, by

publishing in a newspaper. In the present case, the decision was provided to Laprade by registered mail (Appendix B of the appeal record). In accordance with section 49(3)(a) of the TPA, Laprade had 30 days from the date that the decision was served on her (July 6, 2015) to appeal the decision of the hearing committee.

3. By contrast, the TPA does not prescribe a process for forwarding the decision to Council. In the present case, the decision was forwarded to Council by providing it to Council at its first meeting subsequent to the hearing, on September 25, 2015. In accordance with section 49(3)(b) of the TPA, Council then had 30 days from the date the decision was forwarded to Council (September 25, 2015) to appeal the decision of the hearing committee. Council filed its notice of appeal with the executive secretary on September 30, 2015 (Appendix C of the appeal record), well within its 30-day appeal timeline.
4. Having reviewed sections 47 and 49 of the TPA, it is clear that the statute contemplates different methods of providing the decision to the investigated member and to Council. As a result, the 30-day appeal period for each party may be triggered on different dates as contemplated in section 49(3)(a) and (b), respectively. Accordingly, Council's appeal in this matter is timely and the appeal committee retains jurisdiction to hear the appeal.

SUBMISSION OF THE APPELLANT ON THE MAIN APPEAL

On appeal, Council did not challenge the finding of guilt but instead appealed the penalty ordered by the hearing committee.

Council's basis for appeal was that the hearing committee misapplied a precedent case and the penalty was insufficient given the nature of the unprofessional conduct at issue.

The original order, in part, was a declaration that Laprade was ineligible for membership in the Association for a period of one year and a recommendation to the minister to cancel Laprade's letter of authority and declare Laprade ineligible for certification for one year. The remedy now sought by Council on appeal is a declaration that Laprade is permanently ineligible for membership in the Association and a recommendation that the minister declare Laprade permanently ineligible for certification.

The appellant submitted that the hearing committee incorrectly cited the precedent penalty in the Lim case as a three-year suspension of membership and recommendation for a three-year suspension of certificate when, in fact, it was a permanent suspension of membership and a recommendation for permanent suspension of certificate. The appellant submitted that this was a grave error and led to the hearing committee failing to properly weigh this precedent in its decision. This error resulted in a penalty order which was out of step with precedents for conduct of this nature.

The appellant argued that in this case the hearing committee was not presented with direct evidence identified as grooming but the findings in the hearing committee's report indicated that grooming did occur.

The appellant further argued that the hearing committee applied a double standard to Laprade, because she is female, and unfairly reduced the penalty. During the course of argument, the appellant made several references to studies and outside documents to support the position that the hearing committee reduced the penalty given to Laprade because she was female. The studies and documents referred to in the course of the appellant's submissions were not referred to in argument before the hearing committee and were not available to the hearing committee.

The appellant further noted there was evidence before the hearing committee that Laprade has an ongoing medical issue. The appellant argued that if the events that occurred arose from her medical issue, then the risk of a recurrence is great. If the events occurred independent of her medical issue, the penalty should not have been mitigated. In either case, the penalty ordered by the hearing committee was too light given the conduct in question.

OBJECTION OF THE RESPONDENT

The respondent objected to the appellant's submission that the hearing committee had ordered too light of a penalty due to gender bias. In particular, the respondent objected to the studies and documents being referred to by the appellant as including a significant amount of new evidence that was not properly in front of the appeal committee and was not properly disclosed to the respondent's counsel. Counsel for the respondent argued that this evidence prejudiced the committee and created a circumstance where the appeal committee was now tainted. As a result, the respondent sought a mistrial.

The appellant left it in the hands of the committee to determine if it wanted copies of the documents related to gender bias and whether the information should be used by the committee.

DECISION OF THE COMMITTEE ON THE OBJECTION

The appeal committee declined to grant the application of the respondent for a mistrial but determined that, in the circumstances and for the following reasons, it would place no weight on the studies or interpretation of the studies relied on by the appellant in support of its gender bias argument nor would it accept any related documentation.

The evidence related to gender bias was not provided to the hearing committee nor were arguments made before the hearing committee related to gender bias. In the circumstances, the appeal committee agrees that the studies and documents referred to by the appellant that relate to the gender bias argument amount to new evidence.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Lisa Laprade is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, between April 9, 2013 and December 20, 2013, engaged in an inappropriate relationship with a student, [Student name redacted.] thereby failing to treat the student with dignity and respect.
2. Lisa Laprade is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, between April 9, 2013 and December 20, 2013, made comments of a romantic nature, inappropriate for an acceptable teacher-student relationship, in text messages to [Student name redacted.] thus failing to treat the student with dignity and respect.
3. Lisa Laprade is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, between April 9, 2013 and December 20, 2013, engaged in extensive communications by telephone to a student, [Student name redacted.] where the frequency and/or hours of contact were inappropriate to the acceptable teacher-student relationship, thus failing to treat the student with dignity and respect.
4. Lisa Laprade is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, between April 9, 2013 and December 20, 2013, engaged in an inappropriate relationship with a student, thereby failing to maintain the honour and dignity of the profession.

The investigated member entered a plea of guilty to each of the charges.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

Exhibit 1—Notice of hearing and Canada Post confirmation of delivery, including related correspondence

Exhibit 2—Letter from the Association's treasurer, Monica Futerski, dated July 14, 2014

Exhibit 3—Agreed statement of facts, signed by Laprade and Sherwin, dated May 29 and May 31, 2015 respectively

Exhibit 4—Record of employment and payroll from Northland School Division No 61, for the period December 2012–August 2013, inclusive

While the appeal committee has the power to receive further evidence on an appeal in accordance with section 53(2)(b) of the TPA, section 53(2)(b) contemplates that leave to admit further evidence must be sought by the party seeking to admit the further evidence. In this case, the appellant did not seek leave to admit the further evidence. Further, the appeal committee was not provided with any reasons as to why the new evidence would not have been available to the hearing committee. Absent an application to admit further evidence, section 53 of the TPA contemplates that the appeal to the appeal committee must be founded on the decision of the hearing committee and the record of the proceedings before the hearing committee.

In addition, the evidence should not be admitted into these proceedings in any event as the authors of the studies are not present and not available to the respondent for cross-examination. As such, there is no way to assess the credibility or value of the information.

The appeal committee also considered that the objection to the evidence related to gender bias was not made until the appellant's presentation was concluded despite the appellant having made several references to the gender bias evidence throughout its submissions.

In the circumstances, the appeal committee declines to grant the respondent's application for a mistrial but has determined that it will not accept the evidence related to the gender bias argument nor will it place any weight on the references made by the appellant to the evidence supporting the gender bias argument.

SUBMISSION OF THE RESPONDENT ON THE MAIN APPEAL

The respondent argued that the hearing committee did not err in its decision. The hearing committee properly mitigated its order in consideration of the mental health of Laprade. There was no evidence of a medical condition being a mitigating factor in the precedents presented to the hearing committee by the Association. The courts have clearly considered mental health issues as an acceptable mitigating factor and Laprade's mental health should not be disregarded by the appeal committee. Deterrence is less of a factor in determining penalty when mental health issues are involved. Laprade's history clearly demonstrated that her mental health issues were ongoing.

The precedents advanced by the Association all involved minors and in this case, the student was an adult. The respondent argued that grooming is not possible when the student is not a minor.

The respondent argued that the decision of the hearing committee on penalty should not be varied on appeal.

DECISION OF THE COMMITTEE ON THE MAIN APPEAL

The hearing committee made the following orders for penalty:

1. A recommendation to the minister of education to cancel Laprade's letter of authority to teach, which serves as her teaching certificate
2. A recommendation to the minister of education that Laprade be ineligible for certification for one year
3. Laprade is ineligible for membership in the Association for one year
4. Laprade is ineligible to be reinstated as a member of the Association until she has provided the executive secretary of the Association with a letter from her treating psychiatrist confirming that
 - (a) the psychiatrist has reviewed a copy of the committee's report, dated June 3, 2015;
 - (b) to the best of the psychiatrist's knowledge, Laprade has been compliant with treatment recommendations; and
 - (c) Laprade is medically fit to return to practice as a teacher.
5. Any costs related to providing the required documentation in these orders shall be the responsibility of Laprade.

The decision of the appeal committee is that the penalty be varied to add

1. an additional two years of ineligibility for membership in the Association, for a total of three years, and
2. a recommendation to the minister of education for an additional two years of ineligibility for certification, for a total of three years.

The balance of the hearing committee's orders for penalty remains unaltered.

REASONS FOR DECISION ON THE MAIN APPEAL

1. An appeal committee must review the orders for penalty of the hearing committee using the standard of review of reasonableness. A decision will be unreasonable if there is no line of analysis within the given reasons that could reasonably lead the committee from the evidence before it to the conclusion at which it arrived. A standard of review of reasonableness means that the appeal committee must exercise deference in relation to the decision of the hearing committee. Using this standard of review, the decision is unreasonable if, given the evidence before the hearing committee, the decision falls outside the range of possible acceptable outcomes.
2. The hearing committee incorrectly cited the penalty in the Lim precedent. The order in Lim's case was a declaration of ineligibility for membership in the Alberta Teachers' Association and a recommendation to the minister of education to cancel Lim's teaching certificate. The hearing committee in Laprade's case cited this order as a three-year suspension of

membership and a recommendation to the minister for a three-year suspension of Lim's teaching certificate. This was an error.

3. Lim was one of four precedent cases considered. All the cases ordered a recommendation for cancellation of the teaching certificate and a declaration of ineligibility in the Association.
4. In its consideration of the Lim precedent, the hearing committee indicated that it saw similarities between the type and nature of the communication and age of the student but was not presented with evidence to support a pattern of grooming in Laprade's behaviour. It then noted that the penalty orders for Lim were a three-year suspension of membership in the Association and a recommendation to the minister of education for a three-year suspension of Lim's teaching certificate. It appears from the hearing committee's reasons for decision that it considered Laprade's conduct to be less serious than Lim's given its indication that it was not presented with evidence of grooming in Laprade's case. Accordingly, the hearing committee determined that a lesser penalty was appropriate for Laprade than that which had been ordered for Lim. However, given that the actual orders for penalty in Lim involved cancellation of certificate and cancellation of Association membership (as opposed to the three years of suspension of membership and certificate as considered by the hearing committee), the appeal committee finds that the hearing committee's consideration of the Lim precedent was unreasonable and resulted in orders for penalty that were insufficient in the circumstances.
5. The hearing committee considered that Laprade suffered from a mental condition and put significant weight on the precedent cases provided by Laprade which addressed the sentencing principles of proportionality and blameworthiness of an individual suffering from a mental disorder. It distinguished the cases relied on by the presenting officer (which all contained the penalties of cancellation) on the basis that none of the precedent cases involved situations of mental illness. The appeal committee is satisfied that the hearing committee acted reasonably in ordering a penalty less than cancellation of Association membership and certificate given the significant mitigating factor of Laprade's mental illness.
6. While the appeal committee is satisfied that the hearing committee acted reasonably in determining that cancellation of certificate and eligibility for membership were not appropriate in the unique circumstances of this case, the appeal committee finds that the hearing committee acted unreasonably in misapplying the Lim decision and accordingly ordering one year of ineligibility for certification and Association membership.
7. The appeal committee has determined that when the following factors are taken into account
 - (a) the seriousness of the conduct,
 - (b) the fact that the four precedents cited by the presenting officer before the hearing committee all ordered cancellation of membership and certification,
 - (c) Laprade's mental illness and
 - (d) the need to protect students and the public,

the appropriate penalty in this case should be orders for three years of ineligibility for membership in the Association and a recommendation to the minister of education for three years of ineligibility for teaching.

8. In argument, the respondent sought to distinguish the precedent cases presented to the hearing committee by noting that all of the precedent cases involved minors whereas the student at issue in this case was an adult. The appeal committee finds that the age of the student in question is of lesser significance in evaluating conduct of teachers. The significant factor is that a teacher is in a position of power in relation to the student. Accordingly, a significant penalty is still required notwithstanding that the student in question in this case was 19 years of age.

Dated at the City of Edmonton in the Province of Alberta, Friday, May 6, 2016.

Exhibit 5—E-mail from [Principal name redacted.] to Sherwin, dated May 30, 2015

Exhibit 6—Submission on penalty from Iginla (binder including tabs 1– 12)

Exhibit 7—Letter from Dr Cheri Cassity, dated May 28, 2015

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Laprade was a teacher at [School name and community redacted.] Alberta. She was employed as a teacher by Northland School Division No 61, under temporary contract. (Exhibits 3 and 4)
2. Student E, who was age 19 at the time, was Laprade’s student for approximately five weeks, between February and April 2013. (Exhibit 3)
3. Laprade’s relationship with Student E began as one of teacher to student, but shortly thereafter, the relationship became a subject of concern for other school staff. (Exhibit 3)
4. On May 10, 2013, [Principal name redacted.] verbally instructed Laprade and Student E to discontinue the friendship because it was creating concern and speculation within the community and was reported to him by members of school staff as being a matter of concern. (Exhibit 3)
5. On May 12, 2013, [Principal name redacted.] reiterated his direction to Laprade in an e-mail, instructing her to end her friendship with Student E, noting “teachers must be seen to be above reproach especially when working with students and former students.” He acknowledged that the community may misperceive her intentions and said she must let other school personnel counsel Student E. (Exhibit 3)
6. Assistant Principal [Principal name redacted.] noted that based on her supervisory observations, Laprade and Student E were too informal in their behaviours with one another, characterizing Laprade as “definitely flirting” with Student E. [Principal name redacted.] directed Laprade to stop the interactions immediately. Laprade responded that she was mentoring Student E, and [Principal name redacted.] told her to “Stop it now.” (Exhibit 3)
7. On June 24, 2013, Lester George, a community counsellor involved with the anti-gang initiative Student E was attending, reported to [Principal name redacted.] that Student E, while sitting beside him in church, showed him two text messages received by Student E from Laprade. The first one read, “Do I turn you on?” The second text read, “Do I make you hard?” (Exhibit 3)
8. Student E confirmed to [Principal name redacted.] that he showed these messages to George. (Exhibit 3)
9. Student E said Laprade showed texts to him that were sent to her by George. Student E characterized these texts as “perverted stuff.” (Exhibit 3)

10. Dwayne Yellowknee is an addictions counsellor in the community who knew Student E and was also involved with the anti-bullying task force activities. Yellowknee reported that Student E told him that he had drinks with, and slept with, Laprade at her home. Yellowknee advised Student E to stay away from Laprade, who was age 39 at the time, noting she was too old for him. This advice angered Student E. (Exhibit 3)
11. [School staff name redacted.] the school secretary, said he was beginning to field questions from parents in the community who had seen Student E and Laprade walking together. Student E was reported to have been seen walking near Laprade's resident in the early hours of the morning. [School staff name redacted.] observed behaviour such as giggling and physical contact that he thought looked a lot like a sexual or romantic relationship. (Exhibit 3)
12. [School staff name redacted.] family school liaison, said students reported to her that there was an inappropriate relationship between Student E and Laprade. She witnessed them walking together and thought they looked like boyfriend and girlfriend. (Exhibit 3)
13. [Principal name redacted.] conducted an investigation when further concerns about the relationship between Laprade and Student E were brought to his attention at the end of June 2013. [Principal name redacted.] spoke to Laprade on June 25, 2013. (Exhibit 3)
14. In her written response to allegations raised, dated June 27, 2013, Laprade acknowledged that she knew she was to have no further contact with Student E and indicated she ceased all contact with Student E after receiving such direction from [Principal name redacted.] (Exhibit 3, Appendix E)
15. Contrary to her written statement of June 27, 2013, Laprade's phone records, spanning the period of May 13 to December 12, 2013, clearly indicate that she and Student E continued to have telephone conversations. The telephone records indicate that the calls were frequent, often lengthy in duration, and often occurred between 8:00 pm and midnight, and even as late as 4:00 am. (Exhibit 3, Appendix C)
16. Initially, when questioned by [Principal name redacted.] Student E adamantly denied having a sexual relationship with Laprade. However, on December 13, 2013, Student E visited [Principal name redacted.] of his own accord, and reported that he was involved in a sexual relationship with Laprade. (Exhibit 3)
17. There are discrepancies between the two interviews conducted by the investigating officer, with Student E, which create internal inconsistency concerns regarding his allegation of having a sexual relationship with Laprade. (Exhibit 3)
18. Student E was able to provide unique details regarding the inside of Laprade's residence that put it within the balance of probabilities that he had spent time inside her home. These details included a specific awareness of her sleeping arrangements. (Exhibit 3)

19. Student E reported he had watched movies with Laprade at her home, noting she had a small television hooked up to her computer in order to access her Netflix account. (Exhibit 3)
20. In Laprade's written statement, dated June 27, 2013, to Principal name redacted. during the period of his investigation, Laprade requested that Northland School Division No 61 reinstate its offer of employment to her, for the 2013/14 school year. (Exhibit 3)
21. On July 4, 2013, Principal name redacted. provided Laprade with a summary of his investigation, noting that the school division would be asking the Association to conduct an investigation. (Exhibit 3)
22. Laprade was diagnosed with bipolar disorder at the age of 23 and has struggled with depression and the effects of bipolar disorder for most of her adult life. These issues are compounded by a thyroid disorder and, since 2010, the complexities related to anxiety and its effects.
23. Before accepting the teaching position at School name redacted. Laprade sought medical help because she was struggling with the symptoms of her disorder and felt that her mental illness may worsen. (Exhibit 3)
24. Laprade has been in the Mood Disorder Program at Foothills Medical Centre since 2011. (Exhibit 7)
25. Laprade has been under the care of a psychiatrist and has attended weekly counselling sessions with a psychologist since March 5, 2015. (Exhibit 3)
26. Principal name redacted. indicated that at no time did Laprade reveal to him her personal medical information or information regarding her mental health issues, before, during or after her time as a teacher. (Exhibit 5)

DECISION OF THE HEARING COMMITTEE

- Charge 1—Guilty
- Charge 2—Guilty
- Charge 3—Guilty
- Charge 4—Guilty

REASONS FOR DECISION

Charge 1

1. Laprade, by her own admission, engaged in an inappropriate relationship with Student E.
2. The relationship was overly personal, inappropriately informal and was perceived by Student E's parents, and others in the school and community, as romantic in nature. For example:
 - a) Dwayne Yellowknee, the addictions counsellor at the school, reported that he saw Laprade and Student E walking side by side at an exposition and felt that there was *something* between them. In addition, during church one day, he saw Student E at the back of the church and noticed Laprade and Student E leaving together. He spoke to Student E to caution him about the inappropriate nature of the relationship, and Student E was mad.
 - b) Staff name redacted. the school secretary, heard rumours that Student E and Laprade were having an affair and saw them together in her vehicle in the evening hours.
3. By engaging in the conduct referred to above, Laprade exceeded the boundaries of an appropriate teacher–student relationship and did not treat the student with dignity.
4. The committee also considered whether there was evidence the inappropriate relationship between Student E and Laprade was sexual in nature. Although there was evidence that the relationship was inappropriate for the reasons set out above, the agreed statement of facts included conflicting evidence with respect to whether Laprade and Student E had sexual contact. The agreed statement of facts indicates that Student E bragged about having a relationship with Laprade, which included drinking and sleeping together, but then states that he also denied the events ever occurred.
5. When the parties proceed by way of an agreed statement of facts, the committee cannot make inferences regarding what did or did not occur and must base its findings on the facts as agreed to by the parties. Although Laprade admitted that she engaged in an inappropriate relationship with Student E, she did not specifically admit that she and Student E engaged in a sexual relationship. Moreover, the agreed statement of facts includes conflicting evidence with respect to this issue. The committee cannot find, on a balance of probabilities, that the inappropriate relationship included a sexual relationship between Student E and Laprade.
6. Laprade's actions created a situation for Student E in which he was the subject of speculation in the community, withdrew from involvement with an anti-gang program and addictions counselling and became subject to investigation by the principal and the Association.

Report of the Hearing Committee of PCC re L Laprade, page 7

7. By allowing the relationship to develop and continue, Laprade failed to treat Student E with dignity and respect and with consideration for his circumstances.
8. Student E was considered by school personnel to be an at-risk youth, with a history of disrupted home life, addictions and gang involvement. He also had persistent attendance problems at school. He was an at-risk student put further at risk by his relationship with Laprade. By her involvement with Student E, Laprade failed to be considerate of his circumstances and failed to treat him with dignity and respect.

Charge 2

1. By her own admission, Laprade sent texts of an inappropriate nature to Student E, which he, in turn, showed to others. According to Lester George, community counsellor, and Student E, on one occasion Laprade sent a text to Student E that read “Do I turn you on” and a further text stating “Do I make you hard?”
2. The texts were sexual in nature, which is inappropriate for an acceptable teacher–student relationship. By sending the texts to Student E, Laprade failed to treat him with dignity and respect and failed to be considerate of his circumstances.
3. In any circumstances, text messages of this nature, between a teacher and a student, are unacceptable. The public expects that teachers will refrain from exchanging intimate, sexualized text messages with students.
4. When Laprade sent inappropriate texts to Student E, she violated the trust relationship between teacher and student.

Charge 3

1. Laprade both initiated and received telephone calls from Student E, many of which occurred on weekends and were of substantial duration. The time, length and number of calls were excessive. Many of the phone calls occurred late at night and were for a lengthy duration. If a teacher is required to communicate with a student after hours, it is expected that such communications would be infrequent and would be for the purpose of discussing a matter specifically related to class work or other school-based activities. The frequency, duration and time of the phone calls suggest that the calls were unrelated to the type of communications expected to occur between a teacher and a student. The calls demonstrate a pattern of communication that far exceeded what would have been appropriate for an acceptable teacher–student relationship.
2. Laprade persisted in the inappropriate communication for months after being told, by her school principal, to cease all contact with Student E. In doing so, Laprade caused Student E to

Report of the Hearing Committee of PCC re L Laprade, page 8

act in direct opposition to a directive from the principal, thus failing to treat Student E with dignity and respect and failing to be considerate of his circumstances.

3. The public expects teachers to maintain appropriate and professional communications with their students and former students at all times. Laprade did not do so, despite being warned that the communication was inappropriate, thus failing to treat the student with dignity and respect and failing to be considerate of his circumstances.

Charge 4

1. Laprade, by her own admission, engaged in an inappropriate relationship with Student E.
2. The relationship was overly personal, inappropriately informal and was perceived by Student E's parents, and others in the school and community, as romantic in nature. This exceeded the boundaries of an appropriate teacher–student relationship.
3. Laprade's actions created a situation where she was the subject of speculation in the community, which undermined community members' confidence in her.
4. Teachers are expected by the public to support all students and to be mindful of the known circumstances of their students' lives. Student E was known by Laprade to be an at-risk youth, with a history of disrupted home life, addictions and gang involvement. He also had persistent attendance problems at school and relationship problems. He was a vulnerable, at-risk student put further at risk by his relationship with Laprade.
5. As a result of Laprade's actions, the community's confidence and trust in the school staff and its administration was damaged. Laprade failed to consider the impact of her actions on the staff and community, and thus failed to maintain the honour and dignity of the profession.

PENALTY

The hearing committee ordered the following penalty be imposed on Laprade:

1. A recommendation to the minister of education to cancel Laprade's letter of authority to teach, which serves as her teaching certificate
2. A recommendation to the minister of education that Laprade be ineligible for certification for one year
3. Laprade is ineligible for membership in the Association for one year
4. Laprade is ineligible to be reinstated as a member of the Association until she has provided the executive secretary of the Association with a letter from her treating psychiatrist confirming that
 - a) the psychiatrist has reviewed a copy of the committee's report, dated June 3, 2015;

- b) to the best of the psychiatrist's knowledge, Laprade has been compliant with treatment recommendations; and
 - c) Laprade is medically fit to return to practice as a teacher.
5. Any costs related to providing the required documentation in these orders shall be the responsibility of Laprade.

After the period of ineligibility has elapsed, and upon providing the executive secretary with the documentation referred to in item 4 above, Laprade may apply for reinstatement as a member of the Association in accordance with section 91 of the General Bylaws of the Alberta Teachers' Association. Bylaw 91 specifies the information that must be provided by Laprade in support of an application for reinstatement, and provides Provincial Executive Council with the authority to consider the application for reinstatement, and to approve or reject the application, with or without conditions.

Should Provincial Executive Council be inclined to approve the application for reinstatement, Council may impose whatever conditions are considered appropriate at that time, in light of the information provided by Laprade in support of her application.

Examples of conditions that may be considered include, but are not limited to,

1. the requirement that Laprade provide the Association with medical documentation on a periodic basis, confirming her fitness to teach;
2. the requirement that Laprade provide a copy of this committee's report, dated June 3, 2015, to any employer who employs Laprade in her capacity as a teacher; and
3. the requirement that Laprade comply with all treatment recommendations provided by her treating psychiatrist.

REASONS FOR PENALTY

Submissions of the Presenting Officer

Sherwin recommended a penalty of

1. a declaration of indefinite ineligibility for membership in the Association and
2. a recommendation to the minister of education to revoke Laprade's letter of authority to teach and to declare her indefinitely ineligible for a teaching certificate.

Sherwin submitted the following:

1. The penalty must strike the appropriate balance between fairness to Laprade and protection of the public.
2. Information about Laprade's medical condition was not provided until very late in the process.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE OF THE
PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL CONDUCT
AGAINST LEONARD HERBERT LETHEBE

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Leonard Lethebe of Westlock, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada commencing on Monday, February 22, 2010 at 0900.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Leonard Herbert Lethebe is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between September 2007 and June 2008, engaged in a romantic relationship with [Student A], thus failing to treat the student with dignity and respect.
2. Leonard Herbert Lethebe is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between May 2008 and July 2008, engaged in sexual intercourse with [Student A], thus failing to treat the student with dignity and respect.
3. Leonard Herbert Lethebe is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between September 2007 and December 2008, engaged in an inappropriate relationship with [Student A], thus failing to maintain the honour and dignity of the profession.

Lethebe entered pleas, by written submission, as follows

Charge 1—guilty

Charge 2—not guilty

Charge 3—guilty

DECISION OF THE HEARING COMMITTEE

The hearing committee found Lethebe guilty on all three charges.

REASONS FOR DECISION

1. In regard to Charge 1 and Charge 3, Lethebe, by his own admission, had an inappropriate and romantic relationship with [Student A] while she was a student and he was her principal.
2. In regard to Charge 2, [Student A] was a student enrolled at School name redacted. during the period September 2007 to December 2008. Lethebe, by his own admission, engaged in sexual intercourse with [Student A] beginning in May or June 2008.
3. Society has the right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. Lethebe clearly betrayed such trust.
4. In a relationship between a teacher and a student, the parties are not on equal terms. Under circumstances such as these, the student, no matter what her age, could never truly give informed consent. The responsibility for maintaining boundaries fell solely on the teacher.

PENALTY

The hearing committee imposes the following penalty which encompasses all three charges:

1. Lethebe is declared ineligible for membership in the Alberta Teachers' Association.
2. A recommendation will be made to the minister of education to cancel Lethebe's teaching certificate.
3. A fine of \$5,000, payable to the Association, is imposed on Lethebe.

REASONS FOR PENALTY

1. Knowing that [Student A] was a fragile, at-risk student, Lethebe should have been hypersensitive to her vulnerability and fulfilled his professional responsibility to her. Instead, he used his position of authority and [Student A's] vulnerability for his own gratification, thereby failing to treat [Student A] with the dignity and respect she deserved.
2. Lethebe was warned several times by colleagues, community members, [Student A's] family and the local school board to cease his inappropriate relationship with [Student A]. Lethebe repeatedly lied and encouraged [Student A] to lie in order to conceal his unprofessional conduct.
3. By failing to maintain the honour and dignity of the teaching profession, Lethebe caused students, colleagues and the community to question their trust in the teaching profession and the school system.
4. By his behaviour towards [Student A], Lethebe had a negative impact on her, her family, her school and her community.

Report of the Hearing Committee of PCC, L Lethebe, page 3

5. The public and the teaching profession will not tolerate a teacher who takes advantage of his or her students, especially when the teacher lures the student into a romantic and or sexual relationship.
6. As a result of Lethebe's exploitation of [Student A], which resulted in the birth of a child, [Student A's] life has been permanently impacted.

Dated at the City of Edmonton in the Province of Alberta, Thursday, February 25, 2010.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST TSE MING LIM

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Tse Ming Lim of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, May 27, 2013 at 0900.

Professional Conduct Committee members present as the hearing committee were Ruth Kuik (chair), Howard Gamble and George Epp. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Gaylene Schreiber was secretary and Leslie Kaun was recorder. Keith Hadden presented the case against the investigated member. The investigated member, Tse Ming Lim, was not present and was not represented by counsel at the hearing but had obtained advice from legal counsel who witnessed Lim's signature to Exhibits 4, 5 and 6, referenced hereafter.

CONSTITUTION/JURISDICTION

There was no objection to the constitution or the jurisdiction of the committee.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Tse Ming Lim is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of July 1, 2011 to April 30, 2012, engaged in Facebook conversations of a personal, romantic and sexually explicit nature with a Grade 12 student, (Student A), thus failing to treat the student with dignity and respect.
2. Tse Ming Lim is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of July 1, 2011 to April 30, 2012, attended school events for the purpose of seeing and/or developing a romantic relationship with a Grade 12 student, (Student A), thus failing to treat the student with dignity and respect.
3. Tse Ming Lim is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of July 1, 2011 to April 30, 2012, engaged or attempted to engage in physical contact that was inappropriate to a teacher-student relationship with a Grade 12 student, (Student A), thus failing to treat the student with dignity and respect.

4. Tse Ming Lim is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of July 1, 2011 to April 30, 2012, encouraged Grade 12 student, (Student B), via Facebook, to make inappropriate comments to his chemistry teacher, [Teacher name redacted.] thus failing to maintain the honour and dignity of the profession.

The investigated member entered a plea of guilty to each of the charges, by written submission.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

- Exhibit 1—Declaration of awareness of rights, signed by Lim, dated May 17, 2013
- Exhibit 2—Notice of hearing and Canada Post confirmation of delivery on April 9, 2013
- Exhibit 3—Proof of Lim's membership in the Association from July 01, 2011 to July 31, 2012, inclusive
- Exhibit 4—Submission on plea, signed by Lim, dated May 17, 2013
- Exhibit 5—Agreed statement of facts, signed by Lim and Hadden, dated May 17, 2013 and May 23, 2013, respectively
- Exhibit 6—Joint submission on penalty, signed by Lim and Hadden, dated May 17, 2013 and May 23, 2013 respectively

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Lim was an active member of the Association between July 1, 2011 and July 31, 2012. (Exhibit 3)
2. Lim began working as a teacher on September 1, 1997. (Exhibit 5)
3. Lim was a teacher at Chinook Learning Services, employed by Calgary School District No 19, from July 2011 until July 2012. Prior to that, Lim was a high school teacher at [School name redacted] from September 1999 to June 2011. (Exhibit 5)
4. On August 27, 2012, [Principal name redacted] Head of [School name redacted], filed a complaint about Lim with the Association, under section 24(1) of the *Teaching Profession Act*. (Exhibit 5)
5. In July 2011, soon after Lim's employment at [School name redacted] ended, he sent a "friend request" on Facebook to a former student who will be referred to as Student A in this report. Over time, the volume of Lim's messages to Student A increased. (Exhibit 5)

6. On April 4, 2012, Lim sent a message to Student A in which he asked her not to tell anyone else; said that he thought of her as attractive, pretty, kind and thoughtful; and confessed he had always thought these things about her, ever since the first day he saw her. (Exhibit 5)
7. During a series of conversations between April 4, 2012 and April 9, 2012, Lim messaged Student A numerous times. The messages were increasingly intense and inappropriate in tone and content. (Exhibit 5)
8. On April 4, 2012, Lim asked Student A to call him Ming, rather than Lim, because Lim seemed so formal. (Exhibit 5)
9. Lim's messages to Student A contained comments that were sexual in nature. He said, "I thought I would have to undress" and in reference to Student A's conversations with her friends, "you mean you don't tell them how sexy I am?" and "if you were just a bit older, I would do everything I can to sweep you off your feet and be with me." Student A found these conversations "creepy." (Exhibit 5)
10. Lim asked Student A to send him pictures of her in her graduation dress, stating he would like to see them "... just to ease me in. otherwise my mouth will hang open the first time I see it." (Exhibit 5)
11. Lim also stated his desire for physical contact on several occasions. He said "I would love one day to plant my lips on you. even if it is just the back of your hand." Lim also stated "I just want to hug you and kiss you on the cheek (I won't mention anywhere else right now)" and "I sometimes hold my pillow and pretend it's you." (Exhibit 5)
12. Lim repeatedly indicated his physical desire for Student A and also stated he would have to restrain himself from squeezing her too hard if he saw her. (Exhibit 5)
13. Lim engaged in Facebook conversations of a romantic nature with Student A. For example, he indicated to Student A "when we chat, it feels like i'm floating on a cloud; this is what it must feel like to fly; this is what poets write about love" and "good night sweet (*Student A*). i'll text you on thursday..." and " i will just stare at you with longing eyes...and I will put on a brave performance in front of everyone and say "okay, take care, see ya later", but what i really want to say is say don't go. Stay here with me. Let me hug you." (Exhibit 5)
14. Lim indicated to Student A that she was the last person he thought about before sleeping and the first person he thought about upon waking. (Exhibit 5)
15. Lim urged Student A to "lock her phone" and "please, don't tell anyone else" and "please keep this to yourself." In one instance he said, "I'm sorry if that makes you uncomfortable. I just love talking to you. You make me feel better about myself." (Exhibit 5)

16. Lim attended School name redacted. School-related events for the purpose of seeing Student A, including a basketball game and a drama play. (Exhibit 5)
17. In relation to his planned attendance at these events, Lim sent messages to Student A outlining his hopes for the encounters. He stated “I hope to see you again” and “hopefully no one will catch us stealing glances” and “we will see each other on thursday and friday, but you’ll be very busy and, i know you won’t have time to talk. i will just stare at you with longing eyes as you walk away.” (Exhibit 5)
18. Lim said in another message to Student A, “It would be so nice to see you in person again but I’d have to restrain myself from squeezing you too hard.” (Exhibit 5)
19. Lim told Student A to “put the phone away and come meet me. just kidding (sort of) ha ha.” (Exhibit 5)
20. While at the School name redacted. spring drama play, Lim led Student A to a private spot in the school. At that time
 - Lim suggested that Student A join him for coffee, and drew a comparison between them and two lovers from a television series they had previously discussed;
 - Lim invited Student A to his apartment, inquired about her transportation options and suggested she take a bus to his apartment; and
 - Student A was uncomfortable and tried to move away from Lim and ultimately ended the conversation. (Exhibit 5)
21. From April 7, 2012 to April 12, 2012, Lim attempted to engage Student A in physical contact, through invitation and persuasion, and ultimately engaged in physical contact with Student A. (Exhibit 5)
22. On April 7, 2012, Lim, referring to a time when he was her teacher, told Student A he had really wanted to kiss her then but thought she may not like it. (Exhibit 5)
23. Lim messaged Student A about his fantasy of them going on a date that would repeat into perpetuity. (Exhibit 5)
24. Lim messaged Student A that he wanted to kiss her and take her home and cuddle her “right now” and messaged her “When I get the chance, I will hold you in my arms, and tell you everything is going to be alright, that you don’t have to worry.” (Exhibit 5)
25. Lim sent a text message to Student A that he loved her and messaged “I’ll hold my pillow ... again ... tonight ... kissing you gently.” He wrote “I just dream of holding you. And I’m so glad that you’re not scared by this. I dream of holding you and gently caressing you, and gently stroking your back.” He shared his dreams of going on a vacation to the seaside with Student A where they would walk hand in hand, sharing their feelings for each other. (Exhibit 5)

26. On April 10, 2012, Lim messaged to Student A “I will text you on Thursday, and if it’s OK with you, I would very much like to hug you. and I will ask for your permission to kiss you.” (Exhibit 5)
27. On April 12, 2012, Lim attended the School name redacted. spring play and at that time, led Student A to a private spot in the school where he hugged her. Student A felt the hug was inappropriately long and pulled away. Lim indicated to Student A that she was shaking, to which she replied that she was nervous and then changed the subject to alleviate the tension. (Exhibit 5)
28. Lim rubbed Student A’s back and grabbed her hands. Student A believed Lim was about to kiss her but he did not. (Exhibit 5)
29. On April 12, 2012, Student A messaged Lim asking him to stop contacting her. (Exhibit 5)
30. On May 4, 2012, Grant-Watt served Lim with a no trespass order, pursuant to section 27 of the *School Act*, prohibiting Lim from attending any School name redacted events on or off school property. (Exhibit 5)
31. On February 19, 2012, Lim messaged another student, Student B, and suggested that Student B’s teacher, Teacher name redacted. secretly liked Student B. (Exhibit 5)
32. Lim encouraged Student B to say to Teacher name redacted. “hey, I know you like me” and to provide his phone number to Teacher name redacted. with an invitation for her to call Student B. (Exhibit 5)
33. Student B responded by brushing off the suggestion, saying he could “only dream” and noting he could get kicked out of his chemistry class and that the teacher could be “locked up for a while” since he was a minor. (Exhibit 5)

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty
Charge 2—Guilty
Charge 3—Guilty
Charge 4—Guilty

REASONS FOR DECISION

Charge 1

1. Lim engaged in Facebook conversations with Student A that were intense, sexually charged, overly personal, inappropriately informal and romantic in nature. This made the student uncomfortable and exceeded the boundaries of an appropriate teacher–student relationship.

2. Through the Facebook messages, Lim exploited the teacher–student relationship that had been established in his previous teaching assignment and placed Student A in an awkward and vulnerable position.
3. Lim indicated that he was aware his actions could make Student A uncomfortable and feel scared, but persisted. He asked her to keep the messages to herself and to ensure her phone was locked.
4. By repeatedly sending messages to Student A that were personal, sexual and romantic in nature, Lim failed to treat Student A with dignity and respect and failed to be considerate of her circumstances.

Charge 2

5. Lim attended a School name redacted school-related event and messaged Student A prior to this event for the purposes of seeing Student A and developing a romantic and sexual relationship with her.
6. Lim took advantage of Student A’s participation at these school events to further his pursuit of her and to advance the intimate nature of the relationship.
7. By attending events at Student A’s school, Lim created a private encounter with Student A which made Student A feel nervous, uncomfortable and tense.
8. Lim invited Student A to his apartment. Given the nature of Lim’s continuing messages to Student A, Lim’s invitation was entirely inappropriate for a teacher–student relationship.
9. By his actions, Lim demonstrated a lack of regard for Student A’s feelings and failed to treat her with dignity and respect.

Charge 3

10. Lim repeatedly indicated his intention to engage in physical contact with Student A, by way of messages to her expressing his desire to hold hands, kiss, hug, caress, cuddle or stroke Student A.
11. Lim should have expected that his repeated mention of a pillow surrogate for Student A would make her intensely uncomfortable. By disregarding the possible impact of his statements on Student A, he failed to treat her with dignity and respect and failed to be considerate of her circumstances.
12. Lim hugged Student A for an inappropriately long time, grabbed her hand and rubbed her back, in a private setting in the school, creating discomfort and anxiety for Student A.

13. Teachers are in a position of trust and authority and must act in the best interests of students at all times. Lim's messages to Student A, and his physical contact with her, exceeded the civility and friendliness that is reasonably expected of a teacher acting professionally toward a former student.

Charge 4

14. Lim encouraged Student B to believe that Student B was the object of another teacher's interest and instructed Student B to communicate with the teacher, [Teacher name redacted.] for the purpose of initiating an inappropriate relationship.
15. By his actions, Lim created confusion for Student B about the nature of Student B's relationship with [Teacher name redacted] and thus exploited the young man's circumstances. He also risked putting the teacher, [Teacher name redacted] in an embarrassing and difficult position.
16. Lim's actions both reflected poorly on him and had the potential effect of creating doubt about [Teacher name redacted] professionalism in Student B's mind; thus, he failed to maintain the honour and dignity of the profession.

PENALTY

The hearing committee considered a joint submission on penalty which included a recommendation for three years of ineligibility for membership in the Association and a recommendation to the minister of education for a three-year suspension of Lim's teaching certificate.

After considering the joint submission carefully and at length, the hearing committee imposed as penalty

1. a declaration that Lim is ineligible for membership in the Alberta Teachers' Association and
2. a recommendation to the minister of education that Lim's teaching certificate be cancelled.

REASONS FOR PENALTY

1. The public expects that teachers will behave in a manner that shows respect for students and their circumstances and maintains their dignity. In his communication with Student A and Student B, Lim failed repeatedly to fulfil this duty.
2. In a relationship between a teacher and students, the responsibility for maintaining proper boundaries falls solely on the teacher. Lim failed to observe proper boundaries on numerous occasions with both students, even after Student B identified these to Lim.
3. The committee noted Lim's use of generationally-aligned tone, language, punctuation and content in his communications with Student A and saw it as designed to seduce and entice her into a sexual relationship with him.

4. The committee determined that Lim's inappropriate communication and conduct related to Student A escalated quickly from initiation of the relationship to inappropriate touching in a matter of days, accompanied by repeated urgings to maintain secrecy regarding his messages. The repeated calls for secrecy indicate that Lim knew, at the time, that what he was doing was wrong.
5. The committee determined Lim's communication and behaviour with Student A indicated a pattern of grooming behaviour, which escalated and intensified in a short period of time.
6. The committee ascertained that certain elements of Lim's messaging and behaviour constituted a pattern of deliberate actions, which were both harmful to two students and reflected poorly on the profession. The grievous nature of his actions precludes Lim from teaching again.
7. Apart from the fact of the guilty pleas, the committee noted that no evidence was presented that Lim had demonstrated remorse for the injury he caused to Student A and Student B, nor was any evidence provided that he had taken steps to address and learn from his actions. In the absence of such evidence, the committee concluded it would be prudent to ensure that Lim will not be in a teaching position again.

Dated at the City of Edmonton in the Province of Alberta, Monday, May 27, 2013.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST [KL]

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against [KL] of Calgary, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held online, via video conference, on Monday, September 27, 2021, at 0900.

The participants were

1. Professional Conduct Committee members appointed as the hearing committee Fitz Sherman (chair), Ismat Bandali and Nelson Moulton;
2. Katrina Haymond of Field Law LLP as counsel to the hearing committee;
3. Chris Gibbon as secretary;
4. Desseri Ackerman as recorder; and
5. Ian Stewardson as presenting officer.

The investigated member, [KL], was not present and was not represented by counsel.

COMPOSITION/JURISDICTION

There was no objection to the composition or jurisdiction of the hearing committee to hear the case.

CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. [KL] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about June 1, 2018 to June 24, 2018, both dates inclusive, transported a minor female student [14 years old] to an adult male's trailer so the student could have sex with the adult male contrary to section 23(1) of the *Teaching Profession Act*. Subsequently, [KL] was convicted of a summary offence on May 29, 2019, to wit: between the 1st day of June, 2018, and the 24th day of June, 2018, both dates inclusive, at or near [Town A], Alberta, did, for a sexual purpose, unlawfully touch, indirectly, with a part of the body, a part of the body of [Student A], a person under the age of sixteen years, contrary to section 151 of the Criminal Code of Canada.

The investigated member entered a plea of guilty to the charge, by written submission.

WITNESSES

There were no witnesses.

EXHIBITS FILED

- Exhibit 1—Notice of hearing and Canada Post confirmation of delivery on May 31, 2021
- Exhibit 2—Proof of [KL]'s membership in the Alberta Teachers' Association, dated March 22, 2021
- Exhibit 3—Declaration of awareness of rights, signed by [KL], dated September 13, 2021
- Exhibit 4—Request to Honourable Harry M Van Harten for copy of Agreed Statement of Facts in criminal proceedings, submitted by Investigating Officer on March 27, 2020
- Exhibit 5—Order restricting access or publication of the identity of the victim pursuant to section 486.4 of the *Criminal Code*, signed by Justice of the Peace John G Szekeres
- Exhibit 6—Submission on plea, signed by [KL], dated September 13, 2021
- Exhibit 7—Agreed statement of facts, signed by [KL] and Stewardson, dated September 13, 2021 and September 21, 2021, respectively
- Exhibit 8—Joint submission on penalty, signed by [KL] and Stewardson, dated September 13, 2021 and September 21, 2021, respectively

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED

1. [KL] was a member of the Alberta Teachers' Association from December 1, 2010 to June 30, 2011; September 1, 2011 to June 30, 2012; September 1, 2012 to January 31, 2013; January 1, 2014 to June 30, 2014; September 1, 2014 to June 30, 2015; September 1, 2015 to March 31, 2016; September 1, 2016 to June 30, 2017; and September 1, 2017 to June 30, 2018. (Exhibit 2)
2. [KL] was employed as a substitute teacher and/or a teacher on temporary/probationary contracts with [School Division A] and [School Division B]. (Exhibit 7, p 2)
3. [KL] was working as a substitute teacher with [School Division B] at the time of the incidents giving rise to the allegations and therefore was an active member of the Alberta Teachers' Association. (Exhibit 7, p 2)
4. On July 6, 2018, [KL] was charged with multiple indictable offences and the charges were eventually reduced to one summary offence on May 29, 2019. (Exhibit 7, pp 2–3)
5. On July 6, 2018, a publication ban was ordered on the criminal legal matter to protect the student's identity. This publication ban remains in effect. (Exhibit 7, p 2)

6. Per the Agreed Statement of Facts presented at court, [KL] pled guilty. In the hearing on May 29, 2019, the Agreed Statement of Facts between Her Majesty the Queen and [KL] was entered as Exhibit 1 for Docket No 180794752P1-01-005 as evidence. In this Agreement, [KL] pled guilty to the following charge:

1. Between the 1st day of June, 2018, and the 24th day of June, 2018, both dates inclusive, at or near [Town A], Alberta, did, for a sexual purpose, unlawfully touch, or indirectly, with a part of the body, a part of the body of Student A [unable to identify the minor in this case due to a publication ban], a person under the age of sixteen years, contrary to section 151 of the *Criminal Code* of Canada.

The accused is pleading as a party to this offence pursuant to 21(1)(b).
(Exhibit 7, p 4)

7. The following facts were elicited from the Agreed Statement of Facts presented at court:

1. On June 24th, 2018, [Informer] contacted the [Town A] RCMP Detachment to file a report of sexual activity involving a minor. [Informer] provided a statement to the RCMP advising he had met a woman named [KL] on a dating application named Plenty of Fish. [KL] told [Informer] that she was a substitute teacher at a junior high school in [Town A].
2. When [Informer] went to [KL]'s residence on June 23rd, 2018 [KL] introduced a friend named [Student A].
3. Student A was one of [KL]'s students and was 14 years old at that time. Student A and [KL] told [Informer] about a male named [Male Co-conspirator with KL] who lived in [Hamlet A] (sic) that was "falling" for Student A and that she was in a sexual relationship with him.
4. On June 26th, 2017 [sic should be 2018], Student A and her Mother [redacted mother's name] were interviewed. During that interview, it was confirmed that [KL] was one of Student A's school teachers and they had met at school. Student A had developed a close relationship with [KL] and they were "friends," however, Student A denied that there was any sexual component to their friendship.
5. On June 26th, 2018 an interview was conducted with [KL]. [KL] confirmed that she had an account on the dating application known as Plenty of Fish, and that she had met [Informer] on that platform. [KL] confirmed that she often had Student A come and babysit her children and had developed a friendship with her. [KL] denied that she had ever involved Student A in any sexual situations and stated that she did not discuss sex with Student A.

6. Student A's mother used a parental monitoring application to monitor Student A's messages and on June 27th, 2018 Student A's mother provided messages between Student A and [KL] that had been intercepted on Student A's phone by the application.
7. The messages confirmed that [KL] and Student A had several conversations about having sex, and meeting up with a male named [Male Co-conspirator with KL] that lived in [Hamlet A], Alberta.
8. In some of the messages, [KL] stated that [Male Co-conspirator with KL] wanted to see Student A again and that he was asking [KL] for Student A's phone number. Student A states that she would not feel comfortable meeting him without [KL] in the trailer or in a car right next to the trailer.
9. [KL] states that she is "so glad I'm the go between."
10. On July 5th, 2018 a Provincial Court Judge in Alberta, authorized a warrant to enter [KL]'s residence to size [sic] and search for electronic devices.
11. On July 6th, 2018 the warrant was executed and [KL] was taken into custody at that time and her electronic devices were seized.
12. Student A was reinterviewed and confirmed that [KL] had been the intermediary between her and [Male Co-conspirator with KL] and had set up the "meet" in [Hamlet A] with [Male Co-conspirator with KL]. [KL] had driven her to [Hamlet A] to "[Male Co-conspirator with KL]'s" trailer and had left her alone in the trailer so she could have intercourse with "[Male Co-conspirator with KL]." She had returned later and driven Student A back to her residence.

The Accused acknowledges the facts set out above in support of the guilty pleas and sentencing on the charge before this Honourable Court.

(Exhibit 7, pp 4-5)

8. Other information provided in the Agreed Statement of Facts presented at court was deemed confidential as part of the publication ban. It is illegal to publish information with the specific details of the case. (Exhibit 7, p 5)
9. The Agreed Statement of Facts submitted to the Court makes no reference to [KL] touching Student A for a sexual purpose. She pled that she was a party to the offence. Section 21 (1) of the *Criminal Code* states: "Every one is a party to an offence who ... (b) does or omits to do anything for the purpose of aiding any person to commit [the offence]." In Stewardson's interview with the crown prosecutor, the crown prosecutor stated that the charge was

specific enough with the word “indirectly” to implicate [KL] in the sexual activity with a person under the age of 18 years. (Exhibit 7, p 5)

10. On February 7, 2020, Van Harten issued the following sentence after [KL] pled guilty on May 29, 2019 to the following charge:

[KL]

Was tried and convicted on an information alleging that:

Between the 1st day of June, 2018, and the 24th day of June, 2018, both dates inclusive, at or near [Town A], Alberta, did, for a sexual purpose, unlawfully touch, indirectly, with a part of the body, a part of the body of [Student A], a person under the age of sixteen years, contrary to section 151 of the *Criminal Code* of Canada.

Crown proceeds summarily

And it is ordered and adjudged pursuant to section 161(1) of the *Criminal Code* of Canada that from the date of this order or upon release from imprisonment, whichever is later, the offender is, for a period of 2 year(s) prohibited from:

- attending
 - a public park or public swimming area where persons under the age of 16 are present or can reasonably be expected to be present
 - a daycare centre
 - a schoolground
 - a playground
 - a community centre.
- seeking, obtaining or continuing any employment, whether or not the employment is remunerated, or becoming a volunteer in a capacity that involves being in a position of trust or authority towards persons under the age of 16 years

This prohibition order is subject to the following conditions or exemptions:

- Having any contact, including communicating by any means, with a person who is under the age of 16 years, unless the offender does so under the supervision of a person whom the court considers appropriate.
 - Except of contacting her children as allowed by child and family services
- Using the internet or other digital network, unless the offender does so in accordance with the conditions set by the court.
 - Except for school or work purposes
- And for contact with her family and children as allowed by child and family services.

(Exhibit 7, pp 6–7)

11. There were other sanctions placed upon [KL]'s probation, including:

The court adjudged that the offender be imprisoned in any prison for the term of 90 day(s)[,] [s]entence to be served intermittently from Fridays at 7:00 p.m. to Sundays at 7:00 p.m. commencing February 14, 2020 and each week thereafter until sentence is served in full.

And in addition thereto, that the said offender comply with the following conditions:

Now therefore the offender shall, for the period of 2.0 year(s) from the date of this order comply with the following conditions, namely, that the said offender shall[:] keep the peace and be of good behaviour, appear before the court when required to do so by the court and notify the court or probation officer in advance of any change of name or address and promptly notify the court or probation officer of any change to employment or occupation, and, in addition

1. Have no contact or communication whatsoever, either directly or indirectly, with: Student A.
2. Within two business days of now or of your release from custody, report in person to a probation officer at court probation office ... and after that first meeting;
 - Continue to report, as directed by your probation officer: that may be by telephone or in person, whatever your probation officer tells you. Including as to location.
3. Live where approved by your probation officer or at Any change in address must also be approved in writing, in advance, by your probation officer. You must provide written proof of your address to your probation officer, within one business day of it being requested of you.
4. Go for assessment and participate in and complete any counselling, treatment or programming directed by your probation officer, including:
 - psychiatric / psychological
5. Sign any release or waiver of information as directed, providing access to information required by your probation officer.
6. Provide your probation officer with proof in writing that you have followed through and completed any treatment or counselling you have been directed to take.

(Exhibit 7, pp 7–8)

12. On February 7, 2020, Van Harten also required [KL], by order, to:
 1. Have bodily substances taken for forensic DNA analysis by the Calgary Police Service investigative support section.
 2. Be listed as a **sex** offender for 10 years as per the **Sex** *Offender Information Registration Act*.
(Exhibit 7, p 8)
13. This case was reported in the *Calgary Herald* with the headline “Teacher who Arranged **Sexual** Tryst Between Student and Adult Given Weekends-Only Sentence.” [KL], Student A and the communities involved were not identified in the article due to the publication ban. (Exhibit 7, p 8)

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

REASONS FOR DECISION

1. [KL] admitted that she contravened section 23(1) of the *Teaching Profession Act* by transporting a female student minor (14 years old) to an adult male’s trailer so that the student could have **sex** with the adult male. This action was detrimental to the best interests of students, the public and the teaching profession, as well as harming and/or tending to harm the standing of teachers.
2. [KL] was convicted of a summary offence on May 29, 2019:

Between the 1st day of June, 2018, and the 24th day of June, 2018, both dates inclusive, at or near [Town A], Alberta, did, for a **sexual** purpose, unlawfully touch, indirectly, with a part of the body, a part of the body of [Student A], a person under the age of sixteen years, contrary to section 151 of the *Criminal Code* of Canada.
3. The Agreed Statement of Facts entered into the criminal proceedings stated

[The student] confirmed that [KL] had been the intermediary between her and [Male Co-conspirator with KL] and had set up the “meet” in [Hamlet A] with [Male Co-conspirator with KL]. [KL] had driven her to [Hamlet A] to “[Male Co-conspirator with KL]’s” trailer and had left her alone in the trailer so she could have intercourse with “[Male Co-conspirator with KL].” She had returned later and driven Student A back to her residence.”

SUBMISSION ON PENALTY

Stewardson and [KL], in their joint submission on penalty, recommended that the following penalty be imposed:

1. Permanent ineligibility as a member of the Alberta Teachers' Association and
2. Recommendation to the minister of education that [KL] be permanently ineligible for a teaching certificate because she currently does not hold a teaching certificate.

PENALTY

The committee imposed the following penalty:

1. Permanent ineligibility as a member of the Alberta Teachers' Association and
2. Recommendation to the minister of education that [KL] be permanently ineligible for a teaching certificate because she currently does not hold a teaching certificate.

REASONS FOR PENALTY

1. The nature of the charge is egregious.
2. [KL] was an experienced teacher (eight years of substitute teaching) at the time of her actions of transporting an underage female student to a trailer to have intercourse with an adult male. [KL]'s experience should have provided her with the knowledge that transporting a student for the purpose of sexual intercourse was not appropriate.
3. [KL]'s actions were detrimental to the best interests of a student, the public and the teaching profession as outlined in section 23(1)(a) (i, ii, iii) and (c) of the *Teaching Profession Act*. [KL] breached the trust placed in her as a teacher, with a significant impact on the student and the student's family, the community, [KL]'s colleagues in the school and the teaching profession as a whole.
4. There is a need to promote deterrence in this case. Teachers need to understand that it is unacceptable for them to be friends with students and to act as intermediaries for any sexual relationships.
5. Parents and the public must trust that teachers are going to protect their children from sexual predation.

6. The committee deferred to the joint submission on penalty and agreed that the penalty was appropriate for the circumstances. Stewardson highlighted that [KL]:
- has lost her career and her degree is worthless,
 - is registered as a sexual offender for ten years and was mandated to provide bodily fluids to the police,
 - served jail time (90 days) on weekends,
 - has a criminal record, and
 - had to move to another province due to the impact her actions have had on her life and the lives of her children.

Dated at the City of Edmonton in the Province of Alberta, November 17, 2021.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST VICTOR TIMOTHY MARTENS

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Victor Timothy Martens of Calmar, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, December 19, 2001 at 1300.

Professional Conduct Committee members present as the hearing committee were Geoff G Buxton (chair), Catherine E LeBlanc and Lillian C Kordic. Richard W Rand of Frohlich Rand Kiss was counsel to the hearing committee, Marc C Arnal was secretary and Leslie A Kaun was recorder. Robert C Bisson presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There was no objection to the constitution of the committee or its jurisdiction to hear the case.

PLEA

The following charges were read by the secretary to the hearing committee.

1. Victor Timothy Martens is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, failed to treat a student with dignity and respect and to be considerate of his circumstances.
2. Victor Timothy Martens is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, did not act in a manner which maintains the honor and dignity of the profession when he contravened and was found guilty of contravening section 159(1) and section 159(1)(A), indictable offences under the Criminal Code of Canada.

R Bisson introduced an amendment to charge 2 to change the reference to section 159(1)(A) to 153(1)(A) as in the statement of conviction. It was pointed out that there is no section 159(1)(A) in the Criminal Code of Canada. There was evidence that the accused member clearly understood the charges against him despite the erroneous numbering. Consequently the committee accepted

the amendment and directed that numbering in Exhibits 1 and 2 also be changed to the correct reference.

The investigated member entered a plea of “guilty” to the charges by way of a written submission signed by the member earlier and tendered by the prosecuting officer.

WITNESSES

No witnesses were called.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

- 1 V Martens began working as a teacher for Holy Family Catholic Regional Division No 37 beginning August 30, 1999 and continued his employment until September 21, 2001. (Exhibits 2 and 5)
2. V Martens, was a member of The Alberta Teachers’ Association during his tenure as a teacher with Holy Family Catholic Regional Division No 37. This period included the time the indictable offences in question took place (between May 1, 2000 and September 13, 2000) as well as the date of conviction for these offences (September 21, 2001). (Exhibits 2 and 5)
3. V Martens, on or between the 1st day of May A.D. 2000 and the 22nd day of September A.D. 2000, at or near Valleyview in the province of Alberta, did, while being in a position of trust or authority towards or in a relationship of dependency with a young person, for a sexual purpose, unlawfully touch, directly or indirectly with a part of the body or with an object, a part of the body of this young person contrary to section 153(1) (A) of the Criminal Code of Canada. (Exhibit 2)
4. V Martens, on or between the 1st day of May A.D. 2000 and the 22nd day of September A.D. 2000, at or near Valleyview in the province of Alberta, did unlawfully engage in anal intercourse with a young person contrary to section 159(1) of the Criminal Code of Canada. (Exhibit 2)
5. V Martens, on the 21st day of September, 2001, plead guilty under part XIX (indictable) of the Criminal Code to the charge that:
On or between the 1st day of May A.D. 2000 and the 22nd day of September A.D. 2000 at or near Valleyview in the province of Alberta, did while being in a position of trust or authority towards or in a

relationship of dependency with a young person, for a sexual purpose, unlawfully touch, directly or indirectly with a part of the body or with an object, a part of the body of said young person contrary to Section 153(1) (A) of the Criminal Code of Canada. (Exhibit 3.)

6. V Martens, on the 21st day of September, 2001, plead guilty under part XIX (indictable) of the Criminal Code to the charge that:
On or between the 1st day of May A.D. 2000 and the 22nd day of September A.D. 2000 at or near Valleyview in the province of Alberta, did unlawfully engage in anal intercourse with a young person contrary to Section 159(1) of the Criminal Code of Canada. (Exhibit 4)
7. V Martens was convicted of the said offences on the 21st day of September, 2001 and was sentenced to two years imprisonment. (Exhibit 2)
8. V Martens taught at School name redacted. until September 23, 2000. He voluntarily resigned from his position with Holy Family Catholic Regional Division No 37 on September 21, 2000. (Exhibit 2 and 5)

DECISION OF THE HEARING COMMITTEE

The hearing committee accepted the guilty plea on both counts.

PENALTY

The hearing committee imposes the following penalty for each charge

1. That V Martens' membership in The Alberta Teachers' Association be canceled and that he be declared ineligible for membership in the Association
2. That a recommendation be made to the minister of learning that V Martens' teaching certificate be canceled.

REASONS FOR PENALTY

1. V Martens was convicted of two indictable offences.
2. V Martens failed to treat a student with dignity and respect and to be considerate of his circumstances.

Report of the Hearing Committee of PCC
Martens, page 4

3. A teacher convicted of an indictable offence brings dishonor and disrepute to the profession.
4. Teachers should not engage in **sexual** activity with students. Society views such actions as repugnant and reprehensible.
5. Society has the right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. V Martens violated this trust relationship.
6. V Martens, in his initial conversation with the investigating officer, volunteered to relinquish his teaching certificate. (Exhibit 8)
7. V Martens was forthright and cooperative in his interviews with the investigating officer confirming the facts stated above. He provided the investigating officer with all documents requested and answered all questions asked of him. (Exhibits 1 and 2)
8. The penalty imposed is consistent with previous cases in that, where there is evidence of acceptance of responsibility and cooperation, no fine is assessed in addition to the penalty imposed.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, December 19, 2001.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST BRADLY JAMES MASTEL

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Bradly James Mastel of Medicine Hat, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada commencing on Monday, January 6, 2014 at 0900 and continuing until January 9, 2014.

CONSTITUTION/JURISDICTION

There were no objections to either the constitution of the hearing committee or its jurisdiction to hear the case.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Bradly James Mastel is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period August 2011 to February 2012, engaged in a social relationship with "Student A", which was inappropriate to an acceptable teacher–student relationship, thereby failing to treat her with dignity and respect and with consideration of her circumstances.
2. Bradly James Mastel is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period August 2011 to February 2012, engaged in a social relationship with "Student A" which was inappropriate to an acceptable teacher–student relationship, thereby failing to act in a manner which maintains the honour and dignity of the profession.

Mastel initially entered a plea of not guilty to each of the charges and subsequently amended his plea to guilty to each of the charges. Even while he pled guilty to unprofessional conduct, Mastel continued to dispute the facts of the case as alleged by the presenting officer.

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—guilty

REASONS FOR DECISION

Charge One

1. Mastel, by his own admission, engaged in a social relationship with a student which was inappropriate to an acceptable teacher–student relationship. Taking an emotionally distraught student to an isolated location, even with good intentions, demonstrates incredibly poor judgment. If that was all Mastel was guilty of, his actions would be unprofessional.
2. However, the committee found that Mastel developed an emotional, dependent and ultimately physical and sexually motivated relationship with Student A, thereby failing to treat her with the dignity and respect owed to children. He was not considerate of her vulnerable circumstances.
3. Society has a right to expect that teachers will act in a manner that establishes and maintains an appropriate trust relationship between teachers and students.
4. Mastel exploited an at-risk student who viewed her teacher as understanding, caring and worthy of trust.
5. Even if a young person makes bad choices, it is incumbent upon the teacher to ensure that the student is not harmed. In a relationship between teacher and student, the responsibility for maintaining proper boundaries falls solely on the teacher.

Charge Two

1. Mastel, by his own admission, failed to act in a manner which maintains the honour and dignity of the profession.
2. The media reporting of this case was sensational, widespread and damaging to the reputation of the profession.
3. Mastel knew, or ought to have known, that engaging in such a relationship with a student could put him at risk for censure and have a deleterious effect on his reputation and the reputation of the teaching profession.

PENALTY

The hearing committee imposed the following penalty, encompassing both charges:

1. Mastel is declared ineligible for membership in the Alberta Teachers' Association.
2. A recommendation will be forwarded to the minister of education to cancel Mastel's teaching certificate.

REASONS FOR PENALTY

1. Student A was a vulnerable student and deserved a high level of care from her teacher.
2. Mastel's actions had serious and long term effects on Student A and her mother. Student A's reputation, her relationship with peers, her health, her emotional stability, her feelings of self-worth and her personal safety were all compromised.
3. Mastel's conduct confused and upset students, parents, and school staff alike.
4. The reporting of this incident caused harm to the reputation of teachers as being worthy of the trust placed in the profession by parents, students and the public.
5. Mastel did not, at any time, take full responsibility for his wrongdoing. His vigorous denial of any physical contact with Student A, throughout all the proceedings, exacerbated Student A's considerable stress by having to testify repeatedly and thus, his eventual guilty pleas are of little merit.
6. Mastel did not, at any time, show real contrition or remorse for his actions, beyond how the events affected him and his family. His guilty plea was qualified and conditional on only those events that were obviously not in dispute and his version of those in dispute was a version that the committee rejected.
7. Mastel, at the time of these events, had been teaching for almost nine years. As an experienced teacher, he ought to have understood and established proper boundaries with students and been able to maintain those boundaries, especially with at-risk students.
8. The teaching profession cannot, and will not, tolerate a teacher who takes advantage of a student, especially when the teacher engages in, or seeks to engage in, a sexual relationship with a student.
9. Mastel has shown himself to be unworthy of the trust that society requires of teachers. He should not be allowed to call himself a teacher.
10. Mastel suffered loss of health, reputation, income and employment which also impacted his young family. No fine was imposed because the hearing committee did not want to impose further hardship on Mastel's family.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, March 5, 2014.

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF A CHARGE OF UNPROFESSIONAL CONDUCT AGAINST SHANE CAMERON MAZUTINEC

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Shane Cameron Mazutinec of Lethbridge, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada commencing on Tuesday, April 5, 2016 and concluding on Wednesday, April 6, 2016.

Professional Conduct Committee members present as the hearing committee were Wendy Maltais (chair), Bart Heine and Lynne Davies. Sharalynn Anderson was also present, as an observer. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Gaylene Schreiber was secretary, assisted by Lisa Everitt, and Leslie Kaun was recorder. Cory Schoffer presented the case against the investigated member. The investigated member, Shane Mazutinec, was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the composition or the jurisdiction of the hearing committee.

PRELIMINARY MATTER

The committee heard an application by the presenting officer to close the hearing to the public. The presenting officer requested this out of primary concern for the first witness because she and/or her family members could be detrimentally affected if the hearing was not held in private. The committee made a decision as per section 33(b) of the *Teaching Profession Act* to close the hearing to protect the identity and interests of the vulnerable parties. The committee determined that protecting the anonymity of this witness outweighed any public interest in an open hearing.

CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. Shane Cameron Mazutinec is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about 1996, engaged in a sexual relationship with a student, thereby failing to treat the student with dignity and respect and failing to maintain the honour and dignity of the teaching profession.

Schoffer entered a plea of not guilty to the charge, on behalf of Mazutinec.

relationship with her created gaps in his testimony which led the committee to doubt the completeness of Mazutinec's testimony.

17. The specific details Mazutinec did provide are largely extraneous to the events leading to the charge. Mazutinec's credibility was negatively impacted because his testimony had some significant focus on attempting to discredit the other witnesses and little focus on addressing the specific allegations made by Student A.
18. The committee felt it could give little weight to Mazutinec's testimony because he was not able to demonstrate complete recall, occasionally revealed a lack of internal consistency and was not externally consistent with Witness A's more plausible testimony. The committee was unable to assess appearance or demeanor nor was it able to assess Mazutinec's ability to perceive.
19. The committee considered that Mazutinec's testimony could have been motivated by his desire for preservation of his reputation and self-esteem. Mazutinec had clear motivation to cast himself in a positive light within his testimony, unlike Witness A, Witness B and Witness C.

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

REASONS FOR DECISION

1. Mazutinec had **sex** with a female student of junior high age, in a closet, in his classroom. The profession expects that teachers will refrain from **sexual** and emotional exploitation of students. Mazutinec failed to do so and this was unprofessional.
2. Mazutinec cultivated a relationship with a demonstrably vulnerable student. He **groomed** this relationship with the student with the ultimate goal of **sexually** exploiting her and comfortable in his belief that any disclosure of same by her would likely be discredited. He exploited the power differential within the teacher-student relationship for his own gratification. The public and the profession expect teachers to refrain from exploiting students for their own gratification at all times.
3. It is solely the responsibility of the teacher to maintain appropriate teacher-student boundaries. Mazutinec failed to do so and this was unprofessional.
4. The committee balanced the more credible testimony of Witness A against Mazutinec's submission. It also considered the testimony of Witness B and Witness C. Witness B and Witness C's testimony was not related to Witness A's narrative, but was received by the committee as similar fact evidence of another incident. Similar fact evidence provides evidence that advances elements which support the charges. With similar fact evidence, the

probative value must outweigh its prejudicial effect. The committee determined that the testimony of Witness B and Witness C, as similar fact evidence, had sufficient probative value to outweigh any prejudicial effect because it augmented the plausibility of Witness A's testimony.

5. Mazutenic failed to treat the student with dignity and respect when he exploited her isolation and her need to develop a caring relationship with an adult.
6. Mazutenic failed to maintain the honour and dignity of the profession when he had a sexual relationship with a student.

SUBMISSION ON PENALTY

Schoffer submitted to the committee that an appropriate penalty would be a recommendation to the minister of education to cancel Mazutinec's certificate, that Mazutinec be declared permanently ineligible for membership in the Association, and that a \$10,000 fine be imposed. Schoffer referred to three precedent previous cases with similar facts to support his penalty recommendation.

PENALTY

The hearing committee imposed the following penalty on Mazutinec:

1. A declaration of permanent ineligibility for membership in the Alberta Teachers' Association
2. A recommendation to the minister of education that Mazutinec's teaching certificate be cancelled and
3. A fine of \$10,000

REASONS FOR PENALTY

1. The public and the teaching profession will not tolerate a teacher who exploits or grooms a relationship with a student for sexual gratification. Therefore, the penalty of permanent ineligibility for membership and a recommendation for cancellation of certificate is appropriate because it protects students, the profession and the public from predatory behaviour such as that exhibited by Mazutinec.
2. Mazutinec had left his teaching position and did not intend to return to teaching, thus the ineligibility for membership in the Association and the recommendation for cancellation of certificate alone would not have a sufficiently significant impact. The committee determined that the maximum fine permitted under the *Teaching Profession Act* would address the repugnant behaviour and mete out the desired impact.

3. Teachers are in a position of power over students. Therefore it is a teacher's fiduciary obligation to protect students, not to exploit their vulnerability through the teacher-student relationship. Mazutinec's actions constituted egregious behaviour which breached trust and necessitates the most significant penalty.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, April 19, 2016.

WITNESSES

There were three witnesses called by the presenting officer:

Witness A (former student)

Witness B (teacher)

Witness C (office staff member)

There were no witnesses called by the investigated member.

EXHIBITS FILED

Exhibit 1—Notice of hearing and Canada Post confirmation of delivery, on March 11, 2016

Exhibit 2—Written submission of Mazutinec and e-mail confirmation of receipt by the Association, dated April 1, 2016

Exhibit 3—E-mail correspondence between Schoffer and Mazutinec, dated March 4, 2016

Exhibit 4—Proof of Mazutinec’s membership in the Association from September 1, 1993 to April 30, 2014 inclusive

Exhibit 5—Calendar of November 1996

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

Witness A

1. Witness A is now a young, married mother of three sons, currently working from home as a medical transcriptionist. She attended School X Junior Senior High School, located in the Province of Alberta, for Grade 7 and part of Grade 8, several years ago.
2. Witness A, while a student, had difficult relationships with those with whom she lived: a) her mother, b) her older sister and c) her mother’s boyfriend. Witness A said her mother was an alcoholic and her sister was often absent from home. Witness A characterized her relationship with her mother and sister as strained and very strained respectively, and said she had no relationship with her mother’s boyfriend.
3. Witness A described herself at the time she was a student as troubled and untrustworthy; she did what she wanted. She said she had many problems at home; her academics were poor, although she took the easiest courses; and she smoked and “took pills sometimes.” She said she was obviously someone who had issues.
4. Mazutinec was Witness A’s teacher for all of Grade 7 gym and social studies and also taught her for a short period of time in Grade 8.
5. Witness A said that Mazutinec treated male and female students differently and gave examples. Witness A said Mazutinec spent more time with the girls, followed them more closely and complimented the girls on their appearance.

6. Witness A said Mazutinec was “very nice, pleasant and popular.” She had no reason not to trust him.
7. Witness A described herself as a youth who was not noticed by others, did not get along with teachers because she “caused trouble and was a poor listener,” and who acted out and didn’t do what she was supposed to do.
8. Mazutinec paid attention to Witness A, and complimented her on her appearance.
9. Witness A described Mazutinec’s classroom as being at the end of a hallway, at a distance from the office and said there was a closet in the classroom that could only be accessed from inside the classroom.
10. There was a filing cabinet in the classroom as well as Mazutinec’s desk, which was square and wooden and faced the students.
11. Witness A could not remember exactly where she sat in class but she remembered it was a “regular thing” that she often sat beside Mazutinec because he would “call her out” for not doing what she was supposed to. She did not recall anyone else being asked to sit beside him.
12. Witness A said Mazutinec typically stayed at his desk when she was there. At these times, he would touch her back and “bum” and stroke her in such a way that others in the room couldn’t see.
13. Witness A said Mazutinec would take her behind the file cabinet and said, “He would get me to go back there and pull my pants down, lift my shirt up, touch me, ask me to show him my underwear, my panties.” She recalled him complimenting her during this time. There was no one in the room when she was taken behind the file cabinet.
14. Witness A said Mazutinec let her violate the rules. He let her smoke in the sickroom, only if she opened the window to blow the smoke out the window screen. He let her swear, skip class, not go to assemblies and say and do what she wanted.
15. When asked about the sick room, Witness A described it in detail saying it was square, like a storage room, made of brick, containing sports equipment and pom-poms in the school’s colours. There was a cot in the back and a window above it.
16. Mazutinec would come into the sick room while Witness A was there, and he “would kiss, touch, and compliment me, just regular stuff. He would be all over me.”
17. Witness A said that she felt comfortable with Mazutinec. She trusted him.
18. When asked about the closet, Witness A testified she was in there frequently over the course of a year. It contained a desk and a chair behind the desk, and Witness A said it was there that Mazutinec “took my virginity.” Witness A was never in the closet after that, and she

never had **sex** with Mazutinec again. Witness A also recalled “I remember after, I looked at him and he looked at me like nothing had changed and everything was normal.”

19. When asked if she would characterize this event as a **sexual** assault, Witness A said it was not violent and “it was kind and slow and progressive and manipulating.”
20. Immediately after this event, Mazutinec told her to wait for five minutes. Mazutinec left, “like nothing had happened.” After five minutes, Witness A went to the bathroom to clean herself up. She said there was blood left behind on the desk in the closet.
21. Witness A recalled telling her sister what had happened, and she recalled going to the office with her mom and her mom’s boyfriend to report the event. The RCMP conducted an investigation.
22. When asked about the RCMP investigation and the fact the Mazutinec continued to teach, Witness A explained, “I was considered a liar and mentally troubled and needed help. There was an RCMP investigation and they did nothing.” Witness A said, “They didn’t believe me because when I was ten my good friend’s sister was raped, and I told a false statement that was her sister’s (story) but I stopped telling it because I couldn’t identify the person. I was ten and I was trying to help. I was wrong.”
23. When asked why the RCMP didn’t deem her credible, Witness A said they weren’t going to waste time on a girl who was obviously troubled and had given a false report earlier.
24. When asked, Witness A stated her opinion now is that Mazutinec targeted her because she wasn’t believable, she drank, she took pills, she acted out and she was not a trustworthy person. She said, “I was alone. I had nobody. Somebody who was kind and listened was important to me.”
25. Subsequent to the event, Witness A was admitted into a psychiatric facility for a few weeks, and then lived in a group home for some time. Some years later, she had a son and then completed high school.
26. Witness A stated that at the present time, she has begun counselling, she does not interact with her community socially and works at home where only minimal interaction with other people is required. As well, she does not like to go to her children’s school and does not like to attend parent-teacher interviews.
27. Witness A testified she gave up her one volunteer activity as a fundraiser with a charitable organization because of fears that her name may be advertised in public radio or television. When asked, she connected this to her experience with Mazutinec.
28. The committee noted that Witness A was not the complainant in this matter; she had been called as a witness. As such, Witness A had nothing to gain in providing her testimony. In fact, the concerns expressed in support of the application for a closed hearing indicate that

she risked much in her personal life by testifying in this matter. Witness A presented herself as a credible witness. Her recall of the events was specific and included details that were realistic and convincing. She could not recall some peripheral and superficial details and that is understandable given the time that has elapsed. Witness A was understandably emotionally fragile when recounting the events and the places where they occurred. Her credibility was enhanced by her sincerity and forthrightness. Her testimony remained internally consistent throughout.

Witness B

1. Witness B is a retired teacher who taught for 31 years, 23 of which were at School X Junior Senior High School. He is currently a substitute teacher at School X Junior Senior High School.
2. Witness B taught business education and was the school classroom support teacher prior to retirement. As a classroom support teacher, Witness B worked with a variety of students which included both top academic students and high risk students. He worked with teachers, students and families to put individual program plans (IPPs) in place.
3. Witness B characterized Mazutinec's behaviour with both male and female students as one where Mazutinec demonstrated varying degrees of formality with students depending on the context.
4. Witness B testified that the school was shaped like a horseshoe and initially Mazutinec was assigned to a classroom that was located a distance away from the office, ie the third classroom down the left hallway. At some point Mazutinec was moved to another classroom.
5. When asked if Mazutinec's first classroom was visible from the office, Witness B answered yes.
6. Witness B confirmed that Mazutinec had female work experience students who worked in his classroom.
7. Witness B stated that, in his classroom support role, he had a master key that allowed him to freely move in and out of classrooms.
8. Witness B said one day he was approached by a member of the office staff, (Witness C), who stated that because of concerns she had heard about Mazutinec, she was uncomfortable because a female student was alone with Mazutinec in his classroom.
9. Witness C asked Witness B to go in and look in the classroom.
10. Witness B saw no one in the classroom when he looked through the window in the door; so, he went into the far corner of the classroom but saw no one, and so proceeded to lock up and leave. He did not check the closet.

11. Witness B asked Witness C to watch the door of Mazutinec's classroom while he went on an errand; she did so and did not see anyone come or go. When Witness B returned, he saw Mazutinec in the room, at his desk, despite the fact that no one had entered or left the classroom. Witness B went in to get Mazutinec to sign IPPs and looked around and observed no one else in the classroom. He said that there was a closet in the classroom and the closet door was closed. He testified that the closets in the school classrooms were large enough to accommodate two people.
12. After leaving the classroom, Witness B told Witness C that he had seen no one else in there, and the only place there could be someone was in the closet. Witness B and Witness C waited and watched the door. At the bell, a female student exited Mazutinec's classroom and "zoomed" by Witness B and Witness C as she went to her locker.
13. Witness B stated this event occurred in the second classroom Mazutinec was assigned to, around the years of 1997 or 1998.
14. From his role as a classroom support teacher who also did student timetables, Witness B recalled that there were times when female students asked not to be in Mazutinec's class. Witness B said there were two social studies teachers in the school and only Mazutinec taught the academic social studies stream while the other teacher taught the general social studies stream. This may offer an explanation as to why Witness A's sister stayed in Mazutinec's social studies class after becoming aware of the allegations. Also both Witness A and Mazutinec (in his written submission) were of the view that the allegations by Witness A were not believed by her family.
15. Witness B said he knew of Witness A's family but was not well acquainted with Witness A herself.
16. Witness B presented as a credible composed witness. His testimony was consistent with the testimony of the other witnesses. His recollections of Mazutinec were unbiased and balanced. His testimony was forthright, expressive and internally consistent. Witness B was not the complainant and had nothing to gain by providing his testimony.

Witness C

1. Witness C reported she started as a special needs assistant at School X Junior Senior High School around the 1995/96 school year. After this time she became one of the school administrative assistants and continued in that role until 2005.
2. In 2005, Witness C moved away from the community and continues to work in a school setting in another city.
3. Witness C said that when she started working in the School X Junior Senior High School office, she was young and in her early 20s. She said she had good communication and relationships with the students and that they came to the office to talk with her about their

day. Witness C said that the principal was appreciative of her relationship with students who often confided in her and it was based on their confidences that she became concerned about Mazutinec.

4. Witness C said that generally speaking, she had good relations with staff at the school.
5. Witness C said she observed students coming and going from Mazutinec's classroom.
6. One day Witness C observed a female work experience student going into Mazutinec's classroom and the door being closed. Witness C recalled she was concerned for this student's safety.
7. Witness C told Witness B there was a student alone in the classroom with Mazutinec and he went to check.
8. Witness B returned and told Witness C that there was no student or teacher in the room, it was empty, but Witness C disagreed with this.
9. When Witness B went back to check on the room a second time, he told Witness C that he saw Mazutinec was then at his desk.
10. When the bell rang, Witness C saw the female student come out of the room.
11. After this, Witness B and Witness C went to the principal to report their concerns. Witness C observed Mazutinec through the window in the door of the principal's office while they were meeting with the principal. Mazutinec paced outside the office repeatedly.
12. When asked what happened next, Witness C reported she went home and was upset. Witness C felt that she and Witness B had "stuck their necks out and the school did not do all it could have done."
13. Witness C said she remembered Witness A. She said after Witness A's allegations were made about Mazutinec, Witness A "got treated at school like she was a tramp" and Witness C felt that "she [Witness A] got run out of town."
14. Witness C said she was thankful that she and her family moved away in 2005 and she was relieved her child would not be in Mazutinec's class.
15. Witness C said she continues to maintain a connection with the community and the people there, including Witness B and his wife.
16. Witness C was a credible witness. She displayed a high level of integrity, decency and sincerity. Witness C's testimony was corroborated by Witness B's testimony and was consistent throughout. Her dislike of Mazutinec did not appear to influence her testimony and

was understandable given what she had observed. Witness C had nothing to gain by providing testimony.

Shane Mazutinec (Exhibit 2)

1. Mazutinec submitted a document, through the secretary to the hearing committee, as his testimony and representation. The committee reviewed this document with care.
2. Mazutinec stated that the presented document was his “testimony.” The hearing committee noted it was limited in its ability to assess the credibility of the testimony in a manner parallel to that provided by the witnesses who were present. The committee could assess the contents of the document only; it did not have the ability to observe sworn testimony being delivered under oath. The committee accepted Mazutinec’s unsworn testimony with the recognition that the presenting officer would have no ability to cross-examine, and the committee would be denied the opportunity to ask questions for clarification.
3. Mazutinec began by explaining his respect for the committee and the Association, and conveyed an understanding of the severity of the charges. Mazutinec stated that his absence was not “a reflection of me NOT taking this serious (sic) or making light of the accusation, investigation or hearing.”
4. Mazutinec provided information about his personal background and explained that his decision to leave the profession in April 2014 was influenced by the allegation, but was not an admission of guilt. He had been planning a career change for some time.
5. Mazutinec said he referred to documents and notes he had “purposefully” kept from December 1996, and characterized his recollections as more clear than that of others who were interviewed during the Association’s investigation of this case.
6. Mazutinec reported that the RCMP launched a full investigation immediately following the allegations in 1996, an investigation that ensured “no stones were left unturned.” He was not removed from teaching at that time.
7. Mazutinec noted that the RCMP informed him of Witness A’s previous false report, that they found no blood to corroborate her allegation against him, and told him she had family issues and was in counselling. He noted Witness A’s sister continued to be in his Grade 11 social studies class the entire year.
8. Mazutinec challenged details of the allegations he became aware of through the Association’s preliminary investigation report by:
 - a) noting he was always assigned a teacher’s aide;
 - b) disagreeing with descriptions of his desk and its placement given by other informants;
 - c) asserting that smoke in the sick room would be apparent in the school office which was nearby;
 - d) providing details to suggest the school was always well-populated and that he was

- otherwise engaged after school, to deny aspects of the allegations;
- e) noting that Witness A's sister remained his student following the incident, which would be unlikely if she had believed her sister's allegations; and
 - f) noting that his middle name is Cameron, not Scott, as represented by Witness A.

Mazutinec challenged these aspects in some detail by recalling specifics, such as the name of another student who sat at his front desk often, the names of his teacher aides and the activities he engaged in after school.

9. Mazutinec asserted that Witness A's account to Schoffer is "even more dis-jointed (sic) and false than what she reported in 1996."
10. Mazutinec wrote that he believes the complainant in this case was the principal of the outreach school that Witness A later attended. He believes Witness A may have then reported the event to him and the complainant believed her story.
11. Mazutinec said "following the 1996 incident he moved (his) classroom to the nearest room to the front office."
12. Mazutinec detailed the effort he made through his practice, his growth plan activities and with administration, to allay any concerns that could arise in the community. He acknowledged he often took on female work experience students. He asserted that his assignment to supervise and coach school activities solely involving girls could be taken as evidence that the administration had no concerns with his conduct. He referred to an incident, unrelated to this matter, in which he insisted that he be accompanied by female staff supervision.
13. While earlier in his document, Mazutinec recommended the committee ask Witness B to confirm aspects of Mazutinec's testimony, he later sought to cast doubt on Witness B's character by recounting incidents that portrayed Witness B as unprofessional and recounted aspects that may indicate a strained relationship between the two of them.
14. Mazutinec apologized for being unable to attend the hearing and indicated he had left the teaching profession "with no desire to ever return to it."
15. The committee was not able to assess Mazutinec's appearance or demeanour, nor could it question him on his ability to perceive. He stated that he had detailed notes of the day, yet in his testimony he didn't specifically address the accusations against him. The lack of testimony about the event in question created doubt about the completeness of Mazutinec's testimony. Despite his assertion of having detailed notes, the committee was unable to verify the completeness of his recall.
16. Mazutinec did not directly deny the specifics of the alleged sexual incident with Witness A. He didn't explicitly describe the nature of his relationship with Witness A. For Witness A to recall her relationship with Mazutinec in great detail and for him to not mention any

THE ALBERTA TEACHERS' ASSOCIATION

DECISION AND REASONS FROM THE REPORT OF THE
HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST TYREE MCCRACKIN

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Tyree McCrackin of Wabamun (formerly Okotoks), Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, May 26, 2004.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Tyree McCrackin is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about the 24th day of November, 2003, in the City of Calgary, in the Province of Alberta, plead guilty to an indictable offence under Part XIX of the Criminal Code of Canada to wit: Between the 14th day of May AD 2002 and the 9th day of April AD 2003 at or near the town of Okotoks in the Province of Alberta, being in a position of trust or authority towards MRW, a young person, did for a sexual purpose, touch directly the body of MRW, a young person, with a part of his body to wit: his penis contrary to Section 153 of the Criminal Code of Canada, thereby failing to treat a student with dignity and respect.
2. Tyree McCrackin is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about the 24th day of November, 2003, in the City of Calgary, in the Province of Alberta, plead guilty to an indictable offence under Part XIX of the Criminal Code of Canada to wit: Between the 14th day of May AD 2002 and the 9th day of April AD 2003 at or near the town of Okotoks in the Province of Alberta, being in a position of trust or authority towards MRW, a young person, did for a sexual purpose, touch directly the body of MRW, a young person, with a part of his body to wit: his penis contrary to Section 153 of the Criminal Code of Canada, thereby failing to act in a manner which maintains the honour and dignity of the profession.
3. Tyree McCrackin is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about the 24th day of November, 2003, in the City of Calgary, in the Province of Alberta, plead guilty to an indictable offence under Part XIX of the Criminal Code of Canada to wit: Between the 14th day of May AD 2002 and the 9th day of April AD 2003 at or near the town

of Okotoks in the Province of Alberta, being in a position of trust or authority towards MRW, a young person, did for a sexual purpose, touch directly the body of MRW, a young person, with a part of his body to wit: his penis contrary to Section 153 of the Criminal Code of Canada, thereby engaging in activities which adversely affected the quality of the teacher's professional service.

4. Tyree McCrackin is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, in the period between November 27, 2002 and March 31, 2003, used the Foothills School Division No 38 technology resources in a manner inappropriate to a teacher-student relationship with MRW, a young person, thereby engaging in activities which adversely affected the quality of the teacher's professional service.

The investigated member was not present. A plea of not guilty was directed on his behalf by the hearing committee.

DECISION OF THE HEARING COMMITTEE

The hearing committee found T McCrackin guilty of each of the four charges.

REASONS FOR DECISION

1. T McCrackin was convicted of an indictable offence under section 153 of the Criminal Code of Canada. He, therefore, is guilty of unprofessional conduct under section 23(2)(a) of the *Teaching Profession Act*.
2. Students have a reasonable expectation that teachers will not abuse their positions of trust and authority by engaging in sexual relationships with them. Such relationships fail to treat the students involved with dignity and respect.
3. T McCrackin brought dishonour and disrespect to the teaching profession by his conviction of an indictable offence and by his conduct that gave rise to that conviction.
4. Engaging in sexual activity with a student, compounded by doing so at the school, adversely affected the quality of T McCrackin's professional service.
5. Communicating with the student via school jurisdiction e-mail, during the school day, about matters related to the sexual relationship, adversely affected the quality of T McCrackin's professional service.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalty for Charges 1 through 4:

1. T McCrackin is declared ineligible for membership in the Alberta Teachers' Association from this day forward.
2. A recommendation to the minister of learning that T McCrackin's teaching certificate be cancelled.

REASONS FOR PENALTY

1. T McCrackin is guilty of an indictable offence which involved a **sexual** relationship with a student and involved abusing his position of trust and authority.
2. Teachers must not engage in **sexual** activities with their students. Society views such actions as repugnant and reprehensible. T McCrackin's actions showed disregard for society's expectations of teachers.
3. Society has the right to expect that teachers will act in a manner that establishes and maintains a trust relationship between teachers and students. T McCrackin exploited that relationship by cultivating and engaging in a **sexual** relationship with a student.
4. T McCrackin's actions represent a major breach of trust and a serious violation of the Code of Professional Conduct. T McCrackin's actions brought dishonour to the teaching profession.
5. T McCrackin brought negative attention to the teaching profession because his actions received significant media coverage.
6. A teacher's quality of professional service is adversely affected when the teacher
 - a) uses the school to engage in **sexual** activity
 - b) uses school technology to cultivate an inappropriate relationship and engage in inappropriate **sexual** dialogue with a student
 - c) uses school technology during periods of instruction to engage in personal communication.
7. There is no evidence that T McCrackin informed the Association of his conviction of an indictable offence.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, May 26, 2004.

2. During the Facebook conversation, McKerrall repeatedly pressed Student A for photographs of her toes, in a manner that was entirely self-serving and without regard for her refusal. The repeated requests were prolonged, made the student uncomfortable, and included the enticement of a “reward.” In this Facebook conversation, McKerrall failed to treat the student with dignity and respect and was not considerate of her circumstances.
3. The profession and the public expect that teachers will maintain appropriate boundaries with their students. McKerrall’s comments about his attraction to Student A, his compliments to her and his persistent requests for photographs of her toes far exceeded the boundaries of an appropriate teacher-student relationship.
4. The teacher is always solely responsible for maintaining the boundaries between teacher and student. McKerrall repeatedly ignored this responsibility, even after Student A explicitly referred to his obligations and indicated her discomfort. McKerrall failed to treat the student with dignity and respect and was not considerate of her circumstances.
5. Student A was made to feel uncomfortable, apologetic and as if she had to explain why she couldn’t have a relationship with McKerrall. Indeed, Student A clearly felt she had to ask her teacher not to be mad or upset about her answers to his overtures. McKerrall failed to treat the student with consideration for her circumstances.
6. McKerrall failed to uphold the honour and dignity of the profession when he, in a Facebook conversation, attempted to corrupt the student-teacher relationship into one that served his own gratification. The public and profession expect that teachers will not engage in conversations characterized by attempts to manipulate students for selfish purposes.
7. McKerrall initiated a Facebook conversation with a student that focussed on his **sexual** attraction to her and objectified her, thus failing to maintain the honour and integrity of the profession.
8. As a result of his Facebook conversation with Student A on February 5, 2016, other members of the profession, a parent, and the local RCMP became aware of McKerrall’s misconduct. McKerrall failed to uphold the honour and dignity of the profession and did so in a fashion that became public.

PENALTY

The committee imposed as penalty

1. a single letter of severe reprimand to address both charges,
2. a declaration of ineligibility for membership in the Alberta Teachers’ Association and
3. a recommendation to the minister of education that McKerrall’s teaching certificate be cancelled.

REASONS FOR PENALTY

1. A hearing committee should grant some deference to a joint submission on penalty unless it is unfit, unreasonable or contrary to the public interest. The committee determined that the penalty recommended by both parties was fit, reasonable and in the interests of students, the public, and the profession.
2. McKerrall's intention, to lure Student A into a personal and inappropriate relationship with him, was clear in the Facebook conversation. Although the intention to lure Student A was not fulfilled, McKerrall's intentions and attempts with regard to Student A warrant his removal from the profession.
3. The committee determined that McKerrall transgressed the relationship of trust inherent in an appropriate teacher-student relationship. This was a serious breach of professional obligation that warranted a severe and lasting penalty.
4. Society has a right to expect that teachers will not attempt to establish inappropriate relationships nor have inappropriate conversations with students. McKerrall's actions clearly violated these expectations.
5. During the conversation of February 5, 2016, McKerrall clearly and explicitly acknowledged he was aware of the inappropriateness of his actions, yet he continued with his line of attempted persuasion. His persistent and conscious disregard for the student's dignity necessitates the most severe penalty.
6. McKerrall aggravated the situation by initially denying his behaviour and providing a fabrication that was later not sustained. McKerrall refused to cooperate in the investigation and prevaricated in an effort to deflect blame. At no time, did McKerrall demonstrate remorse. His guilty pleas were noted though.
7. The profession will not tolerate teachers' attempts to lure students into inappropriate relationships. The penalty communicates the committee's intention to create a general deterrence to prevent similar behaviour in the profession.
8. The committee reviewed a substantial number of precedent cases, which had a range of contexts and penalties, including several with similar elements but not identical circumstances. In those cases, severe penalties were prescribed. This penalty reflects the egregious nature of McKerrall's behaviour and intentions. This penalty reflects the absolute intolerance of the profession and society for this kind of behaviour.

Dated at the City of Edmonton in the Province of Alberta, Thursday, March 30, 2017.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST STEVEN MCKERRALL

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Steven McKerrall of Fort Saskatchewan, Alberta (formerly of Three Hills, Alberta) were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, March 22, 2017 at 0900.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Steven McKerrall is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about February 5, 2016, held an inappropriate Facebook conversation with a student, thus failing to treat the student with dignity and respect, contrary to article 4 of the Code of Professional Conduct.
2. Steven McKerrall is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association on or about February 5, 2016, held an inappropriate Facebook conversation with a student, thus failing to maintain the honour and dignity of the profession, contrary to article 18 of the Code of Professional Conduct.

McKerrall entered a plea of guilty to each of the charges, by written submission.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

REASONS FOR DECISION

1. By his own admission, McKerrall engaged in an inappropriate Facebook conversation with Student A on February 5, 2016. McKerrall engaged Student A in a conversation regarding the possibility of furthering an inappropriate relationship between them.

The prosecuting officer requested that the second charge be withdrawn. The hearing committee accepted the request.

In the absence of McNally, a plea of not guilty to Charge One was entered on behalf of the member.

WITNESSES

No witnesses were called.

EXHIBITS FILED

1. Copy of the Notice of Hearing and covering letter, sent to McNally via registered mail, and Canada Post confirmation of delivery (Exhibit 1).
2. Letter from Edmonton Catholic Separate School District No 7 confirming the employment of McNally during the time of the offence (Exhibit 2).
3. Copy of the certificate of conviction of Mark Gerard McNally (Exhibit 3).
4. Conditional Sentence Order for Mark Gerard McNally, dated May 5, 2008 (Exhibit 4).
5. Agreed Statement of Facts between the Crown and Mark McNally, entered at McNally's court trial (Exhibit 5).
6. Official transcript of the court proceedings between the Crown and McNally (Exhibit 6).

EVIDENCE ADDUCED INDICATED THAT

1. McNally had been properly served with notice of hearing (Exhibit 1).
2. McNally was employed by Edmonton Catholic Separate School District No 7 during the time of the offence. The committee deduced, therefore, that McNally was a member of the Alberta Teachers' Association at the time of the offence (Exhibit 2).
3. The certificate of conviction showed that on May 5, 2008, McNally was convicted of an indictable offence under section 153(1)(a) of the *Criminal Code* of Canada (Exhibit 3).

4. McNally received a 15-month sentence to be served within the community, ie, house arrest (Exhibit 4).
5. The court imposed a publication ban on the name of the student.
6. The agreed statement of facts entered at the trial states that McNally, being in a position of trust or authority towards or in a relationship of dependency with Student A, a young person, did for a sexual purpose unlawfully touch, directly or indirectly, with a part of the body or with an object, a part of the body of Student A, contrary to section 153(1)(a) of the *Criminal Code* of Canada. This included kissing and fondling at the school and performing oral sex and masturbation at the home of the accused.
7. The victim impact statement, part of the court proceedings, showed how the relationship with McNally affected, and continues to affect, Student A, emotionally and physically. The statement gave examples of loss of self-confidence, negative self-image and an unhealthy perception of the opposite sex (Exhibit 6).

DECISION OF THE HEARING COMMITTEE

The hearing committee found McNally guilty of Charge One.

REASONS FOR DECISION

1. McNally was convicted of an indictable offence under section 153(1)(a) of the *Criminal Code* of Canada.
2. Pursuant to section 23(2) of the *Teaching Profession Act*, if a member is convicted of an indictable offence, then the behaviour of the member on which the conviction is based is deemed to constitute unprofessional conduct.

PENALTY

The hearing committee imposed the following penalty on McNally:

1. He is declared ineligible for membership in the Alberta Teachers' Association.
2. A letter will be sent to the minister of education recommending permanent cancellation of Mark McNally's teaching certificate.

REASONS FOR PENALTY

1. McNally was convicted of an indictable offence under the *Criminal Code* of Canada and is therefore guilty of unprofessional conduct under section 23(2) of the *Teaching Profession Act*.
2. McNally acted in a manner that was detrimental to the best interests of a student.
3. Society has a right to expect that teachers will act in a manner that establishes and maintains a trust relationship between teachers and students. McNally betrayed that trust.
4. Society views sexual relationships between teachers and students as repugnant and reprehensible. The actions of McNally damaged the life of Student A and brought dishonour to the profession.

Dated at the City of Edmonton in the Province of Alberta, Thursday, October 23, 2008.

WITNESSES

The prosecution called three witnesses at the penalty phase: 1) Constable Jennifer Labelle, 2) Principal name redacted. and 3) Student A.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. G McNamee was employed by Wetaskiwin Regional District No 18 from August 1991 to September 1999. During April 1999, he was a teacher at School name redacted. School. (Exhibits 3 and 6)
2. G McNamee was a member of The Alberta Teachers' Association from August 1991 to September 1999. (Exhibits 3 and 6)
3. In an agreed statement of facts, G McNamee acknowledged the following:
 - a) On or about April 5, 1999, G McNamee was supervising a school field trip to Costa Rica. The students were preparing for a dance to be supervised by the hotel staff.
 - b) Before supper, G McNamee had a couple of beers and, during supper, he had a couple more beers. After supper, he went back to his room, poured himself a large glass of whiskey and sat on the verandah.
 - c) After about two hours, a group of students, including Student A, approached G McNamee. When invited to the dance, G McNamee declined and the group left except for Student A.
 - d) Student A ended up sitting on G McNamee's knee. They talked. Student A leaned back against his shoulder. G McNamee began kissing Student A and he fondled her vagina and her breasts. They proceeded to his room. He found a condom in his backpack. Both lay clothed on the bed while embracing in close body contact.
 - e) G McNamee and Student A came to the realization that this was not appropriate behavior. Student A left the room.
4. The hearing committee received a written submission from G McNamee (Exhibit 4) in which he outlined what he considered to be mitigating circumstances:
 - a) consumption of alcohol for which some counseling was received,
 - b) increasing stress,
 - c) overcommitment,
 - d) personal financial difficulties and
 - e) clinical depression for which medication had been prescribed.

However, prior to the incident, G McNamee chose to discontinue the medication.

5. In testimony, Constable J Labelle indicated that she received authorization to intercept private communications between Student A and G McNamee on April 21, 1999 for the purpose of securing an incriminating admission from G McNamee. A transcript of a telephone conversation was entered as Exhibit 7. In the course of the conversation, G McNamee acknowledged that his behavior toward Student A was wrong. He also admitted to falling in love with another student and he implied that there was a physical aspect to this relationship after the student left the school. The transcript also contained reference to one other relationship with a former student.
6. [Principal name redacted] principal of [School name redacted] School, testified that he spoke to G McNamee about inappropriate behavior in relation to students on three separate occasions between 1993 and 1995.
7. [Principal name redacted] further testified that, in the third instance, a female student who had been soaked by water balloons took refuge in the weight room of the school whereupon G McNamee commented "I see you're all wet for me". [Principal name redacted] reported that G McNamee acknowledged the inappropriateness of his comment and apologized to the student. [Principal name redacted] advised G McNamee that any further such behavior would be documented and could result in action against G McNamee.
8. [Principal name redacted] indicated that G McNamee was a popular teacher and that the incident involving Student A had caused people to take sides which in turn had resulted in friction and division among staff and students and within the community.
9. In testimony and through a written victim impact statement (Exhibit 8), Student A described the adverse impacts on her life that this incident had caused. These impacts included
 - a) temporarily dropping out of school,
 - b) mistrust of people,
 - c) difficulty in forming relationships,
 - d) being the target of community gossip,
 - e) loss of self-esteem and
 - f) physical and mental anguish.
10. Student A testified that she felt a profound sense of betrayal from someone she had trusted like a parent. The prosecuting officer indicated that no criminal prosecution was possible because of the laws of Costa Rica at the time of the incident. Student A indicated that the inability to proceed with criminal prosecution had caused her great distress.

PENALTY

The hearing committee imposed the following penalty on G McNamee:

1. That G McNamee's eligibility for membership in The Alberta Teachers' Association be suspended for four years.
2. That a recommendation be made to the minister of learning that G McNamee's teaching certificate be suspended for four years.
3. That as a condition for the reinstatement of G McNamee's membership in The Alberta Teachers' Association, he must
 - a) provide a letter from a psychiatrist outlining the nature and extent of any psychiatric treatment G McNamee has received. This report must provide evidence, satisfactory to The Alberta Teachers' Association, that G McNamee is mentally and emotionally ready to return to teaching.
 - b) meet with an official of The Alberta Teachers' Association and satisfactorily demonstrate an understanding of the expectations of society and the profession in relation to interaction between teachers and students.
4. That the condition set out in number three above be communicated to the minister of learning.

The committee also accedes to the request of the prosecuting officer and imposes a ban on the publication of the name of the victim.

REASONS FOR PENALTY

1. Society has the right to expect that teachers will act in a manner which establishes and maintains the trust relationship between teachers and students. G McNamee clearly betrayed such trust.
2. Society has the right to expect that a teacher will form appropriate relationships which will preserve the dignity and respect of students. G McNamee's behavior in using his teaching position to exploit Student A for sexual purposes was a clear violation of this duty.
3. Society has the right to expect that teachers will not establish sexual relationships with students. Society views such actions as repugnant and reprehensible.
4. In his behavior toward Student A, G McNamee created negative impacts on her, her family, her school and her community.

5. The profession expects that teachers will act in a manner which maintains the honor and dignity of the teaching profession. Through his actions, G McNamee violated those expectations.
6. Despite G McNamee having previously been cautioned as to the inappropriateness of his interactions with female students, he continued with such interactions.
7. G McNamee expressed remorse in his statement (Exhibit 4) and in his conversation with Student A (Exhibit 7). The hearing committee viewed the apparent repetitious nature of his inappropriate behavior as greatly undermining the sincerity of his remorse.
8. Student A provided a credible account of the severe emotional damage and pain which she suffered as a result of this incident.

Dated at the City of Edmonton in the Province of Alberta, Friday, October 6, 2000.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST MARK GERARD MCNALLY

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Mark Gerard McNally of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, October 23, 2008.

Professional Conduct Committee members present as the hearing committee were Sheila Fraser (chair), Robert Twerdoclib and Joe Rodgers (public member). Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Tim Johnston was secretary and Leslie Kaun was recorder. Ihor Kruk presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the hearing committee to hear the case.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Mark Gerard McNally is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between September 1, 2002 and June 25, 2003, both dates inclusive, at or near Edmonton, Alberta, being in a position of trust or authority towards, or in a relationship of dependency with, a young person, did, for a sexual purpose, unlawfully touch, directly or indirectly, with a part of the body or with an object, a part of the body of the young person, contrary to section 153(1)(a) of the *Criminal Code* of Canada.
2. Mark Gerard McNally is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, failed to respond to the investigating officer, thus failing to cooperate, contrary to section 26(4) of the *Teaching Profession Act*.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST GRAHAM T McNAMEE

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Graham T McNamee of Millet, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Friday, October 6, 2000.

Professional Conduct Committee members present as the hearing committee were G G Buxton (chair), R R Roy and J L Edge. R W Rand of Frohlich Rand Kiss was counsel to the hearing committee, M C Arnal was secretary and L A Kaun was recorder. I Z Kruk presented the case against the investigated member. The investigated member was not present and was not represented.

CONSTITUTION/JURISDICTION

There was no objection to either the constitution of the hearing committee or its jurisdiction to hear the case.

PLEA

The following charge was read by the secretary to the hearing committee.

Grant McNamee is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, while on a school trip to Costa Rica , failed to treat a student, Student A, with dignity and respect when he kissed and fondled her in a sexually inappropriate manner.

An application by the prosecuting officer to amend the charge to accord with the evidence was allowed. The amended charge read as follows.

Graham T McNamee is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, while on a school trip to Costa Rica , failed to treat a student, Student A, with dignity and respect when he kissed and fondled her in a sexually inappropriate manner.

The investigated member entered a written plea of "guilty" to the charge. (Exhibit 3)

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST FRIEDA ANNE MENNES

OUTLINE OF REPORT

	Page
Preamble	2
Preliminary Matters	2
Constitution and Jurisdiction of the Hearing Committee	4
Process of the Hearing	5
Charges and Plea	9
Exhibits Filed	11
List of Witnesses	13
Evidence Adduced	15
Charges 1 and 2	17
Charge 4	27
Charge 5	29
Charge 6	31
Charge 7	35
Charge 8	41
Charge 9	42
Witness Credibility	46
Decision of the Hearing Committee	65
Reasons for Decision	65
Penalty	72
Reasons for Penalty	74
Postscript	77

- ~~3. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September 1985 to December 2016, treated vulnerable and/or marginalized students in a manner which was targeted, unprofessional and had a detrimental impact on those students. (withdrawn)~~
4. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September 2008 to March 2017, made critical comments about the professional performance and/or professional reputation of both school based and central office administrators in a manner which was not consistent with professional responsibilities towards colleagues.
5. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September 2008 to March 2017, made written and/or verbal statements about both school based and central office administrators where the approach, inaccurate content and language employed were unbecoming to a professional teacher in her relationship(s) with colleagues.
6. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2016/17 school year, refused to address legitimate parent/grandparent concerns relative to the treatment of their children in Mennes's classroom.
7. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2016/17 school year, engaged in retaliatory actions against [Parent P] and/or [Grandparent P] for raising legitimate concerns about how their child/grandchild was treated in Mennes's classroom.
8. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2016/17 school year, made false allegations against her principal, Robert Suik, to the school district and to other persons without advising Suik of those allegations contrary to section 14 of the Code of Professional Conduct.
9. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September 2008 to June 2013, sent (an) anonymous letter(s) and/or notes to the superintendent of schools and/or school trustees, in which she made inflammatory and highly critical comments about the school administration and the school librarian at Bassano School.

Report of the PCAC re Mennes, page 23

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 62 Page 7163–7165	Thank you card	Was available to the PCC hearing committee	Page 5899-5900	• No
Document No 63 Page 7167	Christmas card	Was available to the PCC hearing committee	Page 5903	• No
Document No 64 Page 7169	Birthday card	Was available to the PCC hearing committee	Page 5901	• No
Document No 65 Page 7171	E-mail from Parent J	Was available to the PCC hearing committee	Page 5680 Page 5831	• No
Document No 66 Page 7173	E-mail from Tammy Weber	Was available to the PCC hearing committee	Page 5833	• No
Document No 67 Page 7177–7178	Thank you card	Was available to the PCC hearing committee	Page 5999–6000	• No
Document No 68 Page 7179	E-mail from Susan Chomistek	Was available to the PCC hearing committee	Page 5781	• No
Document No 69 Page 7181	Letter from Gillespie	Was available to the PCC hearing committee	Page 5706	• No
Document No 70 Page 7183	Certificate to Mennes	Was available to the PCC hearing committee	Page 5810	• No

Report of the PCAC re Mennes, page 24

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 71 Page 7185	Letter from Robert Franz	Was available to the PCC hearing committee	Page 5662 Page 5811	• No
Document No 72 Page 7187	4-H certificate to Mennes	Was available to the PCC hearing committee	Page 5813	• No
Document No 73 Page 7189	Letter from Rudi Grab, dated December 19, 1991	Was available to the PCC hearing committee	Page 5815	• No
Document No 74 Page 7191	Letter from Grab, dated March 26, 1991	Was available to the PCC hearing committee	Page 5817	• No
Document No 75 Page 7193	Letter from Grab, dated August 26, 1991	Was available to the PCC hearing committee	Page 5823	• No
Document No 76 Page 7195	Letter from Grab dated June 18, 1990	Was available to the PCC hearing committee	Page 5819	• No
Document No 77 Page 7197	Letter from Mennes to Decoux, dated May 28, 1996	Was available to the PCC hearing committee	Page 5821	• No
Document No 78 Page 7199	Letter from Decoux, dated June 8, 1996	Was available to the PCC hearing committee	Page 5822	• No
Document No 79 Page 7201	Letter from Ray Lopatka	Was available to the PCC hearing committee	Page 5825	• No

Report of the PCAC re Mennes, page 25

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 80 Page 7203	Handwritten notes by Mennes	New evidence		<ul style="list-style-type: none"> • Yes • Was part of her written submission
Document No 81 Page 7205	Christmas card	Was available to the PCC hearing committee	Page 5969	<ul style="list-style-type: none"> • No
Document No 82 Page 7207	Christmas card (dogs)	Was available to the PCC hearing committee	Page 5971	<ul style="list-style-type: none"> • No
Document No 83 Page 7209	Reindeer drawing	Was available to the PCC hearing committee	Page 5973	<ul style="list-style-type: none"> • No
Document No 84 Page 7211	Thank you message from student	Was available to the PCC hearing committee	Page 5977	<ul style="list-style-type: none"> • No
Document No 85 Page 7207	Thank you card	Was available to the PCC hearing committee	Page 5979	<ul style="list-style-type: none"> • No
Document No 86 Page 7215	Thank you card	Was available to the PCC hearing committee	Page 5975	<ul style="list-style-type: none"> • No
Document No 87 Page 7217–7218	Holiday card	Was available to the PCC hearing committee	Page 5967-5968	<ul style="list-style-type: none"> • No
Document No 88 Page 7219	Handwritten notes by Mennes	New evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes's written submission
Document No 89	Wonderful you story	Was available to the PCC	Page 5915–5916	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 26

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Page 7221–7223		hearing committee		
Document No 90 Page 7225	Thank you card	Was available to the PCC hearing committee	Page 5919	• No
Document No 91 Page 7227-7228	Card	Was available to the PCC hearing committee	Page 5923–5924	• No
Document No 92 Page 7207	Card	Was available to the PCC hearing committee	Page 5925	• No
Document No 93 Page 7231–7237	You Won't Believe (story)	Was available to the PCC hearing committee	Page 5877–5879	• No
Document No 94 Page 7239	Card	Was available to the PCC hearing committee	Page 5993	• No
Document No 95 Page 7241–7242	Card	Was available to the PCC hearing committee	Page 5995–5996	• No
Document No 96 Page 7243	Card	Was available to the PCC hearing committee	Page 5997	• No
Document No 97 Page 7245	Card	Was available to the PCC hearing committee	Page 6001	• No
Document No 98 Page 7247	Picture	Was available to the PCC	Page 6003	• No

Report of the PCAC re Mennes, page 27

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
		hearing committee		
Document No 99 Page 7249	Card	Was available to the PCC hearing committee	Page 6005	• No
Document No 100 Page 7251	Card	Was available to the PCC hearing committee	Page 6009	• No
Document No 101 Page 7252	Card	Was available to the PCC hearing committee	Page 6010	• No
Document No 102 Page 7253	Card	Was available to the PCC hearing committee	Page 6011	• No
Document No 103 Page 7254	Card	Was available to the PCC hearing committee	Page 6012	• No
Document No 104 Page 7255	Card	Was available to the PCC hearing committee	Page 5851	• No
Document No 105 Page 7257	Card	Was available to the PCC hearing committee	Page 5853	• No
Document No 106 Page 7259	Card	Was available to the PCC hearing committee	Page 5895	• No
Document No 107 Page 7261	Card	Was available to the PCC	Page 5859	• No

Report of the PCAC re Mennes, page 28

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
		hearing committee		
Document No 108 Page 7263	Certificate	Was available to the PCC hearing committee	Page 5883	• No
Document No 109 Page 7265	Card	Was available to the PCC hearing committee	Page 5897	• No
Document No 110 Page 7267	Card	Was available to the PCC hearing committee	Page 5909	• No
Document No 111 Page 7269	Card	Was available to the PCC hearing committee	Page 5911	• No
Document No 112 Page 7271	Drawing	Was available to the PCC hearing committee	Page 5913	• No
Document No 113 Page 7273 Page 7274	Card	Was available to the PCC hearing committee	Page 5917 Page 5907	• No
Document No 114 Page 7275	Drawing	Was available to the PCC hearing committee	Page 6015	• No
Document No 115 Page 7277	Card	Was available to the PCC hearing committee	Page 6017	• No
Document No 116 Page 7279	Christmas card	Was available to the PCC	Page 6019	• No

Report of the PCAC re Mennes, page 29

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
		hearing committee		
Document No 117 Page 7281	Handwritten notes by Mennes	New Evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes's written submission
Document No 118 Page 7283–7289	Garage sale photos	Was available to the PCC hearing committee	Page 6023–2028	<ul style="list-style-type: none"> • No
Document No 119 Page 7291	Handwritten notes by Mennes	New evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes's written submission
Document No 120 Page 7293 Page 7295 Page 7297 Page 7299 Page 7301 Page 7303 Page 7305 Page 7307	photos	Was available to the PCC hearing committee	Page 6029 Page 6030/5732 Page 6031 Page 6032 Page 6033/5734 Page 5730/6034 Page 6035 Page 5736/6036	<ul style="list-style-type: none"> • No
Document No 121 Page 7309–7311	Handwritten notes by Mennes	New evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes's written submission
Document No 122 Page 7313	Letter from Macleod, dated January 20, 2017	Was available to the PCC hearing committee	Page 6075	<ul style="list-style-type: none"> • No
Document No 123 Page 7317	Letter from Macleod, dated December 22, 2016	Was available to the PCC hearing committee	Page 6077	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 30

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 124 Page 7317	Notice of decision from office of the registrar regarding Steele	Was available to the PCC hearing committee	Page 6079	<ul style="list-style-type: none"> • No
Document No 125 Page 7319–7322	CASS Code of professional conduct	Was available to the PCC hearing committee	Page 6081–6083	<ul style="list-style-type: none"> • No
Document No 126 Page 7323	E-mail from Mennes to Satinder Dhillon	Was available to the PCC hearing committee	Page 6097	<ul style="list-style-type: none"> • No
Document No 127 Page 7325	E-mail from Dhillon to Mennes	Was available to the PCC hearing committee	Page 6098	<ul style="list-style-type: none"> • No
Document No 128 Page 7327	Association's Code of Professional Conduct	Was available to the PCC hearing committee	Page 6095	<ul style="list-style-type: none"> • No
Document No 129 Page 7329	Handwritten notes by Mennes	New evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes's written submission
Document No 130 Page 7331–7333	E-mailed meeting notes from Suik	Was available to the PCC hearing committee	Page 6129–6130	<ul style="list-style-type: none"> • No
Document No 131 Page 7335–7336	E-mailed meeting notes from Suik	Was available to the PCC hearing committee	Page 6129-6130 repeat of Document No 130	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 31

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 132 Page 7337	Letter to Suik from Mennes	Was available to the PCC hearing committee	Page 6133	<ul style="list-style-type: none"> • No
Document No 133 Page 7339–7341	Handwritten notes by Mennes	New evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes’s written submission
Document No 134 Page 7343	Association’s Code of Professional Conduct	Was available to the PCC hearing committee	Page 6095 Page 6145	<ul style="list-style-type: none"> • No
Document No 135 Page 7345-7357	Grassland policy	Was available to the PCC hearing committee	Page 6155–6161	<ul style="list-style-type: none"> • No
Document No 136 Page 7353	Request for investigation of unprofessional conduct from Mennes to Association	Was available to the PCC hearing committee	Page 6153	<ul style="list-style-type: none"> • No
Document No 137 Page 7355	Letter from Vic Budz, dated December 12, 2016	Was available to the PCC hearing committee	Page 6165	<ul style="list-style-type: none"> • No
Document No 138 Page 7357–7367	Letter to Budz from Mennes	Was available to the PCC hearing committee	Page 5186–5191	<ul style="list-style-type: none"> • No
Document No 139 Page 7369	Letter from Thomas, dated December 14, 2016	Was available to the PCC hearing committee	Page 6181	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 32

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 140 Page 7371	Handwritten notes by Mennes	New evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes's written submission
Document No 141 Page 7373	Letter from Chomistek, dated July 9, 2013	Was available to the PCC hearing committee	Page 6197	<ul style="list-style-type: none"> • No
Document No 142 Page 7375–7378	Letter to Chomistek from Mennes, dated May 22, 2013	New evidence but could have been available to PCC hearing committee		<ul style="list-style-type: none"> • No
Document No 143 Page 7379–7381	Grasslands Employee Accident/Exposure Incident report	New evidence but could have been available to PCC hearing committee		<ul style="list-style-type: none"> • No

Hackman's application to introduce new evidence

After having heard Mennes's application for new evidence, the PCAC considered Hackman's request for new evidence and followed the following procedure:

Procedure of the PCAC

1. PCAC allowed Hackman to speak as to why they should grant special leave for new evidence
2. PCAC allowed Mennes to reply to Hackman
3. PCAC allowed Hackman to reply to Mennes's remarks

The PCAC considered the documents and issued a decision for each document and stated why it was granted special leave or was not granted special leave as outlined in the following chart.

In the absence of Mennes at that time, the chair directed a plea of not guilty to each of the charges.

EXHIBITS FILED

- Exhibit 1—Work Absence Certificate re Mennes from Caeley Lorincz
- Exhibit 2—Visit Record re Mennes from Caeley Lorincz
- Exhibit 3—E-mail from Mennes to Kischuk requesting postponement of hearing, dated February 28, 2018
- Exhibit 4—Presenting officers' binder of documents
- Exhibit 5—Notice of hearing and Canada Post confirmation of delivery on February 9, 2018
- Exhibit 6—Grasslands Regional Division #6 Policy Handbook, Policy code 7.2.3.4
- Exhibit 7—Thank you card to Mennes from student
- Exhibit 8—Cease and desist letter from McGarry Law, representing Mennes, to Leonard Sproule and Constable Bamber, RCMP Bassano, dated February 9, 2018
- Exhibit 9—Griffin Park School student agenda page
- Exhibit 10—hand drawn representation of Suik's office layout for November 23, 2016 meeting
- Exhibit 11—Griffin Park School staff calendar 2016-17
- Exhibit 12—Grasslands school division calendar 2016-17
- Exhibit 13—Alberta College of Social Workers complaint form completed by Mennes re Pauline Stiekema, dated February 1, 2017
- Exhibit 14—Alberta College of Social Workers letter from B Llewellyn to Stiekema, dated February 14, 2017
- Exhibit 15—ATA Code of Professional Conduct
- Exhibit 16—ATA Leadership Update Volume 5 No 5
- Exhibit 17—Letter to Mennes, dated 2018 02 15 (page 1 only)
- Exhibit 18—Letter to Mennes, dated 2017 11 08 (page 3 only)
- Exhibit 19—Letter to Mennes, dated 2017 11 08 (page 4 only)
- Exhibit 20—Letter to Mennes, dated 2018 02 15 (page 5 only)
- Exhibit 21—Letter dated 2018 02 15 (pages 2 to 5 only)
- Exhibit 22—Vacation photographs (Macdonell)
- Exhibit 23—Reference letter from L Albrecht to Mennes, dated May 31, 2000
- Exhibit 24—Handwritten letter of protest of assignment from Mennes to M Pilling, dated June 11 2001
- Exhibit 25—Teacher report re Mennes from J Macdonell, dated February 26, 1982
- Exhibit 26—E-mail from Mennes to J Sherwin, dated March 21, 2017
- Exhibit 27—Appeal to Board of Reference re Mennes, dated June 11, 2012
- Exhibit 28—Teacher report re Mennes from J Macdonell, dated January 6, 1983
- Exhibit 29—Summative Report re Mennes from D Sametz, dated June 16, 2008
- Exhibit 30—Daryl letter (3 copies), dated May 20, 2008
- Exhibit 31—Summary of Findings From Discipline Investigation re Leonard Sproule
- Exhibit 32—General Report from Lethbridge Police Service (redacted), dated 2017 03 02

Report of the PCAC re Mennes, page 33

Document title	Description of document	New evidence or was available to the PCC hearing committee	PCAC decision to accept submission
Exhibit 12— ND1331, page3	List of disclosed items by Sherwin and Hackman at PCC hearing	New evidence	<ul style="list-style-type: none"> • Yes • Document was not in front of PCC hearing committee • Relevant to complaints by Mennes re: her binder
Exhibit 12— ND1331, page 2 Exhibit 12 B	From Sherwin’s investigation report on Mennes, dated January 16, 2019	New evidence	<ul style="list-style-type: none"> • Yes • Document was not in front of PCC hearing committee • List of documents provided by Sherwin referencing document provided by Mennes • Relevant to many comments by Mennes.

The summary of decision of the committee regarding application from Mennes for special leave to introduce new evidence from Exhibit 1A, appendix C1 is as follows.

Special Leave not granted – not new evidence	Special Leave not granted	Items that the PCAC accepts as part of Mennes’ written submission	Special Leave granted	Cards of thanks Special Leave granted
Document number	Document number	Document number	Document number	Document number
1	2	7	5	
3	4	18	15	
6	10	67	16	
8	11		17	
9	14		42	
12	30		55	
13	32		65	
19	33			

Report of the PCAC re Mennes, page 34

Special Leave not granted – not new evidence Document number	Special Leave not granted Document number	Items that the PCAC accepts as part of Mennes’ written submission Document number	Special Leave granted Document number	Cards of thanks Special Leave granted Document number
20 21 22 23 24 25 26 27 28 29 31 34–40 43–47 49–54 56 57 61 63 64 66 68 69	41 48 58 59 60 62			

The summary of decision of the committee regarding application from Mennes for special leave to introduce new evidence Exhibit 1A, appendix C2 is as follows.

Special Leave not granted – not new evidence	Special Leave not granted	Items that the PCAC accepts as part of Mennes’ written submission	Special Leave granted	Cards of thanks Special Leave granted
Document number	Document number	Document number	Document number	Document number
1	142	2		30
4	143	3		32
6		5		35
7-29		60		37
31		80		47
33-34		88		
36		117		
38-46		119		
48-59		121		
61-79		129		
81-87		133		
89-116		140		
118				
120				
122-128				
130-132				
134-139				
141				

OTHER CONSIDERATIONS

Subsequent to the reconvening of the PCAC hearing in September 2019, the chair of the committee, Baum, was elected as a district representative to the Alberta Teachers’ Association Provincial Executive Council. Mennes and Hackman were both advised of this and both submitted in writing, that they had no objection to Baum continuing as chair of the PCAC to this appeal hearing’s conclusion. It was further agreed by all parties that Baum would recuse himself from all discussions during Provincial Executive Council related to any discipline cases or general discussions regarding discipline and investigations until the PCAC has concluded this appeal hearing and the decision of the PCAC has been presented to Provincial Executive Council. (Exhibit 15)

In order to streamline matters for the hearing in September 2019, the PCAC arranged, and the parties were agreeable, to revising the documents in Exhibit 1A, appendices C1 and C2 to reflect the PCAC's decision based on the admission of new evidence. (Exhibit 1B)

BACKGROUND TO THE APPEAL

The charges against Mennes, as amended, were as follows:

1. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September 1981 to December 2016, engaged in actions and/or made comments to students which failed to treat the students with dignity and respect and with consideration for their circumstances.
2. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September 1981 to December 2016, treated students in a differential manner based on their academic abilities whereby students who were not strong academically were not treated with dignity and respect or in a manner that was considerate of their circumstances.
3. Withdrawn
4. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September 2008 to March 2017, made critical comments about the professional performance and/or professional reputation of both school based and central office administrators in a manner which was not consistent with professional responsibilities towards colleagues.
5. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September 2008 to March 2017, made written and/or verbal statements about both school based and central office administrators where the approach, inaccurate content and language employed were unbecoming to a professional teacher in her relationship(s) with colleagues.
6. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2016/17 school year, refused to address legitimate parent/grandparent concerns relative to the treatment of their children in Mennes's classroom.

7. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2016/17 school year, engaged in retaliatory actions against [Parent P] and/or [Grandparent P] for raising legitimate concerns about how their child/grandchild was treated in Mennes's classroom.
8. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2016/17 school year, made false allegations against her principal, Robert Suik, to the school district and to other persons without advising Suik of those allegations contrary to section 14 of the Code of Professional Conduct.
9. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September 2008 to June 2013, sent (an) anonymous letter(s) and/or notes to the superintendent of schools and/or school trustees, in which she made inflammatory and highly critical comments about the school administration and the school librarian at Bassano School.

Mennes's PCC hearing was scheduled to commence on December 4, 2017. The PCC hearing committee convened by conference call on November 21, 2017, to consider a request for an adjournment from Mennes's legal counsel, which was received by the Association on November 9, 2017, in order to allow Mennes's legal counsel more time to prepare. The hearing was rescheduled and adjourned from December 4, 2017 to March 1, 2018. The PCC hearing began on March 1, 2018 and continued on March 2, March 5–9 and March 12–13, 2018. The second part of the PCC hearing was reconvened on June 18, 2018 and continued to June 22, 2018. The third part of the PCC hearing recommenced on October 29, 2018 and continued to November 1, 2018. The last part of the PCC hearing reconvened on November 19, 2018 and continued to November 26, 2018.

The PCC hearing committee listened to testimony from fifty-eight witnesses of which, fifty were called by the presenting officers and eight were called by Mennes. The PCC hearing committee considered the credibility of each witness that testified. (Exhibit 1B, pages 6572 to 6590) Mennes testified before the PCC hearing committee, but the PCC hearing committee did not find her to be a credible witness for various reasons. (Exhibit 1B, pages 6586 to 6587) Although Mennes repeatedly alleged to the PCC hearing committee that there was a conspiracy amongst presenting officers' witnesses, it was determined by the PCC hearing committee that there was no evidence of collusion. In fact, the PCC hearing committee concluded that the similarity of witness testimony regarding Mennes's behaviour was due the pattern of behaviour Mennes displayed at the hearing. (Exhibit 1B, pages 6590 to 6591)

The PCC hearing committee found, based on the evidence adduced and witness testimonies that Mennes acted in a manner that failed to treat the students with dignity and respect extending over

a long period of time. The PCC hearing committee also found the incidents were not isolated and the actions of Mennes were repeated on many occasions and were similar in nature. (Exhibit 1B, page 6591)

The PCC hearing committee found, based on witness testimony and the evidence adduced, that Mennes, over an extended period of time, was unprofessional in her treatment of students who were not academically strong. The PCC hearing committee determined that this behaviour was not considerate of the students' circumstances. (Exhibit 1B, page 6591)

The PCC hearing committee found, based on witness testimony and the evidence adduced, that Mennes, over an extended period of time, September 2008 to March 2017, made critical comments about the professional performance and reputation of both school based and central office staff in a manner that was not consistent with Mennes's professional responsibilities towards colleagues. The PCC hearing committee believed the comments were retaliatory in nature and were meant to inflict personal and professional suffering on her colleagues. (Exhibit 1B, page 6593)

The PCC hearing committee found, based on witness testimony and the evidence adduced, that Mennes, over an extended period of time, made both written and/or verbal statements about both school based and central office staff where the approach, inaccurate content and language employed were unbecoming to a professional teacher in her relationship with colleagues. Mennes' communications were malicious and derogatory. (Exhibit 1B, page 6594)

The PCC hearing committee found, based on witness testimony and the evidence adduced, that Mennes refused to address legitimate concerns from parents and grandparent relative to the treatment of their children. (Exhibit 1B, pages 6594 to 6595)

The PCC hearing committee found, based on witness testimony and the evidence adduced, that Mennes engaged in retaliatory actions, including filing a false accusation of assault to the RCMP, against a parent and grandparent for raising legitimate concerns about the treatment of a child in Mennes's classroom. (Exhibit 1B, page 6595)

The PCC hearing committee found, based on witness testimony and the evidence adduced, that Mennes made false allegations against her principal through various letter writing campaigns which defamed her colleague to many different authorities in the province. She criticized the professional competence and reputation of her colleague in a public forum and not to proper officials. The actions of Mennes had an impact on many individuals in the Grasslands school division and they were not a one time event. (Exhibit 1B, page 6596)

The PCC hearing committee found, based on witness testimony and the evidence adduced, that Mennes, over an extended period of time, September 2008 to June 2013, sent anonymous letters and/or notes to the superintendent of schools and to school trustees in which she made inflammatory and highly critical remarks about the school administration and other staff. These letters smeared the reputation of many individuals and caused them to fear Mennes. (Exhibit 1B, page 6596)

The PCC hearing committee imposed the following penalties on Mennes:

For Charge 1

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
2. a recommendation to the minister of education to cancel Mennes's teaching certificate and
3. a fine of \$8,000.

For Charge 2

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
2. a recommendation to the minister of education to cancel Mennes's teaching certificate and
3. a fine of \$5,000

For Charge 4

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
2. a recommendation to the minister of education to cancel Mennes's teaching certificate and
3. a fine of \$4,500

For Charge 5

1. a letter of severe reprimand and
2. a fine of \$4,500

For Charge 6

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
2. a recommendation to the minister of education to cancel Mennes's teaching certificate and
3. a fine of \$4,000

For Charge 7

1. a letter of severe reprimand and
2. a fine of \$1,500

For Charge 8

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
2. a recommendation to the minister of education to cancel Mennes's teaching certificate and
3. a fine of \$2,500

For Charge 9

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
2. a recommendation to the minister of education to cancel Mennes's teaching certificate and
3. a fine of \$2,500

The PCC hearing committee further ordered that the fines, totalling \$32,500 were payable as follows

1. one third, \$10,833, must be paid to the Association within 30 days of Mennes's receipt of PCC hearing committee's written decision and
2. the balance, \$21,667, must be paid to the Association within 90 days of Mennes's receipt of PCC hearing committee's written decision.

Failure to pay the fines in full, within the prescribed time would result in enforcement action.

SUBMISSION OF THE APPELLANT ON THE MERITS OF THE APPEAL

1. The PCAC hearing reconvened on September 9, 2019.
2. The notice of continuation of appeal hearing was sent to Mennes and Canada Post confirmed it was delivered on July 29, 2019. (Exhibit 14)
3. The chair confirmed that both parties agreed to Baum's continuation as chair of the PCAC. Hackman and Mennes both agreed verbally along with signed letters previously received by Magnusson. (Exhibit 15)
4. The PCAC heard oral submissions from Mennes over two and a half days. As part of her submissions, Mennes provided the PCAC with a submission binder tabbed A to Z and guided the PCAC through her submission binder. (Exhibit 17) During her submissions, Mennes amended her copy of the binder. The binder, as amended, was entered and marked as Exhibit 18. The following is a summary of Mennes's submissions to the PCAC.
5. Mennes stated she was seeking all findings and orders to be quashed on all charges she was found guilty of by the PCC hearing committee. Mennes made further requests for remedies that were beyond the jurisdiction of the PCAC.

6. Mennes confirmed the following grounds of her appeal detailed in Exhibit 1B (appendix C1, appendix C2), Exhibit 2, Exhibit 17 and Exhibit 18:
 - a) miscarriage of justice
 - b) errors of fact
 - c) errors of law
 - d) no due process during the investigation
 - e) perjury
 - f) criminal activity
 - g) collusion
 - h) no duty of fair representation before the PCC hearing committee
 - i) equity and equality before the law
 - j) media reporting of the results of the PCC hearing committee's decision
 - k) no due process during the hearing before the PCC hearing committee (ridiculed, interrupted)
 - l) unfair influencing of witnesses especially former students
 - m) suppression of her evidence by the investigator
 - n) financial abuse
 - o) redundancy of charges 4 and 5 (Exhibit 2)

7. Mennes guided the PCAC through her submission binder. (Exhibit 18)

Introduction: a travesty of justice

This section highlighted the activities of Sproule and Steele, which Mennes characterized as criminal activity.

Tab A: travesty of justice, no due process

This section highlighted the accusations by Mennes that Steele colluded with the investigator to suppress evidence, which contravened her right to due process. She identified a number of situations where she felt due process did not exist in the investigation or during the PCC hearing.

Tab B: travesty of justice during PCC hearing

This section highlighted Mennes's belief that many witnesses who testified before the PCC hearing committee had committed perjury. Mennes also believed that the PCC hearing committee ridiculed her during the hearing and engaged in criminal activity and illegal misconduct in the reporting of the PCC hearing committee's decision. She stated that it was a dishonest and unfair investigative process, hearing and outcome.

Tab C: travesty of justice

This section highlighted Mennes's contention that the PCAC should exonerate her because she is not guilty of the charges and that there was misconduct by the investigators, the PCC hearing committee, the Association, the presenting officers, school personnel, counsel to the PCC hearing committee and Grasslands Regional School Division. For instance, she alleged there was collusion and the witnesses were coached.

Tab D: dishonest statements, reporting, and illegal misconduct by presenting officers, interviewers

This section highlighted Mennes's belief that all her written statements during the investigation and the PCC hearing were the result of being asked for her opinion. She believed that because she was asked to provide her opinion, she was not being unprofessional when she gave her opinion. She stated that she believe that she followed due process while the others did not. Mennes believed her voice was silenced.

Tab E: travesty of justice and ridicule

This section highlighted Mennes's accusation that there was illegal misconduct by the PCC hearing committee, the presenting officers and counsel to the PCC hearing committee, Richard Rand. Mennes complained that Rand ridiculed her last name and verbally painted a dishonest picture of her.

Tab F: no due process

This section highlighted Mennes's argument that she was presumed guilty from the start of the investigation. She stated she was treated differently than other teachers, that the investigation was unfair and that the investigation report was not honest. According to Mennes, she should have been offered independent judiciary. She claimed she had a right to a fair and impartial hearing and this was not what occurred during the investigation and the PCC hearing process. She asserted she should have been offered advice from a lawyer provided for her by the Association. Mennes claimed she was not given sufficient time to prepare for the PCC hearing. She further claimed Hackman and deGoeij were allowed to present new evidence at the PCC hearing while she was not. Mennes stated Hackman and deGoeij interrupted her on numerous occasions during the PCC hearing.

Tab G: equality before the law

This section highlighted Mennes's assertion that her right to be treated equally under the Canadian Charter of Rights and Freedoms was abused. She had requested an investigation and hearing into misconduct by Suik and Sproule. The denial of Complainant Appeal Committee's decision to refer the matter to a Professional Conduct Committee, combined with her assertion that the investigator hid evidence on Suik and Sproule's wrongdoings and that she did not receive fair representation from her union, resulted in her rights being violated. In oral submissions, Mennes acknowledged that the conduct of Suik and Spoule were not before this PCAC. She further reiterated that the media reporting of the original hearing also violated her right to privacy. Her reputation has been destroyed.

Report of the Hearing Committee of PCC re Mennes, page 12

- Exhibit 33—Supplementary Occurrence Report from Lethbridge Police Service (redacted), dated 2017 03 03
- Exhibit 34—Christmas card to Mennes from student and parent
- Exhibit 35—Notice of transfer from Chomistek to Mennes, dated May 3, 2012
- Exhibit 36—Letter describing reasons for transfer from Chomistek to Mennes, dated May 9, 2012
- Exhibit 37—Excerpt from ND1331 discipline investigation re Mennes (pages 97 to 134)
- Exhibit 38—Snowman drawing from student
- Exhibit 39—CTV News Calgary item published January 30, 2010
- Exhibit 40—Anonymous letter to Mennes, undated
- Exhibit 41—Four thank you notes to Mennes from Lynn
- Exhibit 42—*Bassano Bronco News* dated June 27, 2012, with handwritten notes (1 page)
- Exhibit 43—Two photographs of students in classroom
- Exhibit 44—*Bassano Bronco News* dated April 2012 (4 pages)
- Exhibit 45—Two photographs of students and adults 1989-1990
- Exhibit 46—Thank you note from Mark and Nancy / letter from B Andrejcin, dated January 15, 2013
- Exhibit 47—Note from Stew
- Exhibit 48—Thank you note to Mennes from K Mann, thank you note from student
- Exhibit 49—Thank you card (inside) to Mennes from M Yagos
- Exhibit 50—Thank you note to Mennes from J Follis
- Exhibit 51—Letter of support from Beddows family and student note
- Exhibit 52—Letter of appreciation to Mennes from R Franz, dated July 10, 1998 07
- Exhibit 53—Thank you letter to Mennes from S Thomasson, dated January 16, 2013
- Exhibit 54—Letter from Mennes to A Bellamy requesting transfer, dated October 20, 2000
- Exhibit 55—Student story "Wonderful You"
- Exhibit 56—Allegation of assault on November 23, 2016
- Exhibit 57—Request for investigation of alleged unprofessional conduct by Mennes, from R Suik, dated December 7, 2016
- Exhibit 58—Letter of concern from P Stiekema to Suik, dated February 13, 2015
- Exhibit 59—E-mail timed 3:48 am from Parent J
- Exhibit 60—E-mail timed 2:07 pm from T Weber (print date of January 6, 2017)
- Exhibit 61—E-mail, meeting notes from Suik, dated November 29, 2016
- Exhibit 62—E-mails between Mennes and Suik, dated March 21, 2013
- Exhibit 63—RTI Guided Reading student groups
- Exhibit 64—Class schedule Grade 4ME 2016-17
- Exhibit 65—Letter from Mennes to Suik, dated November 23, 2016
- Exhibit 66—Letter of support from A MacDonald, dated October 20, 2017 / thank you note from Jason
- Exhibit 67—E-mail of student concerns from Mennes to K Jensen, dated November 27, 2012
- Exhibit 68—E-mail from Chomistek requesting nomination of students dated January 15, 2013
- Exhibit 69—Letter commending Mennes from D Gillespie, dated June 14, 2000
- Exhibit 70—Letter of support from K Mann, dated February 13, 2013
- Exhibit 71—Letter of support from S Jumpsen, dated January 18, 2013

Tab H: travesty of justice–suspension, investigation and outcomes

This section highlighted Mennes’s contention that she was not treated fairly under the Teacher Growth, Supervision and Evaluation policy. She stated that a single complaint from a parent resulted in her being suspended from work and began the evaluation process. Mennes asserted that the Association did not fully consider the immense number of cards, letters of thanks and other documentation as proof of Mennes being well liked by her students and parents. She was a respected teacher in the school community. Mennes believes she was bullied by Suik, Sproule and Steele.

Tab I: perjury by Steele

This section highlighted Mennes’s allegation that Steele’s testimony regarding Sproule was incorrect and therefore he committed perjury under the Criminal Code (Canada). Mennes referred to the use of the word suspension by the Lethbridge Police Service as proof that Steele had advised Sproule of her suspension, when in fact she had not been suspended but was on unassigned duties.

Tab J: perjury by Parent C

This section highlighted Mennes’s assertion that Parent C had fabricated concerns for the investigator years after her child had been a student in Mennes’s class. Mennes stated that although Parent C claimed to be a volunteer in her classroom, she was not. Therefore, Parent C had committed perjury under the Criminal Code (Canada).

Tab K: travesty of justice, perjury by Brandt

This section highlighted Mennes’s complaint that Brandt deliberately misrepresented the facts surrounding a parental complaint about Mennes’s treatment of a student in her class. Mennes alleged that Brandt committed perjury under the Criminal Code (Canada).

Tab L: perjury by Student A

This section highlighted Mennes’s contention that Student A’s testimony, written statements and information in the investigation report were full of hate, perjury, dishonesty and deliberate deceptiveness.

Tab M: perjury by Suik

This section highlighted Mennes’s assertion that Suik’s testimony was embellished about Mennes keeping students in her class during recess and after school as well as the parental complaints. Mennes alleged that Suik committed perjury under the Criminal Code (Canada).

Tab N1: perjury by Kroschel

This section highlighted Mennes’s allegation that Kroschel fabricated evidence to wilfully attempt to obstruct or defeat the course of justice. She stated Kroschel exaggerated the time they

had worked together and lied about various conversations they had. Mennes alleged that Kroschel committed perjury under the Criminal Code (Canada).

Tab N2: perjury by Rachelle MacDougall

This section highlighted Mennes's contention that Macdougall's written statement and testimony in front of the PCC hearing committee was fraudulent and dishonest. Mennes alleged that MacDougall violated the Criminal Code (Canada) by committing perjury.

Tab N3: perjury by Stephanie March

This section highlighted Mennes's assertion that March's written statement and testimony were untruthful. Mennes believed that March was unduly influenced by someone to be dishonest.

Tab O1: perjury by Parent N

This section highlighted Mennes's belief that Parent N lied in her testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath and therefore committed perjury under the Criminal Code (Canada).

Tab O2: perjury by Student N

This section highlighted Mennes's claim that Student N lied in her testimony before the PCC hearing committee and was coached by the investigators. Mennes provided examples of testimony where she asserted the witness lied under oath and therefore committed perjury under the Criminal Code (Canada).

Tab P1: perjury by Student P

This section highlighted Mennes's belief that Student P lied in her testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath and therefore committed perjury under the Criminal Code (Canada).

Tab P2: perjury by Parent P

This section highlighted Mennes's assertion that Parent P lied in her testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath and therefore committed perjury under the Criminal Code (Canada).

Tab P3: perjury by Grandparent P

This section highlighted Mennes's contention that Grandparent P lied in her testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath and therefore committed perjury under the Criminal Code (Canada).

Tab Q1: perjury by Parent Q

This section highlighted Mennes's claim that Parent Q lied in her testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath and therefore committed perjury under the Criminal Code (Canada). She further

stated that Parent Q never alerted Mennes that she had concerns about Mennes's treatment of Parent Q's child.

Tab Q2: perjury by Student Q

This section highlighted Mennes's belief that Student Q lied in her testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath and therefore committed perjury under the Criminal Code (Canada). Mennes claimed there was substantial evidence that Student Q committed perjury and her unlawful conduct was motivated by a premediated or intentional purpose to find Mennes guilty.

Tab R1: perjury by Holt

This section highlighted Mennes's allegation that Holt lied in her written statement and testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath and therefore committed perjury under the Criminal Code (Canada). Mennes further stated that Holt's testimony could not have been truthful because Holt had never been in Mennes's classroom and Mennes had, at one time, given Holt a leather coat.

Tab R2: perjury by Parent B

This section highlighted Mennes's belief that Parent B lied in her written statement and testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath, allegedly committing perjury under the Criminal Code (Canada), regarding the use of IPP and the accommodations used in Mennes's classroom.

Tab R3: perjury by Student B

This section highlighted Mennes's claim that Student B lied in his written statement and testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath regarding his IPP and the accommodations used to assist him in the classroom. Mennes alleged that Student B committed perjury under the Criminal Code (Canada).

Tab S: perjury by Anthill

This section highlighted Mennes's contention that Anthill lied in her written statement and testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath regarding the Mennes's treatment of students who required extra time or assistance, in violation of the Criminal Code (Canada).

Tab T: perjury by Student K

This section highlighted Mennes's assertion that Student K lied in her written statement and testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath regarding how she was treated by Mennes.

Mennes further asserted that Student K's testimony ran counter to remarks Student K had previously made about her time in Mennes's class. Mennes argued that this proved that Student K's testimony was coached and she was influenced to be untruthful in her written statement and testimony. Mennes also alleged that other students who testified before the PCC hearing committee were influenced, coached, intimidated and colluded.

Tab U: perjury by Joanne Decker

This section highlighted Mennes's allegation that Decker lied in her testimony before the PCC hearing committee. Mennes provided examples of testimony where she asserted the witness lied under oath, allegedly committing perjury under the Criminal Code (Canada). Mennes claimed Decker's written and oral testimony were both dishonest. Mennes also alleged that Decker committed fraud under the Criminal Code (Canada).

Tabs V, W, Y and Z did not have any written materials in them.

Tab X: retribution

Mennes asserted that throughout the entire process she was mistreated by the Association. Her first claim was that the investigation was neglectful and malicious. She went on to assert that the PCC hearing committee's report is libellous and the fact that the news media were given copies of the written decision of the PCC hearing committee was a serious breach of her rights. As result of the media coverage on her case, Mennes stated she has suffered mental anguish, humiliation, and damage to her reputation. She asserted that she should be compensated for the embarrassment and dishonesty.

Mennes further stated that she should be compensated for the thousands of dollars she spent on (1) lawyers, (2) kennel costs, (3) hotel bills, (4) photocopying charges, (5) printing, (6) obtaining a cease and desist letter, (7) her witnesses' expenses and (8) other expenses she incurred while trying to fight for the truth. She submitted that she deserves to be exonerated, as she is not the teacher or person described in the investigation that was full of criminal activity by the Association witnesses and slander. Mennes stated this was a travesty of justice.

Mennes also included the following as part of her retribution submissions:

- The Association to help her get compensation from the Grasslands School Division.
- The minister of education to fire Chapman from her role as vice-chair of the Grassland School Division for allegedly committing perjury and not treating all teachers with dignity and respect.
- The Association to press criminal charges against witnesses who Mennes alleged committed perjury and/or used false documentation.
- The costs of the PCC hearing and the PCAC hearing to be charged to the Association, the investigating officers and the presenting officers.

- The PCC hearing committee appointed to her case to pay an equal portion of the costs associated with the proceedings, along with the investigating and presenting officers.
- The minister of education to ensure the Grasslands School Division is cleaned out so all teachers can speak freely.
- The Association to create a detailed legal document that addresses how investigations are carried out.
- The minister of education to mandate all evaluations or reports on teachers to be signed by the teacher, administrator and any witnesses at the time the report is created.
- The librarian at Griffin Park School be fired for her alleged dishonesty.
- Two teachers from Griffin Park School lose their teaching certificates for their alleged perjury.
- Criminal charges be laid against Sproule, Andres, Kroschell, Decker, Parent C, Steele, Holt, Parent B and Suik.
- Stevens be investigated for assaulting Mennes.

Lastly, the PCAC also heard submissions from Mennes on each of the charges she was found guilty of and the sanctions imposed by the PCC hearing committee.

SUBMISSION OF THE RESPONDENT

1. The presenting officers only made oral submissions to the PCAC. They did not provide any written submissions to the PCAC.
2. Hackman submitted there was no proof provided by Mennes that would cause the PCAC to overturn the decisions made by the PCC hearing committee. The purpose of the PCAC is to review the decision of the PCC hearing committee to determine whether the decision was reasonable given the evidence presented to the PCC hearing committee.
3. In terms of new evidence, Hackman submitted that this should be restricted to evidence that was not available at the time of the original hearing. Hackman further argued that Mennes's written submissions, which are not evidence, should not be considered by the PCAC.
4. Hackman highlighted evidence that the PCC hearing committee had received and considered regarding Mennes's treatment of students, parents and colleagues which constituted unprofessional conduct.
5. Hackman and deGoeij argued that:
 - a) PCC hearing committee saw documentary evidence and heard testimony from fifty-eight witnesses. The PCC hearing committee did not see Sherwin's investigation report as it

was not relevant. The investigation report to the executive secretary is an internal document from the investigating officer that allows the executive secretary to make a determination if there is sufficient evidence to order a hearing. The investigation report is not tested evidence and therefore should not be considered as such.

- b) Mennes claimed that not all the documents she had submitted to Sherwin were considered and passed on to the presenting officers. Whether Sherwin passed all of these documents to the presenting officers is irrelevant. What is important is that Mennes, by her own admission, had received those documents and was able to provide them and her associated arguments to the PCC hearing committee. (Exhibit 12) If Mennes believed there were documents in existence that should have been seen by the PCC hearing committee, she could have presented them along with any witness that could have corroborated her narrative.
- c) Mennes's claim of financial abuse in terms of her bill from her lawyer should not be given any weight by the PCAC. There are specific rules of disclosure that must be adhered to and the Association followed those rules. Further, the fact that these documents were sent to Mennes's lawyer is further evidence that the Association was not hiding Mennes's documents.
- d) Mennes's accusations of criminality and errors of fact are not backed up by evidence; she has only provided her personal narrative and assertions without any supporting evidence.
- e) Mennes claimed Sproule's notes were fraudulent and he did not write his notes until four years after she had left Bassano School and because of this action, he was guilty of criminal activity. However, according to his testimony before the PCC hearing committee, which was not discredited at the time, Sproule said he wrote his notes as soon as possible after the conversations took place. (Exhibit 1B, page 733) Not only was this testimony not challenged by Mennes before the PCC hearing committee, Mennes provided no evidence beyond her own opinion that Sproule's notes were not written at the time Sproule testified they were.
- f) Mennes claimed that she was not provided with the duty of fair representation. However, the duty of fair representation does not apply to matters of professional conduct but rather applies to representing a person's interests related to collective agreement issues. If however, Mennes is using the term incorrectly to deal with fair and reasonable treatment within the process of the investigation, the PCC hearing committee and the subsequent PCAC, the presenting officers submitted they have not seen any evidence or corroboration of her accusations.
- g) Mennes stated that the presenting officers did not offer her protection or representation. That is true, as that is not the role of the presenting officers. Any issues that Mennes may

or may not have had with her employer would not come under the purview of the Association discipline process.

- h) Mennes accused the Association of colluding with Grasslands School Division. However, she has provided no evidence of this, either in documents or in testimony that would support this allegation.
- i) Mennes further stated that she did not receive due process as she was constantly interrupted during the PCC hearing. Hackman explained his interruptions were merely objections or cross examination and are permissible in any hearing.
- j) Mennes claimed the PCC hearing committee's legal counsel committed an error of law by being disrespectful during her closing argument. However, upon reviewing the transcript, on page 4696 of Exhibit 1A, Rand specifically asked people to accord Mennes the same respect for her closing as she did for the presenting officers' closing.
- k) Mennes claimed that Chomistek lied under oath. However, Mennes chose not to challenge Chomistek's testimony during the PCC hearing. Once again, Mennes did not provide any direct testimony or evidence to prove this claim. Further, this hearing is about Mennes conduct not anyone else's.
- l) Mennes advised that she did not receive due process in terms of sufficient time to prepare for the PCC hearing. The TPA stipulates that a member must receive a notice of a hearing 15 days prior to the commencement of the hearing. Mennes was given 3–4 months to prepare for the PCC hearing.
- m) Mennes stated that she did not send a letter to the University of Lethbridge. However, the University of Lethbridge's e-mail system places a name in the e-mail if the sender is known. Mennes provided no direct testimony or evidence to refute this.
- n) Mennes claimed that there were errors of fact that proved many people were colluding against her. She claimed the use of the word "suspension" by the Lethbridge Police Service was proof that Steele had advised Sproule and then Sproule had asked a friend in the police to investigate. Mennes reminded the PCAC that she was not suspended but rather placed on unassigned duties and not required to report to school pending the investigation, and that she was not teaching at Bassano School at the time but rather was employed at Griffin Park School. Hackman addressed the mistake in terms of the name of the school as likely a mistake in reporting by the RCMP and the use of suspension rather than unassigned duties was just how the police referred to it. Further, Hackman pointed out that there was no evidence to show that the police acted improperly, but even if they did, it would not come under the purview of the PCAC.
- o) Mennes alleged that a letter written by Perry Grosse was not considered as evidence. Hackman explained that Grosse was the husband of the vice-principal. His letter

- contained second-hand information received from his wife, but did not include any direct evidence as he was not a staff member.
- p) Mennes accused Sproule of downloading pictures from her computer without her knowledge. Hackman stated that there was no evidence to support this claim. Further, Mennes chose not to test the credibility of this witness when given the opportunity to cross examine him during the PCC hearing.
 - q) Hackman highlighted evidence the PCC hearing committee had received and heard regarding Mennes's treatment of students, parents and colleagues. The PCC hearing committee found the evidence constituted unprofessional conduct.
 - r) Hackman highlighted evidence the PCC hearing committee had received and heard regarding Mennes's many letters and e-mails sent to various organizations and people, such as the College of School Superintendents, the school board chair, the Provincial Registrar and the Premier, criticizing her colleagues' and administrators' conduct and competency. This is in direct contravention of the Code of Professional Conduct.
 - s) Mennes stated in her grounds for appeal that many witness names that she provided to the investigating officer were not interviewed or called as witnesses during the PCC hearing. DeGoeij stated Mennes was given every opportunity to call witnesses at the PCC hearing and the fact that she did indeed call seven witnesses, excluding Mennes herself, proves that she was not denied this right. The presenting officers do not call witnesses for the investigated member. That was not their role.
 - t) Mennes claimed she was treated unfairly as a direct result of the Association releasing details of the hearing findings to the media. The PCAC's role is to look at the proceedings of the PCC. Further, it should be noted that hearings are public and can be attended by media personnel. The Association has no control over what the media reports.
 - u) Mennes claimed the many cards she received from students and parents were evidence that the student and parents thought she was a good teacher and person. Hackman contended that greeting cards are a social convention and not evidence to support or discredit a witness's credibility.
 - v) Mennes claimed most of the adults and children who testified at the PCC hearing either lied or were coached by others on what to say. However, according to the PCC transcripts, Mennes did not cross examine the following witnesses: Parent C, Student A, MacDougall, March, Parent Q, Holt and Anthill.
 - w) Mennes cross examined Steele, Suik, Kroschel, Parent N, Student N, Student P, Parent P. Grandparent P, Parent B, Student B, Student K, Decker, Parent D and Student D. The PCC hearing committee heard and considered these witnesses' direct testimony and their answers on cross examination and determined each witness' credibility. Mennes provided no evidence to the PCC hearing committee or to the PCAC to discredit these witnesses. Accordingly, the PCAC should not accept Mennes's submissions without evidence to support her submissions, which Mennes did not provided to the PCAC.

- x) Mennes requested that all findings be quashed. DeGoeij asked that the PCAC consider that Mennes's actions were significant, wide ranging and repeated over a long period of time. Mennes's conduct, behaviour and actions caused significant and detrimental harm to students, parents and colleagues.
- y) Mennes requested that all orders be quashed. DeGoeij asked that the PCAC consider that the penalties ordered by the PCC hearing committee were appropriate given Mennes's egregiously unprofessional behaviour, her malicious intent toward students, parents and colleagues and her apparent lack of remorse for her actions. To date, Mennes has not taken any responsibility for her actions or conduct. DeGoeij concluded by asking the PCAC to consider increasing the fines levied by PCC hearing committee.

STANDARD OF REVIEW

The PCAC applied a standard of review of reasonableness to the PCC hearing committee's decision and the penalties imposed on Mennes. A reasonable decision is one that falls within a range of possible and acceptable outcomes that are defensible in respect of the fact and the law. The reasonableness of a decision should be reviewed in the context of the evidence and the submissions made by the parties in the hearing under appeal, and the overall process.

A decision will be unreasonable if there is no line of analysis with the given reasons that could reasonably lead the committee from the evidence before it to the conclusion at which it arrived. A standard review of reasonableness means that the appeal committee must exercise deference in relation to the decision of the hearing committee. A decision is reasonable if the decision making process is justified, transparent and intelligible resulting in a decision that falls within the range of possible, acceptable outcomes which are defensible on the facts and law.

DECISION OF THE COMMITTEE

1. Applying the standard of review of reasonableness, the PCAC found the PCC hearing committee's guilty findings on all charges to be reasonable and, as a result, the appeal was denied.
2. Based on the standard of review of reasonableness, the PCAC varied the PCC hearing committee penalties imposed only in regards to the fines levied for Charge 1 and Charge 2 to \$4,000 each. Therefore the following will apply:

For Charge 1

- a. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
- b. a recommendation to the minister of education to cancel Mennes's teaching certificate and
- c. a fine of \$4,000.

For Charge 2

- a. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
- b. a recommendation to the minister of education to cancel Mennes's teaching certificate and
- c. a fine of \$4,000

3. Applying the standard of review of reasonableness, the PCAC found all other penalties and orders imposed by the PCC hearing committee to be reasonable and, as a result, all appeals of penalties and orders were denied. Therefore the following will apply:

For Charge 4

- a. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
- b. a recommendation to the minister of education to cancel Mennes's teaching certificate and
- c. a fine of \$4,500

For Charge 5

- a. a letter of severe reprimand and
- b. a fine of \$4,500

For Charge 6

- a. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
- b. a recommendation to the minister of education to cancel Mennes's teaching certificate and
- c. a fine of \$4,000

For Charge 7

- a. a letter of severe reprimand and
- b. a fine of \$1,500

- Exhibit 72—Character reference from B Miller
- Exhibit 73—Christmas drawing from student
- Exhibit 74—Thank you note re chess club from L / thank you card re chess club from student / terrific teacher certificate
- Exhibit 75—Thinking of you gift tag
- Exhibit 76—Thank you card from student / two thank you notes from Maxine
- Exhibit 77—Thank you note from student
- Exhibit 78—Four photographs (man, woman, baby and dogs)
- Exhibit 79—Two photographs (Mennes and woman, man)
- Exhibit 80—Two photographs (man in swimsuit and t shirt)
- Exhibit 81—Three photographs (group at dinner, Christmas decorations, group at dinner)
- Exhibit 82—Two photographs (two men, two couples)
- Exhibit 83—1983-84 yearbook page
- Exhibit 84—Letter of support from A Krasznai, dated April 9, 2018
- Exhibit 85—Grade 1-6 report card information sheet
- Exhibit 86—Thank you note from student
- Exhibit 87—Excerpt from ND1331 discipline investigation re Mennes (pages 47 to 52) with handwritten notes in margin
- Exhibit 88—Teacher notes Wednesday March 16 to Tuesday April 5
- Exhibit 89—Written statement by N Sharp
- Exhibit 90—Mennes's binder of documents (tabbed)
- Exhibit 91—Letter from S Brandt directing Mennes staff off school property without permission, dated April 16, 2018 04 16
- Exhibit 92—Excerpt from 1982/83 Bassano School Yearbook
- Exhibit 93—Excerpt from 1983/84 Bassano School Yearbook
- Exhibit 94a—Student B IPP December 2008
- Exhibit 94b—Student B IPP June 2009
- Exhibit 95—Practice Review of Teachers Regulation
- Exhibit 96—Presenting officers' closing argument
- Exhibit 97—Defence closing argument

LIST OF WITNESSES

The presenting officers called the following witnesses:

1. Linda Holt
2. Scott Brandt
3. Student A
4. Linda Andres
5. Student B
6. Parent B
7. Parent C
8. Student C
9. Jennifer Antill

For Charge 8

- a. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
- b. a recommendation to the minister of education to cancel Mennes's teaching certificate and
- c. a fine of \$2,500

For Charge 9

- a. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
- b. a recommendation to the minister of education to cancel Mennes's teaching certificate and
- c. a fine of \$2,500

4. The PCAC upheld the PCC hearing committee's decision that the fines, now totalling \$27,500 were payable as follows
 - a. one third, \$9,167 must be paid to the Association within 30 days of Mennes's receipt of PCAC's written decision and
 - b. the balance, \$18,333 must be paid to the Association within 90 days of Mennes's receipt of PCAC's written decision.

Failure to pay the fines in full, within the prescribed time would result in enforcement action.

REASONS FOR DECISION

1. Although the PCAC may not address each ground of appeal raised by Mennes below, the PCAC confirms that it has reviewed and considered each of Mennes' issues and grounds of appeal raised.
2. Upon having reviewed the decision of the PCC hearing committee, the record of proceedings and the additional exhibits marked 1 to 18 in these proceedings, the PCAC found the PCC hearing committee's decision to be reasonable. The PCAC found the PCC hearing committee's decision, including its findings of guilt on all charges, to be justifiable, transparent and intelligible.
3. The PCAC found no errors in logic or reasoning by the PCC hearing committee in its decision.
4. The PCAC determined that the PCC hearing committee had not erred in its review of the evidence before it.
5. The PCAC determined that the PCC hearing committee's process was fair and the PCC

hearing followed the steps and procedures as agreed to by both parties at the commencement of the PCC hearing. The PCAC found that due process was afforded to Mennes throughout the PCC hearing. The PCAC reviewed the evidence that was before the PCC hearing committee and concluded that there was more than ample evidence on which the PCC hearing committee could find that the charges were proven.

6. The PCAC found, based on Mennes's submissions that she was essentially asking the PCAC to re-try the case and to re-weigh and re-assess the evidence, which the PCAC is not to do under the reasonableness standard.
7. The PCAC noted the PCC hearing committee heard evidence from fifty-eight witnesses over 21 days of proceedings from March 2018 to November 2018. After having heard from all witnesses, the PCC hearing committee examined, in great detail, the credibility of each witness and made a series of findings respecting whether they were a credible, somewhat credible or not credible witness. (Exhibit 1B, pages 6572 to 6591) The PCAC further noted that the PCC hearing committee found some witnesses more credible than others, indicating that the PCC hearing committee did not accept every witness's testimony. The PCC hearing committee considered the following factors for each witness to determine their credibility:
 - a) appearance and demeanour of the witness
 - b) ability to perceive the actions that led to the charges
 - c) ability of the witness to recall
 - d) what was the motivation of the witness
 - e) was the witness's testimony plausible or probable
 - f) was there internal consistency in the witness's evidence
 - g) was there external consistency in the testimony between witnesses
8. Having heard Mennes's submissions, reviewed the record of proceedings and the exhibits marked in these proceedings, the PCAC was not convinced that there were any errors by the PCC hearing committee. There was no evidence that the PCC hearing committee's determinations with respect to credibility of witnesses were unreasonable or that PCAC should substitute its opinion for that of the PCC hearing committee. There was no evidence provided to the PCAC to contradict the PCC hearing committee's determination of witness credibility (Exhibit 1B, pages 6572 to 6591). Mennes provided no evidence of witnesses being coached in their testimony nor any direct evidence of deliberate mis-truths. The PCAC considered errors in witness testimony by Mennes but found that if there was an error, it was not substantive and could be explained by the passage of time.
9. The PCAC found the PCC hearing committee to be very diligent in their review of the evidence adduced.

10. The PCAC also found that the PCC hearing committee clearly delineated testimony and exhibits for each charge illustrating how they reached their decisions. In other words, for each of the charges before the PCC hearing committee, the PCAC found that the PCC hearing committee had clearly set out the testimony and documentary evidence that supported each charge which resulted in a guilty finding. The PCAC found the conclusions of the PCC hearing committee fell within the range of acceptable outcomes and were defensible on the facts and the law.
11. There was no evidence provided to the PCAC to contradict the PCC hearing committee's determination that the evidence provided supported their findings on each charge.
12. The PCAC considered the relative weight of the documents submitted when rendering its decision, in light of the PCAC granting special leave for new evidence on request of the parties.
 - a) The PCAC determined that the appellant's additional submission of cards and letters she had received from students over her years of teaching did not contradict the sworn testimony of witnesses during the PCC hearing. The PCAC found that the giving of cards by students is a social convention and was not evidence to support or discredit a witness's testimony. Further, many elementary students create cards as class projects and are not indicative of their feelings towards a specific person or teacher.
 - b) The PCAC determined that the appellant's hand-written notes on photos and cards would be considered as part of her written submission but were given little weight, as this provided the PCAC with no evidence to contradict the findings of the PCC hearing committee. Notes such as "travesty of justice," "errors of fact," "illegal misconduct" and "errors of law" are arguments and statements that do not constitute evidence.
 - c) The PCAC determined that the appellant's submission of various documentation from medical practitioners, police services, her own records and the Association were not relevant to the appeal. The PCAC gave these documents consideration and determined that they did not inherently make the findings and orders of the PCC hearing committee unreasonable. The appellant presented no evidence of a direct link between the documents submitted and the charges on which she was found guilty. The PCAC found no reasons contained within the documents to refute the charges or findings of guilt made by the PCC hearing committee. The documents were not deemed relevant to the appeal.
13. The PCAC carefully examined Charges 4 and 5 to determine if the ground of appeal in the letter written by Mason (Exhibit 2) asserting that the charges were too similar to warrant separate charges had any merit. The PCAC considered the *Kienapple* principle, which is a criminal law principle that prohibits multiple convictions for the same conduct. In the

professional discipline context, the principle is that professionals may not be disciplined more than once for an identical matter. The PCAC found the elements of Charge 4 to be substantially different than Charge 5, and there was enough evidence directly tied to each of the charges to warrant two separate charges. Charge 4 dealt specifically with Mennes communicating inappropriately with others about colleagues in a manner that is inconsistent with section 13 of the Code of Professional Conduct except as delineated by section 24 of the TPA. Charge 5 dealt specifically with the inaccurate content and inappropriate language employed by Mennes in her written and/or verbal statements contrary to section 14 of the Code of Professional Conduct.

14. Mennes did not present any evidence that proved collusion between any of the parties to this case. More specifically, there were statements made by Mennes but no evidence to show collusion had occurred between witnesses, investigators, the Association, the presenting officers or anyone else involved in the PCC proceedings.
15. Mennes's claim of financial abuse was found to be unsubstantiated. The PCAC was satisfied that during the course of preparing for the hearing, the Association, as it was required, provided full disclosure to legal counsel retained by Mennes and Mennes when she was no longer represented by legal counsel. The PCAC found that Mennes was not entitled to be reimbursed for expenses she incurred in providing a defence to the charges against her during the PCC proceedings. The PCAC found that there was no malintent by the Association, investigating officers or presenting officers.
16. There was no evidence or testimony that proved the investigating officer suppressed evidence or did anything inappropriate or unfair to Mennes.
17. Mennes, as part of her appeal, stated that she was treated unfairly by the media as a result of the direct actions of Association personnel. The PCAC determined that the media coverage was a result of a reporter who attended the PCC hearing and requested a copy of the decision. The Association is required by the *Teaching Profession Act* to provide the decision of the hearing when requested (TPA, section 47(4)). All hearings, by law, must allow public audience in the discipline process when appropriate (TPA, section 33(a)). The PCAC noted that no information related to the PCC hearing was published by any media owned or controlled by the Association.
18. Mennes repeatedly referred to the criminal activity of witnesses who testified before the PCC hearing committee and others as part of her grounds for appeal. However, the PCAC does not have jurisdiction over criminal matters and does not make findings of criminal conduct in a discipline proceeding. Accordingly, the PCAC focused on the professional conduct of Mennes, the reasonableness of the PCC hearing and Mennes's grounds for appeal. The PCAC noted that it did, however, consider the perjury allegation raised by Mennes against more than 20 witnesses as an issue of credibility of the witnesses before the PCC hearing committee. The PCAC considered the credibility of the witnesses as

determined by the PCC hearing committee and the PCAC's finding and reasons are set out above.

19. Mennes claimed that the Association failed in its duty of fair representation while acting as her union. The PCAC did not consider if her union had obligations and if it did, whether it did or did not meet its obligations, as the PCAC does not have the jurisdiction to make findings on labour relations matters between Mennes and her union. This appeal only involves matters related to the PCC hearing and its decision.
20. In reviewing the penalties for Charges 4, 5, 6, 7, 8 and 9, the PCAC found the PCC hearing committee's decision to be reasonable because the penalties fell within the range of possible or acceptable penalties given the length and duration of the mistreatment of children, the repeated behaviours exhibited by Mennes, the retaliatory actions, the precedents cited by the presenting officers and the need to protect the interests of the public. Given the PCAC's findings above, there was no reason to justify varying any of the penalties for Charges 4, 5, 6, 7, 8 and 9.
21. In reviewing the penalties for Charges 4, 5, 6, 7, 8 and 9, the PCAC found no error of logic or reasoning by the PCC hearing committee in its decision on penalty and was satisfied that the penalties fell within the range of possible acceptable penalties as a result of Mennes's unprofessional conduct.
22. In imposing the penalties, the PCC hearing committee considered the *Jaswal* factors listed in Exhibit 1B, page 6599:
 - a) the nature and gravity of the charges;
 - b) age and experience of the teachers;
 - c) presence or absence of previous convictions of unprofessional conduct;
 - d) age and conditions of individuals affected by the conduct;
 - e) impact on the individuals affected by the unprofessional conduct;
 - f) whether the member already suffered other consequences;
 - g) presence or absence of mitigating circumstances;
 - h) penalties in similar cases;
 - i) need to promote deterrence; and
 - j) the need to maintain confidence in the profession.The PCAC determined that the PCC hearing committee considered all relevant factors before imposing the penalties.
23. The PCAC reduced the fines for Charges 1 and 2 by \$5,000 (\$4,000 for Charge 1 and \$1,000 for Charge 2). The PCAC found that given that the PCC hearing committee imposed a more severe penalty than what was requested by the presenting officers for Charges 1 and 2 (i.e. permanently ineligible for membership) and their precedents, the length of time over which these two charges went outstanding and recognizing the proportionality of all of the penalties imposed for the eight findings of unprofessional conduct, the fines for Charges 1

and 2 should be reduced to reflect same.

24. The PCAC reviewed specific precedents referred to by Hackman and deGoeij at the PCC hearing. In reviewing the penalties for Charges 1 and 2, the PCAC considered the PCC hearing committee's decision to be inconsistent because the fines in combination with the other penalties for Charges 1 and 2 did not fall with the range of penalties as cited by precedents presented to the PCC hearing committee.

Dated at the City of Edmonton in the Province of Alberta, Monday, January 6, 2020.

10. Rachelle MacDougal
11. Stephanie March
12. Parent D
13. Student D
14. Kathleen Jensen
15. Leonard Sproule
16. Parent E
17. Laurie Lunseth
18. Student F
19. Student G
20. Student H
21. Rebecca Kroshel
22. Joanne Decker
23. Parent I
24. Student I
25. Parent J
26. Student J
27. Parent K
28. Student J
29. Robert Suik
30. Parent L
31. Student L
32. Parent M
33. Student M
34. Parent N
35. Student N
36. Tonny Peel
37. Student O
38. Grandparent P
39. Parent P
40. Student P
41. Shelley MacNaughton
42. Parent P
43. Student Q
44. Marina Mercer
45. Student R
46. David Steele
47. Pauline Stiekma
48. Denise Racz
49. Linda deJong-Dube
50. Susan Chomistek

The defence called the following witnesses:

1. Frieda Mennes
2. Norma Sharp
3. Crystal Doyle
4. Terri Penny (nee Hall)
5. Betty Andrejcin
6. Agnes Kraznai
7. Perry Grose
8. Alicia MacDonald-Lasante

Mennes and her counsel, Benarzi, reported difficulty in getting certain additional potential witnesses to appear. Despite the significant passage of time until these difficulties were reported, Mennes was given extra time to serve them with notices to attend and she subsequently reported she was unable to do so.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Mennes was a member of the Alberta Teachers Association during the period September 1, 1981 to October 31, 2017 inclusive. (Exhibit 4, tab 1)
2. Mennes taught for Grassland School Division No 6 in Bassano School (1981-1986), Haddington School (1986-1988), Duchess School (1988-1990), Bassano School (1990-2012) and Griffin Park School (2002-2016) and was then placed on unassigned duties (2016-2018). (Exhibit 4, tab 1, document 2)
3. After a medical leave, Mennes returned to teaching for 13 days during 2016/17 school year, from November 1 to 23, 2016. (Exhibit 4, tab 86)
4. In June 2012, Mennes was identified for a transfer from Bassano School to Griffin Park School. The transfer was appealed through the proper process but her appeal failed. Mennes reluctantly complied with the transfer.
5. Mennes had positive administrator evaluations from 1981 to 2008. (Exhibit 90)
6. A number of students identified that Mennes changed her behaviour by “putting on her happy face” when an adult in authority was present in her classroom. “When people came to the door, she would open it and her tone would change. She would be happier. We all noticed that. We called it her fake face, because she would put on a grin and her greeting was not what we would hear in the classroom.” (Exhibit 4, tabs 41, 48, 60)
7. During the time period of the charges, Mennes selected a small group of high-achieving students in her classes that she treated preferentially and a select small group of

low-achieving students that she treated harshly. (Exhibit 4, tabs 13, 15, 20, 41, 45, 47, 48, 50, 52, 60, 63, 65, 68, 74, 75)

8. Many witnesses testified that throughout her career, Mennes would detain weaker academic students and students who had not completed their work on time. Very often, these students missed consecutive recesses over extended periods of time. This evidence (Exhibit 4) was spoken to and corroborated by a number of witnesses who gave consistent and believable accounts of same:
 - (a) Students: Student 3 (tab 10), Student B (tab 13), Student I (tab 47), Student J (tab 50), Student F (tab 41), Student G (tab 42), Student H (tab 43), Student K (tab 52), Student N (tab 65), Student L (tab 60), Student M (tab 62), Student O (tab 63), (tab 15), Student P (tab 68) and Student Q (tab 74)
 - (b) Parents: Parent B (tab 12), Parent C (tab 14), Parent P (tab 67) and Parent Q (tab 73)
 - (c) Staff: Linda Holt (tab 3), Linda Andres (tab 9), Joanne Decker (tab 11), Stephanie March (tab 18), Rebecca Kroschel (tab 44), Robert Suik (tab 88), Tonny Peel (tab 66), Kathleen Jensen (tab 23) and Jennifer Antill (tab 16)
9. Mennes's disdainful treatment of students often caused them personal embarrassment.
10. Mennes tended to retaliate maliciously whenever a person challenged or confronted her. (Exhibit 4 and testimony of L Holt tab 3, S Chomistek tab 83, Student I tab 47, L Sproule tab 29 and 30, T Peel tab 66, S Brandt tab 4, L Andres tab 9, K Jensen tab 23, Student D tab 20, Parent B tab 12, various letters tabs 53-58, Parent N tab 64, Student N tab 65, e-mail tab 25, Parent P tab 67, RCMP complaint tab 69, Grandparent P tab 70)
11. Numerous students testified that they felt terrified by Mennes.
12. Multiple students testified that Mennes "yelled" at them or their class. It is a matter of interpretation about what was actually "yelling" but it is abundantly clear that the tone and effect of Mennes's voice was stern and authoritarian. Students would tend to characterize any situation where they had been reprimanded as being "yelled at."
13. Many adults testified that Mennes was soft spoken and quiet and not prone to raising her voice.
14. Regardless of the volume of her voice, the manner in which Mennes dealt with students devastated some of them.

Charge 1 and Charge 2

15. Parent C testified that she was a student in Mennes's Grade 4 classroom during 1984/85. During that school year, Parent C travelled to Seattle to provide bone marrow for her sibling. Upon return to Bassano, Parent C was expected to complete the assignments that were missed and Mennes made her stay after school even though she was a bus kid and she lived approximately twelve miles out of town. Parent C was extremely concerned about causing additional stress on her parents and felt that missing the bus would cause extra stress at a very difficult time. Parent C recalled Mennes telling her she was lying about missing the bus. Parent C did miss the bus on one occasion and had to call her parents. Parent C testified, "considering the situation, she was extremely unkind to a kid who was going through a really difficult time and more than anything, just needed some compassion at the time. This affected me for the rest of my life." (Exhibit 4, tab 14 and testimony)
16. Parent C testified that Mennes differentiated activities in her classroom by providing different booklets for different children.
17. Student C was a student in Mennes's Grade 4 class during the 2010/11 school year. He testified, "Ms Mennes was mean to people who were weren't very academic. She didn't treat non-academic people as evenly as academic people. She treated the academic students nice but she didn't treat the non-academic ones well. She didn't help them to get their work done or to get caught up. When we did multiplication tables, if we didn't get a certain number, she would make us redo them over and over." (Exhibit 4, tab 15)
18. Regarding his treatment, Student C testified, "Ms Mennes treated me like I wasn't smart and I had to get better at stuff. She kept me in for recess because I never got my stuff done like the other kids, but I tried my hardest, but never got to the point where they got to so I had to stay in." (Exhibit 4, tab 15)
19. Student C testified, "There were some days that some students never got to go out at all to play with their friends. I was kept in about half the year. [Student 1] was kept in almost the entire year. Maybe got out one or two days out." (Exhibit 4, tab 15)
20. Student A testified that Mennes would often single out students for incomplete homework. He said, two good friends, who were both indigenous, missed most of their recesses because they did not have their work done. (Exhibit 4, tab 10 and testimony)
21. L Andres wrote that because some children failed their Provincial Achievement Test in Mathematics, Basic Facts exam, they were not allowed to go swimming for the rest of year. She noted, "This type of punishment is spirit-breaking for a young child." (Exhibit 4, tab 9)
22. L Andres wrote, "We would try to impress upon her [Mennes] that recesses were important for learning, and missing recess because of missed homework or not working in class might be okay occasionally, but not day after day for many children in her class." (Exhibit 4, tab 9)

23. Student D was diagnosed with mononucleosis while in Mennes's Grade 4 class in 2003/04 and missed two months of school. When handing in her homework, Mennes did not accept that Student D was ill. Student D recalled that Mennes said something like, "if you cannot bother to attend school, I cannot be bothered to mark it." Mennes then ripped up the assignment in front of the class and threw it in the trash. (Student D , Exhibit 4, tab 20 and testimony)
24. Parent D's testimony and written statement corroborated her daughter, Student D's statement. Parent D added that her son would stop to pick up homework for his sister and Mennes would refuse to give it to him. Sometimes Student D's friends would drop off their work so she could keep up with the rest of the class. (Parent D, Exhibit 4, tab 19 and testimony)
25. Student D said "One day it took the principal, another teacher and my mother to pull me out of my mother's vehicle but I refused because I was scared to go back into Ms Mennes's class due to how she treated me." (Exhibit 4, tab 20 and testimony)
26. Student B was a student who struggled. He was on an Individual Program Plan (IPP) that focused on attention issues and language acquisition skills. Minimal modifications/adaptations were made to the day-to-day activities described as common practice in Mennes's classroom. The student was expected to complete the same amount of work as his peers. (Exhibit 4, tab 13 and testimony, Exhibits 94a and 94b)
27. Student B also said that he had poor penmanship. He recounted events where he was made to rewrite copious amounts of notes because his notes were not readable. He should have been provided alternate means of creating notes according to his IPP. Accommodations were not provided for his circumstance. (Exhibit 4, tab 13 and testimony)
28. Student B recalled that favourite students were given money by Mennes to buy cookies; however, the students who had no money and were academically weak never received money for cookies. Student B stated that he received recess privileges because his mother intervened, as she too was a teacher at the school. However, he recalls that his indigenous friend, [Student 2], was also not a strong reader and received many detentions, causing him to miss several recess times. Student B also mentioned that there were times when the entire class was punished because of the performance of a few select individuals. (tab 13)
29. Student F testified that Mennes gave ice cream to some of the students and not to others. He believed that was hard on the students who were working. He did not get ice cream and was sad because he felt he was working hard too. He recalled that Mennes gave ice cream to her three favourite students and two others. (Exhibit 4, tab 41 and testimony)
30. Student R was in Mennes's Grade 4 class, and was in Grade 6 at the time of his testimony. He arrived in Canada in Grade 2 and was an English Language Learner (ELL) student. His

written statement was scribed for him but Student R revised and signed the document himself. (Exhibit 4, tab 75 and testimony)

31. Student R spoke about the times he was embarrassed in front of the entire class while in Grade 4. He spoke about a time when his shoe made a mark on the floor. When he tried to use a towel to clean the floor, Mennes directed him to clean the marks off the floor with his sock. (Exhibit 4, tab 75 and testimony).
32. Mennes acknowledged that she had directed Student R to clean the floor with his sock. She prevented him from using a towel to clean the floor as she claimed it wouldn't work.
33. Student R spoke about having to do math problems on the whiteboard, in front of the entire class, despite Mennes knowing that he did not know how to do the math questions. He stated that Mennes made him stand there for about 10 minutes. While he was at the whiteboard, Mennes said "You should know this stuff" and he heard the class laugh in response to Mennes's comment, which further embarrassed him. (Exhibit 4, tab 75 and testimony)
34. Student R was singled out and made to stand and attempt to sing "O Canada" despite him not knowing the words and he felt abject embarrassment. Linda deJong-Dube corroborated this incident and further testified that Mennes used it as a way of embarrassing Student R in front of his peers. She remembers Mennes stating "You should know the words, you have been in this school for four years." Mennes testified this was meant to be a joke. (Exhibit 4, tab 75 and testimony)
35. deJong-Dube was a librarian and was assigned to work in Mennes's classroom three periods a day during the 2015/2016 school year. Mennes testified that deJong-Dube was only in her room two periods a day.
36. deJong-Dube was assigned to assist academically struggling students including Student R. She spoke about one occasion when she noticed that he was off task and so she directed him to read and follow the instructions on the board. Mennes immediately told deJong-Dube that she should not tell him to look up at the board and "he should be able to figure things out himself." (Exhibit 4, tab 81 and testimony)
37. deJong-Dube described an incident in which she was discussing with Mennes the assistance she provided to another student, Student 4, about borrowing in math. Mennes said, "Well, at least she can count. He (meaning Student R) can't even count." (Exhibit 4, tab 81 and testimony)
38. deJong-Dube spoke about Mennes not allowing Student R to participate in physical education in order for him to work on his math. (Exhibit 4, tab 81 and testimony)
39. deJong-Dube recalled a student, Student 4, whom she was assigned to assist, being tasked with writing a sentence. When Student 4 reviewed her sentence with Mennes, deJong-Dube

PREAMBLE

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Frieda Anne Mennes of Bassano, Alberta were duly investigated in accordance with the *Teaching Profession Act*.

The hearing was scheduled to commence December 4, 2017 at 0900 at Heritage Inn & Suites, 1239 2nd Street W, Brooks, Alberta and to continue for approximately two weeks. The hearing committee convened by conference call on November 21, 2017 to receive an adjournment request, as described in the following Preliminary Matters. Those participating were hearing committee members Stephanie Clements, Nelson Moulton and Wade Westworth; counsel to the committee, Richard Rand of Rand Kiss Turner LLP; secretaries Gaylene Schreiber and Michael Kischuk; recording secretary, Leslie Kaun; presenting officers Marvin Hackman and Konni deGoeij; and defence counsel, Aniedi Davidson, assisted by Jim Smith, of Osouji & Smith. Mennes did not personally participate in the call.

The hearing was rescheduled and commenced March 1, 2018 at 0900 at Heritage Inn & Suites, 1239 2nd Street W, Brooks, Alberta, where it continued on March 2, 5 to 9 and 12 to 13, 2018. Those present were the hearing committee members, committee counsel, and recorder named above. Co-secretaries to the hearing committee were Michael Kischuk and Ernest Clintberg, who replaced Schreiber. Marvin Hackman and Konni deGoeij co-presented the case against Mennes. Mennes was present for most of the days, although she did absent herself occasionally, and she was not represented.

The hearing was reconvened June 18 to 22, 2018 in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada; recommenced on October 29 to November 1, 2018 at Heritage Inn & Suites in Brooks, Alberta; and recommenced on November 19 to 26, 2018 at Barnett House in Edmonton. The participants were the same as those convened on March 1, 2018 and Mennes attended and was represented, on a limited retainer basis, by Adam Benarzi during the period of September to November 2018.

PRELIMINARY MATTERS

1. Defence counsel, Aniedi Davidson, requested an adjournment on November 9, 2017 to prepare, based on having only recently been retained. The committee convened by teleconference on November 21, 2017 at 4:08 pm to consider the request.

The adjournment was granted conditionally upon the hearing proceeding peremptorily and Davidson's assurance that Mennes would provide a written express waiver of the requirement in section 31(2) of the *Teaching Profession Act* to commence the hearing within 120 days of the hearing order. An undated written waiver, signed by Mennes and Davidson, was subsequently received by Schreiber.

observed that Mennes spoke harshly to Student 4 and sent her back to her student desk. deJong-Dube attempted to help Student 4 correct the sentence but Student 4 erased the entire sentence and they started anew. Mennes again called Student 4 up to her desk, chastised her and sent her back to her student desk. On returning to the student desk, Student 4 told deJong-Dube that Mennes had yelled at her and Student 4 began to cry. Mennes called Student 4 back to her desk and further chastised her. (Exhibit 4, tab 81 and testimony)

40. In debriefing the incident with deJong-Dube, Mennes claimed that Student 4 had been playing games and was trying to manipulate deJong-Dube into providing the answers.
41. Jennifer Antill was an educational assistant assigned to work in Mennes's classroom daily. During the 2014/15 school year, she was assigned to Mennes's room for the mornings. In Mennes's room, Antill did not work one on one with students but instead worked with a number of students. (Exhibit 4, tab 16 and testimony)
42. Antill testified that she was very anxious about doing the interviews in this process. She said that she had been diagnosed with depression and anxiety and was on medication and intimated it was in relation to the process of the investigation of Mennes's actions. (Exhibit 4, tab 16 and testimony)
43. Antill spoke about a boy who sometimes soiled himself and would be sent to the bathroom, having to then phone home to be picked up by a parent. One time when this happened, Mennes did not allow him to call home as it was so close to dismissal time. As a result, after the boy went to the bathroom to clean up, he sat in class until dismissal time and then went home in soiled clothing. (Exhibit 4, tab 16 and testimony)
44. Antill spoke about students copying significant blocks of material off the board and said the students had to be quick because when Mennes finished the last board, she would start erasing the first board to continue her notes. Those students who did not finish the notes or homework would be required to miss recess, gym or art to finish. (Exhibit 4, tab 16 and testimony)
45. Antill testified Mennes, as a teacher, had obvious favorites in her class; those students were the smart students or the athletic students and were mainly girls. Antill stated that Mennes's favorites would get to run errands, play games or have free reading if their work was finished; and that those favorite students never received detentions or missed out on activities. She remarked that Mennes's demeanour with the students was very gruff "unless the student was one of her smart kids." (Exhibit 4, tab 16)
46. Antill testified about Mennes not differentiating work for students who needed this accommodation and that if a student went to where Antill was sitting to ask for help, Mennes would say "no" and tell the student to sit down. If there was differentiation, it was because of Antill's work with a student. (Exhibit 4 Tab 16)

47. Antill testified about there being a lot of anxiety in Mennes's class. The students would not answer questions for fear of being wrong or being singled out by Mennes in front of their peers. She testified that Student I, who had a lot of trouble in Mennes's class, cried numerous times. Antill believed the crying was observed by Mennes. Antill would comfort Student I. Mennes did not even acknowledge that Student I was crying. (Exhibit 4 tab 16 and testimony)
48. Linda Holt testified about the less-academically-capable students missing physical education, music and swimming classes in order to satisfy Mennes's insistence that all students complete the same amount of work. (Exhibit 4, tab 3)
49. Holt testified that Mennes had the same standards for all students whereby they all had to complete the same amount of work without differentiation (Exhibit 4, tab3).
50. Student I was a Grade 4 student in Mennes's class in the 2014/15 school year in Griffin Park School. (Exhibit 4, tab 47 and testimony)
51. Student I testified that she did not go out for morning recesses unless there was a substitute teacher. She said "Every morning recess I had detention. Sometimes I went out in the afternoon. If you did not finish a lot of work, like five pages, you could not go outside. Even if Ms Mennes was on supervision at recess, I was still made to stay in." (Exhibit 4, tab 47 and testimony)
52. Student I testified that there were usually about five students who regularly stayed in at recess. Student I named three others in addition to herself. (Exhibit 4, tab 47 and testimony)
53. Student I described her time in Grade 4 as the worst year of her life and that it was like being in a horror movie. She did not want to go to school at all and just wanted to stay home. "I faked being sick so I would not have to go to school. The last day of school that year was the best day of my life." (Exhibit 4, tab 47 and testimony)
54. Student I testified that she asked her mom if she could take an iPod to school so "I could get proof of Ms Mennes's meanness towards the class. I never thought anyone understood that I was telling the truth about Ms Mennes. I wanted to record her so that I could show that I was not lying." (Exhibit 4, tab 47 and testimony)
55. Student I testified about crying in the bathroom after Mennes embarrassed her. "I got the question wrong and she embarrassed me and the class laughed. However when Hannah got the question wrong, Mennes said, "it's okay" but to me, she gave me a dirty look. (Exhibit 4, tab 47 and testimony)
56. Student I testified about a time when she did not complete her work and the class was to watch a movie. Student I was sent into the hallway with another student and Antill. Student I returned to the classroom to ask Mennes a question. Mennes grabbed Student I by her

shoulders and twisted her to the wall so she could not see the movie. Student I had to do two pages of definitions instead while the other students were treated to a movie. (Exhibit 4, tab 47 and testimony)

57. Student I remembered always feeling embarrassed because of the way Mennes talked to her. Student I testified that she was “mean and very stern, yelling and giving me looks like rolling her eyes.” and “Ms Mennes does not like me and I don’t know why.” (Exhibit 4, tab 47 and testimony)
58. Student I testified that if you did not get your snack and lunch from your locker first thing in the morning, you could not eat. “I took my lunch home most days. I did not eat. But if Hannah forgot, she would be able to eat.” (Exhibit 4, tab 47 and testimony)
59. Student I recalled a weekend when her mother had written a note to Mennes seeking to limit her amount of homework for the weekend. The family was travelling to Calgary so her older sister could participate in a sport tournament. Mennes assigned seventeen pages of homework to Student I. In Student I’s words “So what does Ms Mennes do? She piles it on and sends all that homework.” (Exhibit 4, tab 47 and testimony)
60. Student I testified that when the class was participating in recycling duties, favourite students were able to do the best jobs while the least favourite students had to hold the garbage bag. “The favourites got to go to the other classrooms for recycling. I only did it twice that whole year...once was with a sub.” (Exhibit 4, tab 47 and testimony)
61. Student F was a Grade 4 student in Mennes’s class in 2013/14. He testified that he did not feel safe and was terrified of Mennes. (Exhibit 4, tab 41 and testimony)
62. Student F testified that when people came to the classroom door, “she [Mennes] would open it and her tone would change. She would be happier. My brother and I called it her fake face. Normally she would just be frowning in class. Mennes saw us as adversaries not students.” (Exhibit 4, tab 41 and testimony)
63. Student F testified that if he did not get his work done on time, he had to stay in at recess to complete it. He recalled having to stay in for morning and afternoon and sometimes lunch recesses. He testified he did not go outside for two months. When he finally got to go outside, he remembered it feeling weird to be outside with his friends. (Exhibit 4, tab 41 and testimony)
64. Student F testified that he enjoyed time at school when a substitute teacher was present. “We felt more like we could make mistakes without being punished. I had self-confidence issues after this grade.” (Exhibit 4, tab 41 and testimony)

65. Student F recalled that Mennes had her favourite students and he was not one of them. He said, "We got yelled at more, held in the most and got more work to do. We were not good at school." (Exhibit 4, tab 41 and testimony)
66. Student N was a Grade 4 student in Mennes's class in the 2016/17 year. Student N recalled Mennes being a not-nice teacher and often yelling at kids. Mennes kept her in after school and she had to walk home by herself. Student N recalled not getting her work finished during the morning recess and having to stay in for the afternoon recess as well. She recalled this happening at least once a week. She recalled other students having to stay in at least twice a week for not getting their work done. (Exhibit 4, tab 65 and testimony)
67. Student N recalled Mennes telling the class she was going to record the class so Mennes could prove how bad the kids were. (Exhibit 4, tab 65 and testimony)
68. Student N recalls Mennes would get visibly upset when children asked for help. Student N quoted Mennes, "Well you should know that, you are in Grade 4 and these are Grade 4 questions" and "You should know how to stack chairs, you are in Grade 4!" (Exhibit 4, tab 65 and testimony)
69. Student N recalled an incident when she needed to go to the bathroom during a math test. When she asked Mennes for permission, Mennes refused to let her go and told her she was being "stupid and ridiculous" and told her to wait five minutes. After five minutes, Student N asked again and was told that she could go this one time but never, ever again. (Exhibit 4, tab 41 and testimony)
70. Student N testified about Mennes having a favorite student and stated that it was Student L because "she was super smart and pretty. She was good at everything, art, everything." Student N spoke about Mennes only helping certain people that she liked in the class and helping students because they are really smart. (Exhibit 4, tab 65)
71. Student N testified about having to complete the work the way Mennes told you or "you would get into trouble and have to re-do it, even if the substitute teacher told you it was ok to do it another way." (Exhibit 4, tab 65)
72. Student O was in Grade 4 in Mennes's class in 2016/17. Student O described himself as a favourite of Mennes. He and two others were always treated favourably. (Exhibit 4, tab 63 and testimony)
73. Student O stated that even though he considered himself one of Mennes favourites, he still felt worried and scared. He remembered her yelling, getting angry when she had to repeat things and making several other students cry. (Exhibit 4, tab 63 and testimony)
74. Student O recalled that Mennes did not have many tones of voice. She had her speaking normally voice which is similar to when she is angry. Her normal teaching voice is only

slightly different than her mad voice. It was rare to hear her happy. (Exhibit 4, tab 63 and testimony)

75. Student O recalled an incident when he was outside at recess with another student. The two of them were approached by a third student who asked Student O's friend who their teacher was. The friend responded that their teacher was Mennes and he hated her. Mennes confronted the boys in the hallway, and said "You have been saying something not so nice about me." Neither of the boys responded. Student O recalls being very frightened. When he was back at his desk, he was crying. He said "Mennes saw me crying and did nothing. I just wanted to curl up into a ball." (Exhibit 4, tab 63 and testimony)
76. Student O remembered Mennes being annoyed with Student N. I heard her say to Student N "Why do you only do one question and show me it?" You could tell Mennes was annoyed. (Exhibit 4, tab 63 and testimony)
77. Student O recalls Mennes telling the class that she was going to record the class because mean things were being said about her. He said there was a recorder by the door that Mennes showed them. "I don't know if she actually did record us." (Exhibit 4, tab 63 and testimony)
78. Student O recalled participating in the recycling program in Mennes's class. He was told to throw away plastic lunch containers. A classmate, Student Q, had left a nice plastic container on her desk. Mennes told me to throw her container out. Student Q was in the hallway packing her bag. I told Student Q what I had to do. (Exhibit 4, tab 63 and testimony)
79. Student J was in Grade 4 in Mennes's class in 2014/15. Student J recalls her time in Mennes's class as a "year not full of joy." Student J described herself as weak in math and in particular, long division. "In fact, I sucked at it." She recalled that Mennes's favourites were allowed to make mistakes but other students' work had to be perfect. Student J also recalled that the smart kids got less work. She recalled Mennes making a comment about her long division skills in front of the whole class. (Exhibit 4, tab 50)
80. Student J spoke about students who struggled with finishing their work having to stay inside during recess. During the next period, they would continue with the work from the previous class, thus missing the subject work for the class they were in. (Exhibit 4, tab 50)
81. Student J remembers wearing a tank top to school one day. Mennes made Student J wear a thick wool sweater for the rest of the day. It was a hot day in June. Student J testified that her mother contacted the school administration about the incident. Mennes spoke to Student J in the hallway but the classroom door was open. Student J remembers Mennes yelling at her and embarrassing her because the rest of the class could overhear. (Exhibit 4, tab 50 and testimony, tab 48)
82. Parent J confirmed that she wrote a note to the school principal, Mr Suik. (Exhibit 4, tab 48)

83. Student K was a Grade 4 student in Mennes's class in 2014/15. Student K described herself as not a favourite or a weak student but in the middle. Student K wore a tank top and Mennes made her wear a sweater, also on a hot day in June. Student K wore the same top in Grade 5 but it was not a problem. (Exhibit 4, tab 52)
84. Student K recalls Mennes, in front of the whole class, yelling at students for being late.
85. Student K expressed her opinion that Mennes should not be anyone else's teacher. She did not feel like any other student should have to go through what she and her classmates did. (Exhibit 4, tab 52)
86. Student K testified that Mennes's favourites were treated differently than those who were less favoured. She said that Mennes would get angry at the "tiniest, silliest things" for which she would keep students in at recess. She noted that some of her less capable classmates would be regularly scolded for things that the favourites or more capable students were not challenged on. (Exhibit 4, tab 52)
87. Student K wrote regarding the Grade 4 year, "I would wake up in the morning and think to myself, "I wonder what [Mennes] is going to yell at us for today. There was this one boy that would show up late pretty much every day (whose parents brought him to school late) and she would yell at him in front of the entire class and keep him in for recess." (Exhibit 4, tab 52)
88. Student L was a Grade 4 student of Mennes, during the 2015/2016 school year, who liked being in the class. She testified students were treated very differently in Mennes's class. Some students would cry in class given the manner in which Mennes treated them. There were two or three favourites who would always be chosen if there was an activity. Student L said that she was one of the favourites in her year. (Exhibit 4, tab 60)
89. Student L testified that Mennes would choose one of them if there were activities or a play being performed in class. She said that she felt bad for the other students, especially those kept in at recess, but that she did enjoy the activities accorded her being one of the favourites. (Exhibit 4, tab 60)
90. Student L recalled that when there was an adult at Mennes's door or in her classroom, Mennes acted totally different. She said that Mennes would be very nice to everyone, but when the adults were gone, Mennes would return to her usual behavior, where she was very stern and critical of students. (Exhibit 4, tab 60)
91. Parent L spoke about her daughter, Student L, being a good student who other students referred to as the teacher's pet. She stated that other students felt a noticeable difference in how students were treated. (Exhibit 4, tab 59)

92. Parent L stated that Student L felt that the treatment between those favoured students and those not favoured was so significant that Student L told her younger cousin that she wanted to get on Mennes's good side right at the start of the school year. Further, Student L spoke favourably about her cousin in the hope that this would place her cousin in a favourable position with Mennes. (Exhibit 4, tab 59)
93. Student M was a student in Mennes's Grade 4 class during 2015/16 school year. She testified it was a very rough year for her because she was afraid to ask questions because Mennes would publicly criticize students for asking questions. (Exhibit 4, tab 62)
94. Student M said that some students were favourites of Mennes and "I was kind of in the middle." The other classmates referred to these students as pets. Those less favoured, generally those who didn't finish work, would stay in at recess and miss other activities. Student M said that three students—Student 5, Student 6 and Student 7—stayed in for recesses more often than they went outside. (Exhibit 4, tab 62 and testimony)
95. Student M said that the criticism from Mennes was most embarrassing because it would be said or done in front of the entire class. Student M said that when students would give a report in front of the class, Mennes would point out all of the student's mistakes in front of the entire class to the point where students would feel like crying. (Exhibit 4, tab 62 and testimony)
96. Parent K was the mother of Student K. Parent K testified that Mennes did not like Student K's shirt because it showed too much of her back. Mennes made Student K wear a hoodie in plus 30 degree weather both indoors and outdoors, all day long. Parent K believed that her daughter could have suffered from heat stroke and there was no communication with the parents. "The school could have easily called me and I would have brought Student K a new outfit to school. I examined the school dress code in regards to the shirt in question and it did not break the school dress code." (Exhibit 4, tab 51)
97. Parent K spoke about another incident. During parent-teacher interviews, she and her husband asked Mennes why she had marked a big red X through Student K's homework despite Student K having gotten the answers correct. Parent K and her husband had shown Student K a "shorter" but effective way of calculating answers. Mennes told them that their way was wrong. (Exhibit 4, tab 51)
98. Student Q was a Grade 4 student in Mennes's class during the 2016/17 school year. Student Q described herself as not one of Mennes's favourites. (Exhibit 4, tab 74 and testimony)
99. Student Q recalled that when students did not finish work during class, Mennes would keep those students in at recess. She also testified that if the work did not get done during the day, it would be sent home as homework and she averaged two to three pages of homework each day. (Exhibit 4, tab 74 and testimony)

100. Student Q recalls seeing Student N and another student cry every day at school. She stated that Mennes was in the class for about three weeks and Mennes made about four or five students cry every week. (Exhibit 4, tab 74 and testimony)
101. Student Q noticed that Mennes wrote nice things in student agendas, especially Mennes's favourites. When she asked Mennes why Mennes didn't write anything nice in her book, Mennes responded by telling her "Mr Suik is dealing with something about us." Student Q was aware that her mother had communicated with Suik, and once Mennes was aware of that action, the incident about the agenda occurred. Student Q got on the bus to go home in distress. Suik saw that Student Q was upset and came and spoke with her. Student Q said "I told him. I was brave." (Exhibit 4, tab 74 and testimony)
102. Parent Q is the mother of Student Q. She testified about the excessive amount of homework that her daughter had. Further, she said the amount of homework was much greater than in previous or subsequent years. (Exhibit 4, tab 73)
103. Parent Q wrote, "It should be noted that this day of four hours' homework was the same day that Mennes would have been made aware of Student Q being placed in a reading "Level Literacy Intervention" program." Parent Q continued, "Rather than recognize the need to modify reading requirements, Ms Mennes had Student Q work on this homework assignment." (Exhibit 4, tab 73)
104. Shelley MacNaughton was the school secretary at Griffin Park School from 2013 to the present. MacNaughton was not in Mennes's classroom but was generally aware of students in the hallway and office and engaging in school activities. (Exhibit 4, tab 72 and testimony)
105. MacNaughton heard Mennes speak to her students like a "drill sergeant". (Exhibit 4, tab 72 and testimony)
106. MacNaughton recalled Mennes bringing a sick student down to the office to wait for a parent to pick the student up. She asked Mennes about the student and Mennes replied "Well I am not touching her" and walked away. (Exhibit 4, tab 72 and testimony)
107. MacNaughton testified that she felt sorry for Mennes's students during fun holidays. MacNaughton recalled that Mennes would often take those days off or not prearrange for parents to bring snacks. On one occasion, MacNaughton got permission from Suik to buy a cake or cupcakes for Mennes's class so the students would feel included. She added, "We did and her class was thrilled." (Exhibit 4, tab 72 and testimony)

Charge 4

108. Mennes brought concerns about then principal Sametz to Chomistek in early May 2009. Chomistek testified that she instructed Mennes to adhere to the Code of Professional

Conduct and inform the colleague of the concerns before approaching Chomistek with the concerns. (Exhibit 4, tab 83 and testimony)

109. Subsequent to the instruction, Mennes still submitted a letter to Chomistek by fax, dated May 12, 2009, that was critical of Sametz who was her principal at the time. Mennes did not provide Sametz with a copy of the letter or inform him prior to the transmission of the fax to Chomistek. (Exhibit 4, tab 76)
110. After receipt of the fax, Chomistek reminded Mennes that Mennes had an obligation to advise Sametz first before submitting criticism of him to others and to her knowledge, Mennes never complied. (Exhibit 4, tab 83 and testimony)
111. In her submission, Mennes requested that Sametz follow the code of conduct article 13. Mennes also provided a list of expectations that she wished her principal to follow that referenced professional autonomy, fair treatment and the principles of the code of conduct. (Exhibit 4, tab 76)
112. Chomistek wrote a letter, dated May 27, 2009, to Mennes advising her to follow the code of conduct in relation to her principal. (Exhibit 4, tab 77)
113. Mennes wrote and signed a letter to Paul Macleod, the registrar of Alberta Education, dated March 6, 2017, which included highly critical comments about Steele, Chomistek, Sproule and Sametz. (Exhibit 4, tab 32 and testimony)
114. Steele, Sproule and Chomistek testified that they were not advised of the complaint in advance or provided with a copy. (Exhibit 4, tab 32 and testimony)
115. By her own admission, Mennes confirmed that she understood the requirement of the code of conduct to provide prior notification to a colleague before submitting criticism. (Exhibit 4, tab 32 and testimony)
116. Mennes wrote a letter to MacLeod, dated March 11, 2017, in which Mennes made critical comments about Sproule. Sproule was not advised in advance or provided a copy of the letter. (Exhibit 4, tab 34)
117. Mennes copied the letter to other individuals, who were not proper officials. Sproule testified that Mennes did not provide him with a copy of this document. (Exhibit 4, tab 34)
118. Mennes wrote a letter to Superintendent Steele, dated November 28, 2016, that was critical of Suik. Suik was not advised in advance or provided a copy of the letter. (Exhibit 4, tab 53)
119. Mennes wrote a letter to MacLeod, dated December 5, 2016, that was critical of Superintendent Steele. Steele was not advised in advance or provided a copy of the letter. (Exhibit 4, tab 54)

120. Mennes wrote a letter to Vic Budz, the school board chair, dated December 6, 2017, that was critical of Suik and Steele. Suik and Steele were not advised in advance or provided with a copy of the letter. (Exhibit 4, tab 55 and testimony)
121. Mennes wrote a letter to Budz, dated January 3, 2017, that was critical of Suik and Steele. Neither Suik nor Steele was advised in advance or copied on the letter. (Exhibit 4, tab 56 and testimony)
122. Mennes wrote a letter to Barry Litun, the executive director of the College of Alberta School Superintendents (CASS), dated December 20, 2016, that was critical of Steele and her principal, Suik. Neither Suik nor Steele was advised in advance or copied on the letter. (Exhibit 4 tab 57)
123. Mennes wrote a letter to MacLeod, dated January 3, 2017, with an attachment that was critical of Steele and Suik. Neither Steele nor Suik were advised in advance or copied on the letter. (Exhibit 4, tab 58 and testimony)

Charge 5

124. Holt testified that Mennes would not resolve issues through dialogue but veered towards threats of legal action. (Exhibit 4, tab 3 and testimony)
125. Tonny Peel was made aware by Mennes that she was trying to sue or write letters of complaint about people and organizations who had wronged her. He testified that Mennes was very meticulous in researching how best to make formal complaints. He testified that he was somewhat concerned about retaliation arising from his participation in this hearing. (Exhibit 4, tab 66 and testimony)
126. Peel testified that Mennes shared with him that she was very upset with the Grasslands school division, especially Chomistek, about the unrequested transfer of Mennes from Bassano School to Griffin Park School. (Exhibit 4, tab 66 and testimony)
127. In Sproule's meeting notes titled Concerning FM and dated March 3, 2012, he documented Mennes's statements threatening to sue Chomistek, Steele, Andres and himself for psychological and emotional abuse. (Exhibit 4, tab 30 and testimony)
128. In her letter to Macleod, dated March 6, 2017, Mennes used hyperbolic, inflammatory language and inaccurate content about Sproule, Sametz, Steele and Suik. (Exhibit 4, tab 32)
129. Mennes copied the March 6, 2017 letter to Premier Rachel Notley, CASS Executive Director Litun, ATA investigator Sherwin, and Grasslands investigator D Changesingh. (Exhibit 4, tab 32)

2. A second teleconference was convened on January 17, 2018 at 4:15 pm to consider a request from the presenting officers to make allowances such that underage witnesses could testify in a room separate from the hearing room so that the witnesses would not be able to see the people in the hearing room but be able to hear questions and to respond and to be visible in the hearing room via video.

Present for the teleconference were committee members Clements, Westworth and Moulton; committee counsel Rand; secretaries to the committee Schreiber and Kischuk; recording secretary Kaun; and presenting officers Hackman and deGoeij.

Mennes had been advised of the teleconference and the procedures for the teleconference but elected not to participate. Mennes advised the secretaries by e-mail that she was no longer retaining counsel for this matter and would proceed unrepresented.

The presenting officers advanced the argument that the underage witnesses could be intimidated by Mennes and would be unable to provide clear testimony in her presence. The presenting officers further requested that the underage witnesses be allowed to have a supporting adult present.

After hearing submissions from the presenting officers and seeking advice from committee counsel, the committee directed that the physical arrangements of the hearing be such that underage witnesses could testify from a separate room where they would be able to receive only audio feed from the hearing room but that the witnesses would be visible in the hearing room through direct audio and video link. The committee further directed that a supporting person be present with each underage witness, if the witness desired support, and that the supporting person be seated behind the witness but visible in the audio and video feed and that a committee secretary be present in the room to ensure that the supporting adult did not interfere or direct the testimony of the witness.

3. At the commencement of the hearing on March 1, 2018 in Brooks, the committee received documents from Mennes, via the secretary, indicating that she would not be present and a request that the matter be delayed to a future date so she could have an opportunity to develop her defence. Mennes had sent to the secretary, by e-mail, prior to the hearing convening, a work absence certificate and a copy of a visit record from a medical provider indicating she “was under care.” Mennes requested that these documents be presented to the committee at the outset of the proceeding (Exhibits 1 and 2).

After consideration of the exhibits, hearing a submission from the presenting officers and seeking advice from committee counsel, the committee determined that the matter would proceed, as the ruling from November 21, 2017 was granted peremptorily with the expectation that Mennes be prepared to proceed. Mennes had been given sufficient time to develop her defence since initially having representation from November 2017. The committee determined Mennes’s work absence certificate did not indicate that she was unable to proceed for medical reasons, only that she was under medical care. The visit record

130. Chomistek testified that each time administrators would suggest changes in Mennes's practice, Mennes would respond negatively and in each case, would use threatening language, would say she was going to call the ATA and was going to sue them. (Exhibit 4, tab 83 and testimony)
131. Chomistek further testified that there would routinely be an anonymous letter sent to her office extolling the virtues of Mennes while criticizing the administrator and other staff members. Chomistek found it a "consistent, disturbing and unprofessional pattern of behavior". (Exhibit 4, tab 83 and testimony)
132. Andres testified to a pattern of behaviour exhibited by Mennes towards colleagues. Mennes would not say much during the discussion of an issue and then would phone the ATA or write notes to voice her disagreement, rather than raise concerns with the group or person as they were being discussed. This was also evidenced in how Mennes chose to deal with parents who raised concerns in regard to events in Mennes's classroom. (Exhibit 4, tab 9 and testimony)
133. Andres described Mennes as a bully who is narcissistic, who cannot acknowledge personal fault and was unwilling to change her teaching practices or methodology. (Exhibit 4, tab 9 and testimony)
134. Andres testified about how Mennes created a pattern of being a bully to others, including her administrators. She went on to state that matters were often not pursued out of fear of revenge. (Exhibit 4, tab 9 and testimony)
135. Kathleen Jensen spoke about an incident when she was Mennes's principal, in which Mennes had fallen off her chair and sustained an injury. Mennes accused Jensen and the vice-principal of giving her a faulty chair and not being concerned with her accident or about her as a person. (Exhibit 4, tab 23 and testimony)
136. Jensen testified that Mennes wrote in correspondence to various parties about how administration had intentionally given her a broken chair and that they showed no concern for her. Jensen testified that Mennes's assertions or allegations were not true. (Exhibit 4, tab 23 and testimony)
137. Jensen stated that after the complaint, Mennes asked that the old wooden desk and chair from her former classroom be brought to Griffin Park School from Bassano. This was done. (Exhibit 4, tab 23 and testimony)
138. Jensen testified about how Mennes chose to deal with administrative queries about her absences. She recalled a staff meeting where Mennes asked to speak. In her written statement, Jensen stated, "The point of [Mennes] addressing the staff was to tell them why she had been missing so much school. She thought that they had been critical of her absences. She talked about her sore back and her physio appointments, then spoke about

taking personal days for her adopted daughter's graduation. The staff felt guilty and a little bit confused about why she addressed them. Following the meeting, I asked her privately about the graduation. I was unaware of her adopted daughter. She laughed and indicated that she was talking about her dog. I told her that this was inappropriate to mislead staff and that she needed to connect with staff to be truthful about this. I am unaware that she did anything to repair this." (Exhibit 4, tab 23 and testimony)

139. Throughout her written communication and interactions with colleagues, Mennes tended to use excessive language such as: (a) abuser, (b) treated horribly, (c) being harassed, (d) discriminated, (e) deplorable, (f) intimidation, (g) scapegoating and (h) vindictive. Mennes specifically questioned the integrity of Steele's character. (Exhibit 4, tabs 32, 54, 56, 57, 58)

140. The RCMP investigated the incident that occurred in Suik's office on November 23, 2016 as an alleged assault and determined that there was no evidence to support Mennes's allegation. (Exhibit 4, tab 93)

141. Even after the incident was investigated, Mennes continued to characterize the incident as an assault and embellished her descriptions of what occurred. (Exhibit 4, tab 92)

Charge 6

142. Parent Q is the parent of Student Q who was a student in Mennes's Grade 4 class during the 2016/2017 school year. (Exhibit 4, tab 73 and testimony)

143. Parent Q testified that her daughter, Student Q, would come home upset and cry after school during the three weeks that Mennes was in school. This behaviour was atypical for Student Q and Parent Q had not seen it before. Parent Q recalled Student Q saying that she was "stupid" and she "would never understand this." Parent Q further testified that some remnants of Student Q's loss of confidence continue. (Exhibit 4, tab 73 and testimony)

144. Parent Q testified that Student Q had a substantial amount of homework in Mennes's classroom. Parent Q recalls that Student Q had at least one hour of homework each night. Parent Q recalled an incident where her husband worked with Student Q for four hours yet the homework was not completed. (Exhibit 4, tab 73 and testimony)

145. Parent Q recounted how Student Q was participating in the Level Literacy Intervention (LLI) program and that they understood that the LLI teacher had worked out an arrangement with Mennes such that assignments missed while Student Q was pulled out of class would be made up during class time and not left for Student Q to complete on her own time. (Exhibit 4, tab 73 and testimony)

146. Parent Q testified she and her husband had communicated with Principal Suik about Student Q's unhappiness in class. Suik delivered a list of unhappy students to Mennes which

included Student Q. Mennes called Parent Q about this matter on the morning of November 21, 2016 and told Parent Q that “she was surprised to see Student Q’s name on a list of students who were not happy in her class.” Parent Q recalls Mennes simply stating that she was sorry to hear that her daughter was unhappy and then hanging up the phone. (Exhibit 4, tab 73 and testimony)

147. Mennes testified that the phone line failed during her conversation with Parent Q and that she did not hang up. Mennes provided further testimony about this incident and stated that Parent Q hung up on her. Mennes did not provide evidence of any further attempt to contact Parent Q. (Exhibit 4, tab 53 and testimony)
148. Parent Q recalled how Mennes had a negative interaction with Student Q about writing a positive comment in her agenda book at the end of the day, November 23, 2016. (Exhibit 4, tab 73 and testimony)
149. By her own admission, Mennes initially stated that she had done nothing wrong in her conversation at the end of the day with Student Q, on November 23, 2016. Later, during the course of the hearing, Mennes testified she regretted her statement to Student Q. (Exhibit 4, tab 53, tab 88 and testimony)
150. Mennes received a text message during the evening of November 23, 2016 indicating she should not report to school the next day. Mennes had a medical appointment scheduled for November 24, 2016. (Exhibit 4, tab 54)
151. Parent Q testified there was no resolution to the problem with Mennes and she and her husband wrote a letter to the board, dated November 29, 2016, requesting that Mennes be disciplined, that she receive instruction on how to speak to children and that Student Q be removed from Mennes’s classroom before Mennes could do anymore psychological damage to her. (Exhibit 4, tab 5 and testimony)
152. In Suik’s review of his timeline of e-mails and notes and the events of November 23, 2016, he became convinced that Mennes was not creating a safe, caring and welcoming classroom environment and it appeared that Mennes was not making attempts to resolve parental concerns. (Exhibit 4, tab 88)
153. In her letter to Steele, dated November 28, 2016, and in communications with Suik, Mennes requested that Student Q be removed from her classroom. Additionally, Mennes requested that Suik install a video camera in her classroom. (Exhibit 4, tab 53, tab 88 and testimony)
154. In e-mails to Suik, Mennes claimed that students can say anything and it is believed, that the students were colluding against her and that Mennes would be taping her classroom from then on. Mennes further indicated that she would not be taking any of the students from Suik’s unhappy list on any field trips. (Exhibit 4 tab 53, tab 88 and testimony)

155. Parent N was the mother of Student N, a Grade 4 student in Mennes's classroom in 2016/17. (Exhibit 4, tab 64)
156. Parent N went to Suik at the school to talk about Student N being called "stupid" by Mennes because of the bathroom incident during the test. Suik directed her to speak with Mennes first. (Exhibit 4, tab 64 and Student N's testimony)
157. Parent N spoke with Mennes before school. Mennes acted as if she did not know what Parent N was speaking about. Mennes told Parent N that her students go to bathrooms during breaks and that is a school rule, not Mennes's rule. Parent N reported that Mennes denied everything and stated that Student N had never been denied going to the bathroom. Mennes deflected it back and stated that Student N needed to use her breaks better. (Exhibit 4, tab 64)
158. In her e-mail to Suik, dated November 21, 11:08 am, Mennes confirmed the conversation with Parent N and informed Suik that Student N could go the bathroom at any time. (Exhibit 4, tab 88)
159. Mennes kept Student N after school that day for passing notes and Parent N was not informed. Parent N was contacted at work by a neighbour and informed that Student N had not arrived home at the scheduled time, with the group of students that she was arranged to walk with. Parent N became distraught, left work and frantically tried to find her daughter. (Exhibit 4, tab 64 and testimony)
160. Parent N's neighbor found Student N first. She was walking home alone, crying, visibly upset. Later, Parent N found out that Student N was passing a note between two girls, but Student N was the only one that was detained after school. (Exhibit 4, tab 64)
161. Parent P was the mother of Student P who was a Grade 4 student in Mennes's classroom in 2016/17. (Exhibit 4 tab 67)
162. Parent P believed the stories her daughter shared from Mennes's classroom were troublesome. She heard stories about a child being called "stupid," a lunch container being thrown in the garbage and Mennes was being very strict and yelling at students. (Exhibit 4, tab 67)
163. Parent P wrote in Student P's agenda to request a meeting with Mennes. (Exhibit 4, tab 67)
164. Mennes telephoned Parent P to discuss the matter. Mennes explained who she was and that she understood Parent P wanted to meet. (Exhibit 4, tab 67)
165. Parent P shared her concerns, which Mennes denied. (Exhibit 4, tab 67)

166. Parent P testified that Mennes further stated that students were ganging up on her and that everything they were saying was a lie. (Exhibit 4, tab 67)
167. Parent P believed that the issue was not going to be resolved over the phone and asked for a meeting. Parent P advised Mennes that she would be going to Suik as well. The phone call ended suddenly and Parent P believed that Mennes had hung up on her. (Exhibit 4, tab 67)
168. Mennes testified that Parent P's voice was garbled on the phone and that she couldn't make out what Parent P was saying. Mennes restated this again in her letter to Steele on November 28, 2016. (Exhibit 4, tab 53)
169. Immediately after the conversation with Parent P, Mennes told Suik that she wanted to have Student Q and Student P removed from her room and wanted to add a tape recorder, a video camera and a full time aide to her room. Mennes restated this again in her letter to Steele on November 28, 2016. (Exhibit 4, tab 53)
170. Mennes, in her e-mail to Suik, dated November 21, 11:08 am, spoke of the conversations with Parent N and Parent P. Mennes made no mention of the phone lines malfunctioning or the phone being hung up. (Exhibit 4, tab 88)
171. On Tuesday, November 22 at 2:10 pm, Mennes met with Suik to discuss the upcoming parent meeting. Mennes and Suik discussed the format and procedure for the meeting. Suik recalled Mennes being unclear about what she would say, how the meeting would unfold and what her goal was for the meeting. Suik suggested that the goal was for Student P to be happy to come to school and feel successful. Suik outlined that there would be an opportunity for the parent to speak and then for Mennes to speak. Suik informed Mennes that if she had any concerns about the meeting she could meet with Suik before school. (Exhibit 4, tab 88)
172. On November 23, 9:30 am, Mennes met with Suik, Grandparent P and Parent P and Grandparent P who is Student P's grandmother. The goal of the meeting was stated. Parent P began to share her concerns. Grandparent P began to speak as she felt Parent P was shy and quiet and finds it hard to express her concerns, so Grandparent P would speak instead. (Exhibit 4, tab 88)
173. Grandparent P testified that only one suggestion was made by Mennes to address Parent P's and her concerns. Mennes suggested that Student P write a note in her agenda book every day to say how her day went. Grandparent P felt this was inappropriate. Suik suggested that Mennes be provided with some time to build relationships with students as she had only been in school about 11 days. (Exhibit 4, tab 88)
174. After the meeting, at 10:45 am, Suik went to speak with Mennes about the meeting. Mennes again indicated she wanted the students removed from her classroom. (Exhibit 4, tab 88)

175. Mennes testified that she kept her head down and did not speak much during the meeting. (testimony)

176. In the testimony of Parent D and Parent C, who were parents of students who were previously in Mennes's classroom, each parent identified concerns about their child to Mennes and the response from Mennes included attempts to deflect blame and/or to deny the complaints.

Charge 7

177. Student P was a Grade 4 student in Mennes's class during the 2016/17 school year.

178. Her mother, Parent P, became concerned about Student P when she noticed uncharacteristic changes in Student P's behaviour and attitude towards school.

179. Parent P noted that Student P had stomach aches three to four times a week, did not want to eat or shower, would no longer read to her sister and no longer had a love for school.

180. Parent P believed that she needed to address the issues and she wrote in Student P's agenda book requesting a meeting.

181. Parent P also approached Suik on November 17, 2016 to request a meeting which was arranged for the morning of November 18, 2016. (Exhibit 4, tab 67 and 88, testimony)

182. Mennes was not in attendance at work on November 18, 2016 and was unable to meet with Parent P that morning. Parent P met with Suik who directed her to speak with Mennes to attempt resolution of the issues before involving him. (Exhibit 4, tab 67 and 88, testimony)

183. Suik advised Mennes by text that two parents, one of whom was Parent P, had concerns and he had directed the parents to approach her. Suik also advised Mennes to call him or see him on Monday morning if she had concerns. (Exhibit 4, tab 88, testimony)

184. Mennes did not meet with Suik on Monday morning, November 21, 2016, so Suik called her to the office. Suik provided Mennes with the names and contact information of the two parents. Suik gave Mennes an overview of the parents' concerns. Suik directed Mennes to contact the parents. (Exhibit 4, tab 88, testimony)

185. Mennes phoned the parents that morning. Mennes phoned Parent P second. (Exhibit 4, tab 67 and 88, testimony)

186. In the exchange with Parent P, Mennes denied Student P's version of events. Parent P told Mennes that she wasn't satisfied and that she would be going to Suik with her concerns. The call ended abruptly. In Parent P's view, Mennes hung up on her. (Exhibit 4, tab 67 and 88, testimony)

187. There was no further attempt by Mennes to contact Parent P that day. (Exhibit 4, tab 67, 88 and testimony)
188. Mennes e-mailed Suik after her telephone conversation with the parents.
189. In her e-mail to Suik dated November 21, 11:08 am, Mennes wrote “kids can say anything they want to and it is believed. Nice witch hunt! Too many girls in this room are close friends and take no responsibility for their lack of work ethic, talking, or whatever and when a teacher simply asks one of them to get on task, or assigns homework that should have been done in class, but the students didn’t complete it, they gang together and make up something and the others agreed and spread this cruel information and I am the one that gets in trouble.” (Exhibit 4, tab 92 and testimony)
190. Suik contacted the ATA to obtain advice on how to proceed professionally in this instance.
191. Suik met with Mennes during the afternoon recess of November 21, 2016 and outlined his procedure of how to manage the intended meeting with Parent P and how he would follow up with Mennes by visiting her classroom informally. Suik did not accept the parent’s version of events at face value but needed to take the matter seriously and to deal with it. (Exhibit 4, tab 88, testimony)
192. Suik asked Mennes what she needed from him prior to the meeting. Mennes did not make any requests. (Exhibit 4, tab 88, testimony)
193. Suik asked Mennes to think about what could be done to resolve the issue, to be professional in the parent meeting and to bring forward solutions. (Exhibit 4, tab 88, testimony)
194. Suik acknowledged that Mennes had only been back at work for a couple of weeks. Mennes had been on medical leave from September 7, 2016 to October 31, 2016. Suik’s assessment was that her situation was akin to starting the school year. Suik advised Mennes to focus on building relationships. (Exhibit 4, tab 86 and 88, testimony)
195. Suik scheduled a meeting with Parent P for November 23, 2016 at 9:30 am. Suik attempted to speak with Mennes at the end of the school day on November 21, 2016 but was unsuccessful. Suik went to Mennes classroom at 8:40 am on November 22, 2016 to advise her of the meeting. (Exhibit 4, tab 88, testimony)
196. Mennes e-mailed Suik at 8:47 am on November 22, 2016. Mennes wrote “I am taping my classes from now on with a cassette” and “I will not be taking the students who accused me and are being dishonest about what is happening on any kind of field trip. One of these girls decided to attack me and the other one decided to go along with it. I will not be subject to further accusations that are totally uncalled for and wrong.” (Exhibit 4, tab 88, 92, testimony)

197. Mennes testified that her actions were not retaliatory against students but that she had every right to be concerned about the actions of the students. (testimony)
198. During the afternoon of November 22, 2016, Suik advised Mennes not to implement her plan to record students. Suik met with Mennes about FOIP concerns with her plan to record students. Mennes responded that she had sought advice from the ATA and she understood that it was allowed. Mennes testified that she complied with Suik's directive. (Exhibit 4, tab 88, 92, testimony)
199. Suik met with Mennes on November 22, 2016 at 2:10 pm to discuss the format and establish the goals for the upcoming parent meeting. (Exhibit 4, tab 88, testimony)
200. Mennes indicated that she was unsure of what her goals were and how she would proceed during the meeting. (Exhibit 4, tab 88, testimony)
201. Suik recorded in his notes that upon becoming aware that the other parents, the Parent Qs, did not wish to meet, Mennes said something about false accusations and she might sue the father. (Exhibit 4, tab 88, testimony)
202. During the evening of November 22, 2016, Parent P was told by Student P that Mennes had informed the class she had a tape recorder and she would be recording everything. Student P believed that Mennes would do this and she felt unsafe. (Exhibit 4, tab 67, testimony)
203. At 9:30 am on November 23, 2016, Mennes met with Suik, Parent P and Grandparent P, who is Student P's grandmother. Grandparent P attended the meeting as her daughter was shy, quiet and had difficulty sharing her concerns. Grandparent P provided a significant amount of care for Student P. (Exhibit 4, tab 67 and 88, testimony)
204. Suik opened the meeting by stating the goals for the meeting, that everyone wants Student P to be happy and successful at school and that those present could accomplish this by working together. Parent P shared her concerns about Student P. Grandparent P joined in, explaining why she was there and the concerns that Student P was bringing forward to her including recording the children in class. Grandparent P was animated in her speaking but remained seated. (Exhibit 4, tab 67, 70, 71, 88, 93 and testimony)
205. Mennes remained quiet and withdrawn throughout the meeting. Mennes explained that she had a discussion with her class about the virtues of honesty and responsibility. Mennes did not mention any students by name but did share that some students were saying things that were hurtful and she wanted to record her class. (Exhibit 4, tab 88, 93 and testimony)
206. Mennes also stated that she had the right to teach without fear and she did not want the child in her class if she had to worry about false allegations. (Exhibit 4, tab 88, 93 and testimony)

207. Mennes and Grandparent P had an exchange about having children that Mennes felt was insulting. Suik refocused the meeting back to the goal of wanting Student P to feel happy and successful. (Exhibit 4, tab 70, 71, 88, 93 and testimony)
208. Mennes suggested that Student P write in her agenda book about her day. Grandparent P refused this course of action. Suik suggested that Parent P let the school know right away if Student P is feeling upset so the school can assist her. (Exhibit 4, tab 88 and testimony)
209. Suik asked Grandparent P and Parent P to provide Mennes with some time to build relationships. Suik scheduled a follow-up meeting for December 2, 2016 (Exhibit 4, tab 71, 88, 93 and testimony)
210. MacNaughton was outside Suik's office, at her desk, on November 23, 2016. She witnessed Grandparent P, Parent P and Mennes entering the meeting. She could not recall hearing yelling or a commotion of any sort. She also did not recall, at the conclusion of the meeting, that anyone left the meeting visibly upset, crying, angry, aggressive or otherwise. Mennes went to her classroom. Parent P and Grandparent P left the school. (Exhibit 4, tab 72 and testimony)
211. Suik meet with Parent P and Student P later that morning to ensure that Student P was supported and understood that they wanted her to feel happy and successful. (Exhibit 4, tab 88 and testimony)
212. As a number of concerning incidents had become inflamed throughout the day of November 23, 2016, Suik suggested that Mennes not attend the school the next day. Mennes refused and indicated she would attend work. Mennes was placed on paid leave and advised by Superintendent Steele that she was not to attend school. (Exhibit 4, tab 86, 89 and testimony)
213. On November 24, 2016, Suik received an e-mail and a link to a shared document from Mennes about the parent meeting the previous day. Mennes shared her thoughts, cited the *School Act* and mentioned the responsibility of the school board. She also stated that she had been in contact with the ATA about what had occurred. (Exhibit 4, tab 88 and testimony)
214. In her November 24, 2016 communication, Mennes characterized Grandparent P as being very threatening. Mennes stated that she (Mennes) was being bullied, wrongly accused and that she should not fear coming to work every day.
215. On November 28, 2016, Mennes wrote to Superintendent Steele alleging harassment. Mennes characterized Grandparent P as "out of control" and said that Grandparent P "yelled at her," "got out of her chair and almost stood up all the way and screamed, you better not be taping. It is illegal." (Exhibit 4, tab 53 and testimony)

216. On November 29, 2016, Suik received a text from Mennes asking for the name of the grandmother and a copy of the meeting notes. Suik provided Mennes with his notes. (Exhibit 4, tab 88 and testimony)
217. At 4:00 pm on November 29, 2016, Suik received a call from Constable Loder of the Brooks RCMP stating that Mennes wanted to press assault charges against Grandparent P. She alleged an assault occurred during a meeting at the school. Suik verbally provided his own version of events to Loder. Suik sought advice from the school division office and the ATA and subsequently provided a statement to the RCMP, on November 30, 2016. (Exhibit 4, tab 88, 93 and testimony)
218. Loder advised Suik that there would be no further investigation and charges would not be laid. He also said that Mennes had been informed of this decision but she was insistent that charges be brought against Grandparent P and said that she would do so as a private citizen. (Exhibit 4, tab 88 and testimony)
219. Suik spoke with Parent P at a later date, indicating that Student P should be removed from Mennes's classroom should she return to work. Parent P informed Suik that Grandparent P's employer received a call from Mennes trying to get Grandparent P fired. (Exhibit 4, tab 88 and testimony)
220. Grandparent P received a phone call from the RCMP on December 1, 2016 notifying her that no charges were being laid against her but that Mennes had requested a police investigation alleging Grandparent P had made verbal and gesturing threats against her. (Exhibit 4, tab 70, 71 and testimony)
221. Shortly after the contact from the RCMP, Grandparent P received a phone call from work relaying that someone had called the office seeking personal contact information for Grandparent P and alleging that Grandparent P had been violent, angry, swinging her arms around, causing a scene and being threatening at school. (Exhibit 4, tab 70, 71 and testimony)
222. Mennes testified that she did phone Grandparent P's employer but only sought information about a code of conduct for employees. (testimony)
223. In a letter to the registrar, MacLeod, on December 5, 2016, Mennes characterized Grandparent P's behaviour as "taking over the meeting, and on four occasions got out of her chair quickly, turned to face me, leaned toward me and screamed or yelled in my face. I thought she was going to hit me." (Exhibit 4, tab 54)
224. In a letter to the school board chair, Budz, on December 6, 2016, Mennes wrote that Grandparent P was "allowed to emotionally abuse me, get out of her chair and come so close to me that I thought she was going to hit me about four times during the meeting which lasted almost an hour." Mennes wrote that she had made a complaint to the RCMP

captured statements that Mennes ostensibly provided to her medical provider and did not provide any direction on her ability to participate. The secretary phoned Mennes immediately, advising her that the hearing was proceeding.

The committee was also advised by the secretaries that due to unforeseen circumstances, Schreiber was no longer able to continue as a secretary to the committee and Kischuk and Clintberg would be acting as co-secretaries for the hearing.

CONSTITUTION/JURISDICTION

Mennes was not present at the beginning of the hearing. There were no objections to the constitution of the hearing committee from those that were present.

Later, when Mennes was present, she did, obliquely, raise questions about jurisdiction of the hearing committee.

During the course of the hearing, there were many instances where the committee heard presentations and evidence that spoke more to the competency of Mennes rather than to her professional conduct. At times, there were lines drawn between how she structured her lessons and classroom and how she conducted herself professionally; however, often the committee was left to decide how relevant the testimony that spoke more to competency was, in relation to the charges.

For example, the committee heard that her classroom walls often lacked decoration; that students wrote copious amounts of notes from the board, sat in straight rows, read from textbooks and answered questions independently; that they brought their work up to Mennes's desk for her to review and correct; and that they were given large amounts of homework. The committee also heard testimony that Mennes's teaching style was "old school" and that students were made to stand next to their desks when another adult entered the room and were to greet the visitor. While not one of these actions would necessarily constitute unprofessional conduct on its own, when taken together they painted a picture of a teacher who had not adapted her practice and who was not interested in creating a warm, welcoming, safe and caring learning environment. This was confirmed by student and parent testimony that students were afraid of Mennes and/or experienced anxiety about attending Mennes's classroom.

The committee also heard testimony that Mennes didn't differentiate her lessons or adapt work to students' ability levels. Again, this largely speaks to competency as a teacher, but this was also tied to how Mennes had students that she favoured and treated better (including granting them additional classroom privileges, greater leniency in what constituted acceptable work and extra support in their learning) than those who were not favorites and were not afforded the same considerations.

about Grandparent P's attempt to assault her during the meeting, "yelling so close to someone is a threat. I am also making a complaint with the Alberta Human Rights commission." (Exhibit 4, tab 55)

225. Further in that letter Mennes wrote "then she asked if I had kids of my own and when I replied, "I didn't," she put me down horribly and stated that's why you don't know how to teach and treat them right." Mennes wrote that "he (Suik) said they would meet again next week, Dec 2, to see if things were better. I couldn't believe it. I was going to be attacked again and this time, maybe punched out!" (Exhibit 4 tab 55)
226. On December 31, 2016, Grandparent P received a phone call from someone claiming to be an associate of the lawyer that was handling the case against Grandparent P initiated by Mennes. The person did not provide his name. He demanded a written apology from Grandparent P to Mennes for the courts to read. Grandparent P refused to apologize for anything. He became angry and threatened that the people they have will "throw her under the bus." He threatened job action, seizure of her bank accounts and an investigation by child services because of her grandkids. He indicated that Grandparent P could avoid all these actions by providing the written apology. (Exhibit tab 70, 71 and testimony)
227. On the same day, Parent P received a call from the same telephone number but did not answer it. (Exhibit 4, tab 67 and testimony)
228. On January 3, 2017, Mennes wrote to Budz to instigate a complaint against Suik. In her letter, Mennes characterized Grandparent P as violent and conspiratorial and alleged that Suik had allowed this behaviour to occur. Mennes suggested that the students were placed in her classroom as a means to create a situation where Mennes could be attacked such that she would be forced to retire early. (Exhibit 4, tab 56)
229. All other accounts of the meeting of November 23, 2016 indicate that Grandparent P did not physically or verbally abuse Mennes. Mennes was the single participant that viewed the event as abusive and her version of events became more inflated with each retelling.
230. Mennes wrote inflammatory letters that contained retaliatory language attacking the professional credibility of colleagues.
231. These letters were consistent with previous behaviours and language contained in documents authored and signed by Mennes.
232. The letters were not done in good faith.

Charge 8

233. Suik, in his testimony, stated that Mennes never provided him with verbal or written copies of any of the correspondence she sent to various individuals about his conduct as the administrator of Griffin Park School
234. Mennes wrote a letter to Superintendent Steele, dated November 28, 2016, that was critical of Suik's conduct during the time November 17 to 23, 2016. Mennes alleged that Suik did not protect her against harassment, abuse or bullying. Suik was not provided with a copy of the letter or made aware of Mennes's criticism in advance of the letter being sent. (Exhibit 4, tab 53)
235. Mennes wrote a letter to the registrar, MacLeod, dated December 5, 2016, that was critical of Steele and Suik. Mennes alleged that Steele suspended her after she had been assaulted and that Suik had failed to protect her or to do a thorough investigation of events with students and that his actions demonstrated favouritism. Steele was not provided a copy of the letter or made aware of Mennes's criticism in advance of the letter being sent. Suik was also not provided a copy of the letter or made aware of Mennes's criticism in advance of the letter being sent. (Exhibit 4, tab 54)
236. Mennes wrote a letter to the school board chair, Budz, dated December 6, 2016 that was critical of Suik. Mennes alleged he failed to protect or support her from bullying or retaliation. Mennes accused Suik of failing to protect students. Mennes alleged that Suik was dishonest in his reporting to police officials. Suik was not provided with a copy of the letter or made aware of Mennes's criticism in advance of the letter being sent. (Exhibit 4, tab 55)
237. Mennes wrote a letter to the school board chair, Budz, dated January 3, 2017, that was critical of Suik. Mennes alleged that Suik was engaged in a campaign of continued emotional abuse, failing to take action on her allegations of abuse by a grandparent and taking retaliatory action against her by requesting an ATA investigation into her teaching conduct. Mennes further complained that Suik had used her as a scapegoat. Suik was not provided with a copy of the letter or made aware of Mennes's criticism in advance of the letter being sent. (Exhibit 4, tab 56)
238. Mennes wrote a letter to the CASS executive director, Litun, dated December 20, 2016, that was critical of Suik and Steele. Mennes alleged that Steele and Suik were co-conspirators in a campaign to terminate her employment. Mennes accused Steele of having no integrity. Mennes accused Suik of taking no action to protect her from an abusive grandparent and allowing the abuse to occur. Mennes alleged that Suik and Steele involved parents and grandparents in their conspiracy. Mennes alleged that Suik and Steele engaged in favouritism, discrimination, hatred and vindictiveness. Mennes wrote "How can a principal work under such dishonesty and allow teachers to be abused in his school and support a superintendent who is dishonest and without integrity?" Suik was not provided with a copy

of the letter or made aware of Mennes's criticism in advance of the letter being sent. Steele was not provided with a copy of the letter or made aware of Mennes's criticism in advance of the letter being sent. (Exhibit 4, tab 57)

239. Mennes wrote a letter to the registrar, MacLeod, dated January 3, 2017, that was critical of Steele and Suik. Mennes alleged that Steele was "encouraging and allowing a principal to retaliate against me, write derogatory descriptions to the ATA, and scapegoating and blaming me for the violent meeting and I caused everything to escalate." Mennes accused Steele of retaliating against her by helping the principal to initiate a complaint with the ATA when she did not accept a retirement deal. Further, Mennes accused Steele of allowing a principal to "blame a quiet teacher who was yelled at, assaulted for an hour and the principal did not do anything to stop it as all reasonable people would have and I am blamed and kicked out of my room." Mennes alleged that Steele did not conduct proper supervision of principals. Steele was not provided with a copy of the letter or made aware of Mennes's criticism in advance of the letter being sent. Suik was not provided with a copy of the letter or made aware of Mennes's criticism in advance of the letter being sent. (Exhibit 4, tab 58)

240. By her own admission, Mennes acknowledged that she wrote and signed all of the letters and did not provide any copies in advance to Suik. Further, Mennes testified that she stood by what she wrote because it was truthful. (testimony)

241. Mennes's version of events was not supported by any evidence other than her singular conviction that everyone else told untruths. Mennes's version of events became more inflated, hyperbolic and egregious with each of her retellings.

242. Mennes disavowed any responsibility for advising colleagues of her criticisms in advance as her concerns were with conduct and she believed she had been told the code of conduct did not apply in such situations. (testimony)

Charge 9

243. Linda Andres testified about anonymous letters and posters in the community. There were consistent themes throughout the anonymous documents. The document would be laudatory to Mennes and defamatory to others. (Exhibit 4, tab 9 and testimony)

244. Andres testified about the anonymous letter to Lunseth. The letter made references to Superintendent Chomistek's daughter and pointed out details that Andres had never heard anyone speak of before, except Mennes. (Exhibit 4, tab 9 and testimony)

245. Andres also testified that the language employed, the general tone and the approach were very similar to that which Mennes used in conversation. (Exhibit 4, tab 9 and testimony)

246. Andres stated that she had no doubt that Mennes had authored the letters. (Exhibit 4, tab 9 and testimony)

247. Andres stated that the letters were consistent with a pattern of retaliatory behaviour that Andres had seen Mennes engage in, related to other aspects of her life. (Exhibit 4, tab 9 and testimony)
248. Parent C testified to receiving anonymous letters as a school trustee. Parent C identified the letters as the ones entered at tab 8 and tab 24. Parent C believed that Mennes had authored the letters. Parent C had been a student in Mennes's class and had volunteered in Mennes's class when her son was in Grade 4 in 2010/11. Parent C felt that the writing in disguise had commonality with Mennes's penmanship. (Exhibit 4, tab 14 and testimony)
249. An anonymous letter of complaint was sent to the school board chair, Budz, and to at least Parent C. The letter criticizes school administration for allowing a graphic, student-produced video to be shown at a school assembly for Grades 1-6. The letter contained the questions, "What the hell is going at this school? How can a principal show this? Disgusting" (Exhibit 4, tab 24)
250. Mennes testified that she was not in school during the video presentation. (testimony)
251. An anonymous letter, dated July 22, 2012, was sent to Laurie Lunseth and distributed to Mennes, board members, Dick Haskayne (who is Lunseth's uncle) and to the minister of education. The letter outlined that the community was upset that Mennes was transferred and spoke of what a great community member Mennes was. The letter was derogatory to Lunseth and accused her of being a gossip queen, supporting then principal Sametz and being infatuated with him and starting a rumour campaign to impugn Mennes. The letter further accuses Lunseth of controlling the school through blackmail and gossip and accuses the administrator of succumbing to this kind of blackmail. The letter made derogatory comment about Chomistek and her daughter. The letter referenced a vandalism incident that involved a child of a municipal official. (Exhibit 4, tab 8)
252. The letter contained the statements
- "She [Mennes] is a great community member."
 - "He [Sametz] was kicked out of Saskatchewan for the same thing."
 - "Since when does an administrator who has a code of ethics to follow succumb to this kind of blackmail and dishonesty?"
 - "He [Sametz] should be proud of the people and teachers who spoke up to get Bassano School back on track because they cared about school."
 - "She [Chomistek's daughter] was a horrible bully! More went to the high school in Brooks with this superintendent's daughter and again she was a horrible bully."
 - "This is outrageous!"
 - "How can a school board allow this?"
 - "I wonder if Mr Haskayne is aware of this blackmail or is he too an innocent victim..."
 - "Maybe a policy could be made to limit the amounts of money where family members cannot donate money to a school or a limited amount so that this kind of favouritism and dishonesty do not go one (sic)."

- "It is a shame Ms Mennes who has done so much for the community and school is treated like this." (Exhibit 4, tab 8)

253. The letter was carefully formatted to include the copies being sent to others as well as to the addressee. (Exhibit 4, tab 8)

254. Haskayne provided a philanthropic grant to the school in support of the health program and grants for students that graduated out of Bassano School. (Exhibit 4, tab 9, 38 and testimony)

255. Lunseth provided a document to Chomistek explaining why she believed that Mennes was the author of the July 2012 anonymous letter at tab 8. Lunseth testified that an anonymous letter was not a typical way for parents to complain or to present a concern. Lunseth identified a number of details that were known only to staff and not known to members of the community such as Lunseth's actual age and level of education, how Lunseth felt about previous administrator Sametz, about the damage to the school roof and the grant being provided by the Haskayne fund. Lunseth testified Mennes was one of a small group that knew her personal information, including her age and contact with Sametz during his leave of absence and that the damage to the roof and the potential grant were disclosed at a staff meeting. (Exhibit 4, tab 38)

256. Lunseth noted that the July 2012 letter was postmarked by the Strathmore post office on July 25 which was Grasslands school division's payday. Lunseth testified that Mennes had told Lunseth that she banked in Strathmore. (Exhibit 4, tab 38 and testimony)

257. Lunseth testified that she and Mennes had been friends for twenty-five years prior to the anonymous letter. Lunseth believed that if Mennes had nothing to do with the letter, she would have spoken with Lunseth directly upon receiving it. Mennes did not and when Lunseth attempted to speak with Mennes, when they crossed paths out in the community, Mennes refused to talk about the letter. Mennes told Lunseth that she could not talk about it on the advice of her lawyer. Lunseth recalls telling Mennes that she would never say those things in the letter and Mennes responded by saying "I'm not the one that should have been transferred." (Exhibit 4, tab 38 and testimony)

258. Lunseth was deeply hurt by the anonymous letter and continued to be troubled and anxious by the letter six years later. (testimony)

259. Chomistek fully endorsed and agreed with Lunseth's assessment of the July 2012 anonymous letter and believed that Mennes was the author. (Exhibit 4, tab 38 and testimony)

260. Chomistek testified that there was a pattern of anonymous letters following any dispute or issue with Mennes and/or Bassano School. Each time a school administrator would suggest a change in Mennes's practice, Mennes would respond negatively and state that she was

going to call the ATA and sue them. Then, there would typically be an anonymous letter sent to her office extolling the virtues of Mennes and criticizing the administrator and other staff members. Chomistek testified it was a very consistent, disturbing and unprofessional pattern of behaviour. (Exhibit 4, tab 83 and testimony)

261. At least three of the anonymous letters that Chomistek received contained information about Mennes and noted that she was either a great teacher or person, and complained about someone else or an incident that had occurred. Chomistek testified that she had destroyed the earlier anonymous letters due to their offensive content. In hindsight, she regretted this course of action. (Exhibit 4, tab 83 and testimony)
262. Chomistek noted that language in the anonymous letters was consistent with the pattern of Mennes's oral language and things that she had heard Mennes say at meetings. (Exhibit 4, tab 83 and testimony)
263. Chomistek testified that all information about the intended transfers in 2012 was carefully controlled until the transfer appeal process was fully completed. Mennes would have been the only source that could have disclosed the information to the community. (testimony)
264. Mennes testified that she received an anonymous letter, in an envelope postmarked March 9, 2017, encouraging her to retire. Mennes made handwritten notes on the envelope stating that "Chomistek's daughter was a horrible bully at this school and at Brook's comp high." (Exhibit 4, tab 35)
265. Sproule testified he had become aware of substantiation of links between Mennes and many of the anonymous letters that were distributed throughout the district. (Exhibit 4, tab 36)
266. Sproule testified "It is important to note that the threat uttered verbally by Ms Mennes in her classroom on the morning of May 3, 2012, shared striking similarities with threats that would surface in the weeks to come, in the form of anonymously written and distributed letters." (Exhibit 4, tab 36)
267. Sproule testified that in the host of anonymous letters that were distributed, attacks were waged against Bassano School staff members and Grasslands school division employees. They promoted Mennes as an upstanding teacher and community member and threatened various consequences. It is important to recognize that these letters contained information that could only be known by Mennes herself. (Exhibit 4, tab 36)
268. Mennes e-mailed the office of the president of the University of Lethbridge on February 2, 2017, complaining about an individual captured in a photograph in the *Legacy* magazine, a university publication. In that e-mail, Mennes wrote that she was shocked and in disbelief that a person in the photo had been hired a few years ago. Mennes alleged that the person abused his vice-principal and secretary. The e-mail was received by an administrative assistant, Deb Bullock, who forwarded it on to Dean of Education Loewen.

Loewen forwarded the e-mail to Steele who confirmed that the person in the photograph was Sproule. Sproule identified himself in the photograph as well. (Exhibit 4, tab 25, 36 and testimony)

269. In the e-mail, the third paragraph speaks of abuse to the vice-principal in specific language, phrasing and narrative. During her testimony, Mennes related the exact narrative, specifying the same details and in very similar language and phrasing. (Exhibit 4, tab 25 and testimony)

270. Loewen responded to Mennes by e-mail. In his response, he highlighted concerns that the substance of Mennes's e-mail risked contravening the Code of Professional Conduct. (Exhibit 4, tab 25, 36 and testimony)

271. Mennes testified that someone had cut and pasted her e-mail address into the e-mail and she had not sent the e-mail. The university e-mail system identified first, middle and last names of e-mail addresses that have been registered. In this case, the system identified that the source of the e-mail, bouvs4me@gmail.com, was Frieda Anne Mennes.

272. Mennes e-mailed the ATA investigator, Joyce Sherwin, indicating that she had phoned the secretary of the president of the University of Lethbridge to speak about the *Legacy* magazine and how disappointed she was to see the photograph of someone who was so mean to her and others. (Exhibit 26)

273. On May 20, 2008, Mennes wrote a letter to Principal Sametz responding to accusations about her behaviour in her classroom. In this letter, Mennes wrote "I will not be used as a scapegoat for their daughter who is out of control" and "I am proud of how I teach." Mennes threatened retaliatory action such as pressing charges through the ATA and the Human Rights Commission. Mennes alleged reverse discrimination. Mennes wrote that she would seek a restraining order. Further, Mennes requested a video camera in her classroom to record students. (Exhibit 4, tab 33)

274. Mennes testified that the May 20, 2008 letter was falsified and altered by Sproule. (testimony)

275. Mennes's allegation that the document was falsified by Sproule was not supported by evidence but was consistent with Mennes's belief that she was the victim of a highly orchestrated conspiracy. (testimony)

WITNESS CREDIBILITY

Witness credibility in a case of this magnitude is critical in the "balance of probability." The hearing committee heard testimony, under oath, from fifty-eight witnesses in this case. The hearing committee followed the same process in assessing the credibility of each witness

The appearance of telling the truth is only one of the elements that enter into assessing the credibility of a witness. Opportunities for knowledge, powers of observation, judgment and memory, ability to describe clearly what he/she has seen and heard, as well as other factors, combine to produce what is called credibility.

The hearing committee considered the credibility of interested witnesses carefully because of the incidents of conflict of evidence. The committee examined the subject of each testimony in terms of its consistency with the probabilities that surrounded the existing conditions. The real test of the truth of the testimony that witnesses provided in this case had to be harmonious with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

A. Factors Considered

The factors examined and considered for each witness in finding credibility are as follows:

Appearance and Demeanour: The tone and body language of the witnesses were examined by the committee for any concerns regarding confusion, partisanship, sarcasm and arrogance. Professionalism and general demeanour while testifying were also elements considered.

Ability to Perceive: The committee considered whether or not the witness was in a position to make the observation and was concentrating on the events at the time

Ability to Recall: The committee made judgments as to whether or not each witness had a good memory of the events in question. The committee considered how much time had passed since the events in question and whether or not the witness had reason to review their memory of the event since it was observed. It was noted when a witness had specific notes on the events in question.

Motivation: The hearing committee examined the motivation of each witness. Witnesses sometimes have a reason to remember a matter in a particular way. A witness may have something to gain or lose from the hearing. A witness may like or dislike a party to a hearing, which can influence his or her recollection or testimony. These motivation factors were considered for each witness.

Probability or Plausibility: A powerful indicator of the truth of a fact is if it's probable or plausible. The hearing committee applied collective common sense to the evidence of a witness in the assessment of probability.

Internal Consistency: A common attack on the testimony of a witness may be whether it is consistent throughout. Factors considered included whether or not statements made in chief were the same in cross examination and whether or not the witness was materially inconsistent with prior statements he or she made. Where there is inconsistency, the hearing committee looked at the reason for the inconsistencies when deciding its significance.

External Consistency: The testimony of each witness was compared with externally proven facts. Inconsistencies were noted and assessed. A factor that was considered in regard to each witness was whether or not the witness had “selective memory.” This came into play when a witness testified that they had a very specific recollection of certain events but professed to have no recollection of other events, which occurred around the same time.

B. Witnesses for the Prosecution

1. Linda Holt – Credible

Holt was a team teacher who taught special education at Bassano School for seventeen years during the time that Mennes taught there. Holt is now retired from teaching. She provided assistance to individual students in Mennes’s class and preparation coverage for Mennes for two or three periods a week. Holt’s testimony was detailed and provided specific examples with an internal consistency matching her written statement. Externally, Holt’s testimony was shown to be consistent with the testimony provided by others who followed. The committee believed that Holt was very concerned about the children with special needs in Mennes’s class.

2. Scott Brandt– Credible

Brandt is the current superintendent of Grasslands Regional Division No 6, and previously held supervisory roles within the district. Brandt’s testimony was clear, concise and forthright. He provided answers, or attempted to answer, all questions posed with only a minor date confusion which he corrected. His testimony was internally consistent throughout and he appeared to be motivated to serve the best interests of students, parents and staff of the school district.

3. Student A – Somewhat Credible

Student A was in Mennes’s Grade 4 classroom during the 2002/03 school year. He appeared to be nervous and uptight. His experience had occurred a long time ago. Many of his answers were, “I don’t know” or “I can’t remember.” He stated, relative to Mennes, “Our relationship was fairly fine.” He could not recall being held in for recess at the start of the year but, with certainty, he could recall his friends being held in regularly.

4. Linda Andres – Credible

Andres is a teacher, retired in 2015, who taught at Bassano School at the same time as Mennes. She was an AISI teacher, vice-principal and colleague of Mennes for a period of 15 to 18 years. She had good recall of specific details and was able to consistently provide specific examples. While she appeared nervous and afraid, she was clear in her answers. Her testimony was consistent internally and externally with that of others. Her comments were open and honest. She appeared to bear no malice towards Mennes.

5. Student B – Somewhat Credible

Student B was in Mennes's Grade 4 classroom during the 2008/09 school year. His testimony was externally consistent with the testimony of others. There was no variation from the truth as he remembered it; however, some of the testimony may have been tainted because of apparent animosity toward Mennes. There was some selective recall of facts and details, especially upon being cross-examined. While providing testimony in chief, Student B was calm and respectful but became agitated when Mennes cross-examined him.

6. Parent B – Not Credible

Parent B is the mother of Student B. She began her teaching in 2004 at Bassano School. She taught with Mennes from 2004 to 2012, when Mennes was transferred. Initially, she appeared to be engaged and was consistent in her written statement and her verbal recall of events. There was external consistency with the testimony of others. She appeared motivated by her duty as a teacher and a parent of a child who was in Mennes's classroom. During cross examination, Parent B testified about allegations raised against her. Parent B's demeanour changed significantly at this point, causing the committee to question the motivation of her testimony. Parent B presented a strong adverse reaction to Mennes's cross examination. Later testimony from Peel raised further questions about the motivation of Parent B.

7. Parent C – Somewhat Credible

Parent C is the parent of Student C. She volunteered in Mennes's classroom. Parent C had been a Grade 4 student in Mennes's classroom. At the time of her testimony, Parent C held a position as a trustee on the school board. Parent C presented herself as a professional. Her demeanour was emotionally charged. Past events may have impacted Parent C's recall; however, her recall was good considering the passage of time. The committee believed Parent C was motivated by Mennes's lack of respect for her during the time Parent C's brother was dying. She had a history of personal experience as a student and now as a parent who had a child in Mennes's class.

8. Student C – Somewhat Credible

Student C was a Grade 4 student in Mennes's class during the 2010/11 school year. He appeared relaxed but a little shy. As he progressed through his testimony, he became increasingly nervous. While internally consistent in his testimony in chief, this consistency wavered a bit during cross examination. He appeared angry with Mennes because he never finished his work early and was singled out for consequences; plus, he believed Mennes to be unfair. He demonstrated a strong recollection of mistreatment of non-academic students, especially Student 1. Student C's written submission was scribed by his mother.

Finally, the committee heard testimony that school-based administrators had tried to address these competency issues and then experienced responses from Mennes that varied from “surface compliance” to retaliatory actions against her administrators.

The committee weighed carefully the relevance of these references to competency on a case by case basis, as they arose and always with the question of how they related to the charges, if at all.

PROCESS OF THE HEARING

Self-governing professions such as the Alberta Teachers’ Association (ATA) have an obligation to protect the public interest. At the same time, the hearing committee is required to ensure that a hearing is conducted with the utmost fairness to the investigated member facing allegations. Professional conduct hearings have far-reaching implications for investigated members charged with unprofessional conduct. It is vital that procedural safeguards to ensure fairness be clearly established and rigorously observed. Committee members need to be unbiased; have no information about the case, other than what was presented as evidence; and consider that evidence with open minds and without any prejudgment of the issues. The committee must act fairly and be seen to have acted fairly.

In the case of this proceeding, the committee was ever mindful of its obligation to ensure the fairness of the proceeding and the principle that the investigated member should have opportunity to make full answer and defence. The committee granted an adjournment when requested by Mennes’s counsel at the November 21, 2017 teleconference. The adjournment was requested to give the defence adequate extra time to prepare her case.

Hearings are almost exclusively held in Edmonton, where the ATA has facilities suitable for such proceedings. In this case, due to the large number of witnesses called from the Brooks area and the potential impact of their absence to travel to Edmonton, a decision was made to relocate to Brooks for the testimony of prosecution witnesses. The committee further determined that, in fairness, while defence witnesses’s absences would not likely have the same impact on the education system, the hearing committee would return to Brooks to hear defence witnesses. At the conclusion of the second hearing portion in Brooks, on November 1, 2018, Mennes was advised that she still had the right and opportunity to bring in witnesses when the hearing reconvened in Edmonton. She was made aware of her right to make full answer and defence.

After dealing with the third preliminary matter on March 1, 2018, the hearing proceeded in the absence of Mennes. Hackman and deGoeij began calling witnesses.

Without prior notification, Mennes arrived at the hearing room near the conclusion of the testimony of the first witness. Upon entering the hearing room, Mennes requested that the committee revisit the decision to proceed. Rand advised the committee that it should not overrule its own decision. The hearing proceeded.

9. Jennifer Antill – Credible

Antill had been employed for more than 10 years as an educational assistant with the Grasslands school division. Antill provided assistance to students in Mennes's room during the 2014/15 school year. J Antill was professional in demeanour and appearance. While appearing anxious, she was calm and quiet. She said that she had suffered from depression and anxiety following the investigator's first interview with her. Her recall was satisfactory as she was able to recall some things that took place but had difficulty with specific details of other things. Internally, her testimony was consistent. Externally, her testimony was divergent in that she noted that Mennes provided students with modifications. Generally, her testimony was plausible. She provided a strong recall of marginalized students and seemed motivated by an interest in the wellbeing of the child.

10. Rachelle MacDougal - Somewhat Credible

MacDougal was a Grade 4 teacher in Griffin Park School with Mennes from April to June of 2015 but taught in a different room. She heard from students about their treatment at the hands of Mennes but she was never in Mennes's classroom. She was professional in demeanour and appearance. She smiled and made eye contact with the committee. Her testimony was externally consistent when she spoke about Mennes's classroom culture being rigid with little smiling and no humour, fun, movement and/or noise. There was external consistency in her testimony concerning staff relationships. MacDougal presented a lot of second-hand knowledge and was motivated to testify by her desire to assist children and wanting what is best for them.

11. Stephanie March – Credible

March worked with Mennes in the 2014/15 school year as a team teacher/partner at Griffin Park School. She was professional, polite, clear and articulate. March had a good perception of events that were relevant. She appeared motivated by her concerns for the welfare and best interests of students. Externally, her testimony was consistent with information presented by other witnesses in regard to classroom appearance, teacher appearance and day-to-day routines. Internally, March's testimony was consistent.

12. Parent D - Credible

Parent D is the parent of Student D who was a Grade 4 student in Mennes's class during the 2003/04 school year. Parent D's other children were in Mennes's class in later years. She appeared professional in her demeanour and appearance. In the beginning, she was confident, but she started to shake during her testimony. She was able to recall events with ease and provided specific details and examples. Parent D's first-hand knowledge came from her contact with Mennes and information she gained from her daughter and her friends was second-hand knowledge. Externally, Parent D was consistent in her testimony except when she spoke about her son having an easier time in Mennes's class because he was male. All of Parent D's other

statements said special treatment was given to females. Otherwise, her testimony was internally consistent, probable and plausible.

13. Student D – Credible

Student D was a Grade 4 student in Mennes's class at Bassano School during the 2003/04 school year. While being nervous, she presented herself as confident in her responses, and appeared professional in manner. On most levels, she was externally consistent with her mother's testimony and internally consistent with her own. Student D was motivated by her belief that Mennes's treatment of students was wrong because of the way she had been personally treated by Mennes. Student D recalled her emotional trauma from her time in Mennes's class but was less clear about the specifics.

14. Kathleen Jensen – Credible

Jensen had taught with Mennes at Bassano School 30 years ago. Jensen took on administrative roles and was principal of Griffin Park School from 2011 to 2013, which included the time of Mennes's transfer in 2012. Jensen moved to a position of assistant superintendent in 2013. Jensen appeared as professional in her demeanour and appearance, presenting herself as confident, smiling at the committee and speaking with clarity and articulation. She had a very good ability to recall events in detail, with gaps that appeared to be because the events occurred over 30 years ago. Jensen was internally consistent in her testimony and was externally consistent with what was heard from others. She observed Mennes's dissatisfaction with being chosen for transfer from Bassano School. As the receiving principal of Mennes, Jensen saw her role as being supportive of Mennes. She detailed negative elements of Mennes's behavior after the transfer. Jensen's motivation appeared to be for the best interests of children.

15. Leonard Sproule - Credible

Sproule was employed by the Grasslands school division for a period of ten years. During this time, Sproule acted in the capacity of special education coordinator and then with AISI. Sproule had contact with Mennes through these roles. Sproule moved to a new position as a school administrator and was the principal at Bassano School during the time Mennes was being transferred. Sproule presented as stressed and anxious. Sproule provided thoughtful responses, taking time to think before answering and then answering fully, to the best of his knowledge. The ability to recall facts and details with consistency, both internally and externally, presented Sproule as a credible witness. His statements were quite plausible and consistent with what others testified. While Sproule had faced a complaint of unprofessional conduct from Mennes, this did not appear to have an influence on Sproule and his testimony.

16. Parent E – Somewhat Credible

Parent E is a parent of two students who were in Mennes class during the 2006/07 and 2010/11 school years. She presented as professional in demeanour and appearance. Parent E was clear,

concise and able to recall details and specific examples. She was plausible. Her motivation appeared to be the negative impact of Mennes on students in Mennes's classroom. She was internally consistent and introduced some new information about events and the treatment by Mennes of students that she witnessed. Her testimony was externally consistent with testimony provided by others. During her testimony, Parent E expressed dissatisfaction with the school in general, which raised some question about her motivation and credibility.

17. Laurie Lunseth - Credible

Lunseth was the librarian at Bassano School for 31 years including the years when Mennes was transferred. Lunseth characterized her relationship with Mennes as friendly and cordial for the first 25 years. Lunseth presented as professional in her demeanour and appearance. Lunseth was passionate about the work done with students at Bassano School. She came well prepared and had great recall of facts and details with confidence when asked about specific incidents that she was directly involved in. Internally, Lunseth's testimony was consistent and did not waver. Her testimony was believable and the information she relayed was probable and presented as a matter of fact. Lunseth may have been motivated to testify in order to protect her good name in the community because she had been named in a letter which humiliated her both personally and in the community.

18. Student F - Credible

Student F was a Grade 4 student in Mennes's class during the 2013/14 school year. He was respectful in appearance and demeanour. He spoke well and exhibited energy in his voice. However, despite being video streamed to the hearing room, he made little eye contact with the camera. He was matter-of-fact and stated, "My memory is correct," when recalling events. His testimony was internally consistent. When he spoke about student detentions, he was externally consistent with other students' testimony.

19. Student G – Not Credible

Student G was a Grade 4 student in Mennes's class during the 2015/16 school year. His written response had been typed out by the presenting officer and reviewed two or three times with amendments. When asked about the correctness of his written statement, the witness testified that, "It is not quite as bad as I made it out to be." He said he had a good year because he was one of Mennes's favourites. He gave inconsistent responses and the committee felt his testimony may have been influenced by others. While he had good recall during chief, he was not strong during cross examination.

20. Student H – Somewhat Credible

Student H was a Grade 4 student in Mennes's classroom during the 2013/14 school year. As a young man, Student H appeared professional in his appearance and demeanour. He was obviously nervous, as it took him a long time to settle in front of the camera for the video

streaming. A lot of questions were answered with, "I do not recall." While he had a strong recall of events that he perceived to be traumatic, he could not recall his own behavior during these events. There was some internal consistency and external consistency with the testimony of other students but Student H was limited in his ability to recall. His motivation was related to him not being happy and thriving during his time in Mennes's classroom.

21. Rebecca Kroshel - Somewhat Credible

Kroshell is a Grade 5 teacher who worked with Mennes at Griffin Park School. Kroshell was professional in her appearance. She was overly exuberant in her responses, self-aggrandizing and portrayed herself as overly involved in the running of the school, beyond her classroom responsibilities. Although she was aware of events at the school, the weight to be given her evidence was questioned because her information was generally second hand. She was motivated because she felt there were negative effects on students in Mennes's classroom.

22. Joanne Decker – Credible

Decker was a Grade 8 student in Mennes's health class in 1982/83. Decker later became a colleague of Mennes at Bassano School from 1998 to 2012 and then again at Griffin Park School from 2013 to 2016. Decker was professional in both appearance and demeanour. While she was quiet and nervous to begin with, she presented as internally consistent. She testified that most of the information she received was second-hand knowledge from students during her time as Mennes's colleague. Decker had personal experiences with Mennes in which she felt she was humiliated and embarrassed both as a student and as a colleague. While Decker's testimony about her time in Grade 8 was plausible, it was not externally consistent with other testimony. The passage of time made it difficult to determine a single interpretation of what transpired in the 1982/83 classroom. Decker was aware of the anxiety of students in Mennes's classroom and of Student D's illness and the impact on all involved. Decker had an extended period of interactions with Mennes. Decker forbade having her children in Mennes's class and stated "I do not wish her any ill, but it is time to speak up. I was not respected as a student, as a colleague and as a parent, it is the only time I stood up to her."

23. Parent I - Somewhat Credible

Parent I is the mother of Student I, a student in Mennes's Grade 4 classroom during 2016/17. She was very emotional, cried four times during her testimony and was loud and sobbing. The witness recalled specific details described by her daughter and her daughter's observations. She spoke of some regret for not having intervened on behalf of Student I when in Mennes's classroom and recalled having stopped talking with Mennes as she felt as bullied by Mennes as her daughter felt. The committee found the witness to be plausible, and her testimony was consistent internally and externally. Parent I was credible when recounting the emotional impact on her daughter but her evidence was given less weight when she was testifying about events of which she only had second-hand knowledge.

24. Student I - Credible

Student I was in Grade 7 at the time of her testimony and was a student in Mennes's Grade 4 classroom in the 2014/15 school year. She appeared confident as she began her testimony though she became more stressed and it was noted that she consistently wrung her hands and referred to her dictated statement twice during her testimony. It was evident that Student I hated Mennes when she described her time with Mennes as a horror movie, said she was disgusted with Mennes as a teacher and wished she had transferred from Mennes's classroom. The committee found the witness was in a position to have a good perception of events in the class. Her testimony was probable and plausible and both internally and externally consistent.

25. Parent J - Somewhat Credible

Parent J is the parent of Student J who was a Grade 4 student in Mennes's class during the 2014/15 school year. The committee saw Parent J as a strong and powerful voice who did not appear to be nervous or hesitant in the answers she gave to questions. Parent J recalled the events in question through the eyes of her daughter's experiences with Mennes as a teacher. Where she could not remember, she admitted that and expressed that she did not want to misconstrue her recollections. It was clear that the witness did not like Mennes and she was angry because the school administration would not allow a move of her daughter to another classroom. Her testimony was externally consistent and her recollections were probable as they matched what her daughter attested. The witness may have felt guilt as she did not pursue moving her daughter out of Mennes's class. Parent J was credible when recounting the emotional impacts on her daughter though the committee gave her evidence less weight when she testified about events of which she only had second-hand knowledge.

26. Student J – Somewhat Credible

Student J was a Grade 7 student at the time of her testimony and was a Grade 4 student in Mennes's classroom during the 2014/15 school year. It was apparent that she did not want to be in the same room as Mennes. The witness recalled her story but her testimony was inconsistent both internally and externally. Internally she recalled her story but could not recall day-to-day events during cross examination. Student J differed from her mother's testimony in that she denied that students participated in school events. Student J believed that workload was reduced for the smart children and Mennes let their work slide because she favoured them. She was motivated because she felt humiliated and may have been seeking revenge. Overall her evidence was plausible and somewhat probable.

27. Parent K – Credible

Parent K is the parent of Student K who was a Grade 4 student in Mennes's class during the 2015/16 school year. Parent K presented as being neat and tidy in appearance. She stated that she and her daughter were testifying because Mennes will not be a teacher after the hearing, and that spoke to her motivation. Parent K recalled events specific to her daughter and was credible.

Parent K did not spend time in Mennes's classroom as a parent volunteer, making some of her testimony second-hand knowledge. The committee believed that the witness's evidence was consistent both internally and externally and was both probable and plausible.

28. Student K – Credible

Student K was a Grade 6 student at the time of her testimony and she was in Grade 4 in Mennes's class during the 2015/16 school year. She spoke well and recalled events specific to her and others in the class. Most of her testimony was externally consistent with the testimony of other students. She was clearly troubled by Mennes's treatment of Student 6, a fellow student, and her distress continued two years past her time in Mennes's classroom. Her evidence was probable and plausible in her testimony. She made matter-of-fact statements that rang true.

29. Robert Suik – Credible

Suik is a teacher with Grasslands school division and had been for 27 years at the time of his testimony. During this time, he worked with AISI from 2002 to 2005 and then moved to school administration. Suik was vice-principal of Griffin Park School from 2010 to 2013 and then assumed the role of principal in 2013 and continues in that position currently. Suik worked with Mennes for two years as her vice-principal and then for the remainder of her time at the school as her principal. Suik was dressed business casual and made eye contact during his testimony but appeared to become more nervous during the latter part of his testimony. Suik was able to recall events and incidents with ease and was supported by his contemporaneous notes and text messages. Suik was in a position of authority at the school and was in a good position to perceive events. Suik appeared to be perceptive in his assessment of the character of people, consistent with his training as a counsellor. Suik was fearful of Mennes and believed she was capable of retaliatory actions against him. His testimony was internally consistent and externally consistent with that of other witnesses except Mennes. Suik's version of events differed significantly from Mennes's version and was supported by his documentation and texts and the testimony of other adults and colleagues. His testimony was plausible and probable. Suik appeared to be mindful of his professional responsibilities. He was supportive of his staff, including Mennes.

30. Parent L – Somewhat Credible

Parent L is the mother of Student L who was a Grade 4 student in Mennes's class in 2015/16. Parent L was dressed in jeans, with sunglasses on her head. Parent L's testimony was short and not detailed or specific. Many of the details that Parent L was asked about other students would have been known to her only through second-hand information provided to her by her daughter. Parent L testified that her daughter was academically inclined and was deemed to be a favourite of Mennes. Parent L characterized Mennes's treatment of her daughter as "bullying in a good way."

31. Student L - Credible

Student L was in Grade 6 at the time of her testimony. She was in Grade 4 in Mennes's class during the 2015/16 school year. Student L presented as honest and forthright in her recollections. She was polite during her testimony but appeared to be nervous, constantly swiveling in her chair. Student L had good recall of events and treatment of other students in the Grade 4 class. Student L recalled specific class events very clearly but there was some minor variation in her testimony about a specific incident involving Student K. Her testimony was internally consistent.

32. Parent M – Credible

Parent M is the mother of Student M who was a Grade 4 student in Mennes's classroom during the 2015/16 school year. Parent M was professional and businesslike in both dress and appearance. She spoke in a clear and articulate voice. Much of Parent M's testimony relating to classroom events was based on second-hand information from her daughter, Student M. Parent M was reasonable and solid in her perceptions. Parent M was thoughtful and deliberate in her responses. The witness's testimony was externally consistent except when she testified that the substitute teacher was mean to students too.

33. Student M – Credible

Student M was in Grade 6 at the time of her testimony. Student M was a student in Grade 4 in Mennes's classroom during the 2015/16 school year. She was well groomed, neat in appearance and cooperative during her testimony. Student M presented as a student that adhered to rules. She consistently swung her legs and moved her chair as she testified. Student M changed in demeanour during cross examination by Mennes. Her testimony was internally consistent with some minor deviations from her written statement. Her testimony was externally consistent with the testimony of other students. She testified that she wanted to be home schooled for Grade 4 and that she did not feel safe in Mennes's class. She was scared, criticized in front of other students and made to feel incapable of achieving Mennes's high expectations in Grade 4. Student M did not want her sister to experience Grade 4 in Mennes's room.

34. Parent N – Credible

Parent N is the mother of Student N who was in Grade 4 in Mennes class during the 2016/17 school year. Parent N was businesslike in appearance. Parent N identified that she was nervous at the outset her testimony. The witness provided both first-hand and second-hand knowledge of events that transpired in Mennes's class during the 2016/17 school year when Mennes was at work. Her testimony was internally consistent and externally consistent with the testimony of others. Parent N was deeply troubled by the negative impact Mennes had on her child in such a short time.

35. Student N – Somewhat Credible

Student N was a Grade 5 student at the time of her testimony. Student N was a Grade 4 student in Mennes's class during the 2016/17 school year. Student N appeared to be very nervous and anxious during her testimony and she spoke in a soft voice. Student N was solid in her own mind about what had transpired in Grade 4 during the short time Mennes was there. The witness's testimony was externally consistent with that of other students that testified. There were some inconsistencies between the witness's verbal and written statements. Student N testified that a number of students were considered Mennes's favourites. The list was consistent with what other students had testified but included a few additional names.

36. Tonny Peel – Credible

Peel is currently a Grade 4 teacher with Rocky View School Division No 41. Previously, he worked for the Grasslands school division teaching Grade 6 from 2009 to 2011 and Grade 5 from 2011 to 2016. Peel was a colleague of Mennes at both Bassano School and Griffin Park School. He taught a number of students after they had moved on from her class. At the outset of his employment, Peel lived in the teacherage next door to Mennes for a period of about one and three quarter years. Peel was professional in his appearance and demeanour. He was calm, cool and collected and spoke with a clear voice during his testimony. Peel was in a good position to understand Mennes as they had a candid and equitable relationship as neighbours and colleagues, though he did not characterize the relationship as friendly. Peel had no recent contact with Mennes after moving to his new district. The witness's testimony was probable and consistent on many levels. He was clear and direct in what he did and did not know during both his testimony in chief and cross examination. The committee believed that Peel was motivated to testify because he felt that he needed to do what was just and fair.

37. Student O – Credible

Student O was in Grade 5 at the time of his testimony. He was in Grade 4 in Mennes's classroom during the 2016/17 school year. Student O was confident but fidgeted during his testimony. He appeared to be actively listening and presented as polite, clever and dramatic during his testimony. Student O described himself as one of Mennes's pets and was in a good position to see classroom events that involved other students. Student O believed that Mennes was unfair in her treatment of other students. The witness was able to recall events and details with internal consistency. His testimony was probable and plausible and he was able to connect events when very little background had been provided. His testimony was externally consistent with the testimony of other students from Mennes's class. Student O was motivated to testify as he saw how some others were treated, even though he was one of the favorites and had no reason for any personal animus towards Mennes

38. Grandparent P - Credible

Grandparent P is the mother of Parent P and the grandmother of Student P who was in Grade 4 in Mennes's class during the 2016/17 school year. Grandparent P provides afterschool care for her granddaughter and believes that her granddaughter shares more with her than she does with her mother. Grandparent P came dressed in jeans, a hoodie and cowboy boots. She referenced her "east coast" heritage for her direct speaking. There was evidence of animosity between Grandparent P and Mennes during cross examination. Grandparent P was aware that Mennes had spoken with her (Grandparent P's) employer. She believes that the treatment of her granddaughter by Mennes will have a long term negative impact on the child. She was clear and direct about what she did and did not know. Her testimony was probable and somewhat plausible. Grandparent P specifically stated that she omitted some details from her testimony as she did not want to drag her testimony out. Grandparent P's recollection of the meeting with Mennes, Suik, Parent P and her was externally consistent with Suik's. Grandparent P testified that she did not yell or shout at Mennes during the meeting but did admit that her voice tends to raise when discussions get heated.

39. Parent P - Somewhat Credible

Parent P is the mother of Student P who was in Grade 4 in Mennes's classroom during the 2016/17 school year. Parent P was casual in dress and was unexpressive in her responses. She appeared to be very nervous and restrained in her emotions. In testimony, Parent P relied on the information provided by her daughter. That information was externally consistent. In recalling the incident during the meeting with Mennes, Suik, her mother and herself, Parent P was somewhat inconsistent in her recollections of the tone of the meeting and the appearance of Mennes.

40. Student P - Not Credible

Student P was dressed appropriately for her age. She appeared to be nervous and played with a fidget toy during her testimony. Student P had difficulty recalling details and facts about the classroom, outside of a single incident of which she had clear recall. She became more confident after reviewing her written statement. Student P changed her mind on some significant events provided during her testimony. There were many inconsistencies both internally and externally during her testimony about events that occurred during the previous school year.

41. Shelley MacNaughton - Credible

MacNaughton has been the school administrative assistant at Griffin Park School since July of 2013. She worked in the school office across from the principal's office. MacNaughton was businesslike in dress and appearance. She was soft-spoken and appeared to be nervous. MacNaughton made eye contact with people in the room. She was able to recall protocols with specific details but was not able to recall details, or agree with certain details suggested by

Mennes during cross examination. MacNaughton was in a good position to have knowledge about office activities but would have limited knowledge about events in classrooms.

42. Parent Q - Somewhat Credible

Parent Q is the mother of Student Q. Her daughter was in Grade 4 in Mennes's classroom during the 2016/17 school year. Parent Q was professional in appearance. She was meek and quiet during her testimony. Parent Q characterized her daughter's time in Mennes's classroom as a horrible experience and she was angry with Mennes. Parent Q's testimony was plausible and it was probable the events mentioned occurred. Parent Q's testimony was externally consistent with other testimony. Some of Parent Q's testimony was based on second-hand information provided by her daughter.

43. Student Q - Credible

Student Q was a Grade 5 student at the time of testimony and was in Grade 4 in Mennes's class during the 2016/17 school year. Student Q appeared appropriate in dress and appearance, given her age. She presented as very nervous and played with a squishy toy throughout her testimony. Student Q experienced Mennes as her teacher for about three weeks. She was able to recall details with confidence. Her testimony was probable and plausible. Internally her testimony had some discrepancy between her recollection of how often she cried in class and her written statement. She seemed to be hyperbolic in her recollection of the details pertaining to her homework from Mennes. Student Q was upset by Mennes's treatment of her and her friends. Mennes's favoritism bothered her a great deal.

44. Marina Mercer - Somewhat Credible

Mercer is an educational assistant (EA) with the Grasslands school division. Her assignment was split between Mennes's class and another class during the 2013/14 school year. She spent about half her time in Mennes's room. Mercer was businesslike in both appearance and demeanour. She appeared to be very nervous during her testimony. Mercer said she had substantial concerns about what might arise from testifying in the hearing. Mercer's husband also works for the school division and Mercer was afraid of repercussions for him as he could be required to work on the teacherage where Mennes was residing. Mercer's testimony was inconsistent externally in that she stated Mennes was a good teacher, she couldn't recall students being kept in at recess and Mennes used a variety of teaching methods. Mercer testified she received two unexpected phone calls from an unidentified caller which, by Mennes own admission, turned out to be Mennes. Mercer was made uncomfortable by the calls.

45. Student R - Credible

Student R was in Grade 6 at the time of his testimony. He had been a student in Mennes's Grade 4 class during the 2014/15 school year. Student R looked calm and spoke with confidence. He did not appear to be intimidated and stated when he was unsure of answers. He had good

The presenting officers objected to the defence entering Grasslands Regional Division #6 Policy 7.2.3.4. Rand advised on the issue of allowing the document to be entered. The committee ruled and entered the document as Exhibit 6.

The hearing continued throughout the day with the committee hearing the scheduled prosecution witnesses and with Mennes present and participating. The presentation of Hackman and deGoeij continued on March 2, 2018. When the hearing reconvened after lunch at 1:18 pm, Rand and Kaun reported that Mennes had spoken with them during the lunch break saying that she was leaving and would not be present for the afternoon. Mennes was concerned about the worsening weather and the forecast for the weather to become much more severe. She was also concerned about the welfare of her elderly dog, given its heart condition. Mennes said she would be present when the hearing continued on March 5, 2018. Rand reported he had informed Mennes that the hearing would continue in her absence.

The hearing continued through March 5 and 6, 2018 with Mennes present and participating.

The presenting officers noted for the record that it must be known/understood, that information obtained from this hearing cannot be exported to other processes, such as the Complaint Appeal Committee reviews that Mennes had requested and would be conducted soon after the adjournment of this portion of the hearing. Rand reinforced that except in very limited circumstances, the testimony of a witness that might be heard in this hearing cannot be used in other proceedings and that the witness could not be asked questions about any alleged misconduct on his part. The chair declared if challenges arose about the export of evidence and testimony entered, the committee would deal with those instances at that time.

At about 4:35 pm on March 6, 2018, Mennes said to the secretary, Kischuk, as she was leaving the building that she “had enough of people explaining that she was a monster and [she] was done.” Kischuk confirmed that Mennes was aware the proceeding would continue in her absence. Hackman and deGoeij continued with the final two scheduled witnesses, in the absence of Mennes. The hearing adjourned at approximately 6:15 pm.

The hearing resumed at 8:35 am on March 7, 2018 and continued through March 8, 9, 12 and 13, 2018. Hackman and deGoeij continued with the presentation of their witnesses. Mennes was in attendance and participated during this portion of the hearing until Susan Chomistek was called to testify on March 13.

Prior to Chomistek’s testimony beginning, Mennes absented herself from the hearing room and advised the secretary, who told the committee, “she intends to not be present during Ms Chomistek's testimony and she'll be joining us after it's completed and we reconvene.” After completion of the testimony of the prosecution’s final witness, Chomistek, Mennes rejoined the hearing.

When considering the next steps, Mennes said she intended to call about thirty witnesses for the defence and would need one week to present her case. The committee adjourned with the

recall, especially about events in which he was embarrassed in class. His testimony was internally consistent but tended to hyperbole. Student R testified that Mennes had a firm voice and an angry face in class. Her demeanour changed when people of authority came into the room. Student R was embarrassed by Mennes in class, in front of his peers.

46. David Steele - Credible

Steele worked for the Grasslands school division for a period of ten years before retiring in August of 2017. Steele was deputy superintendent for his first six years with the division and superintendent of schools for the final four years. Steele first took notice of Mennes during the transfer she appealed in 2012 while Steele was deputy superintendent. Steele was professional in both appearance and demeanour. He maintained a very even keel throughout his testimony; he was calm, well spoken, thoughtful and precise. On cross examination he was matter of fact, showed some frustration at points and then sat back and relaxed. Steele presented as perplexed and flabbergasted at Mennes's reasoning. Steele had a solid perception of the events in question. He was able to recall details well and appeared to be very honest. His testimony was internally and externally consistent and it was plausible and probable. During the investigation into incidents following the 2012 transfer hearing, Steele took steps to ensure he would be able to provide an objective decision. He stepped back from the actual investigation to maintain that objectivity. At the conclusion of the investigation, Steele believed that Mennes had written the Lunseth letter. Steele also believed that Mennes had been connected to an earlier letter about former principal Sametz that alleged inappropriate behavior with a staff member. That letter had been destroyed by central office. Steele communicated with Association staff to ensure that any steps he took in relation to Mennes would be appropriate and in keeping with allowable procedures.

47. Pauline Stiekma - Credible

Stiekma is a mental health therapist working for Alberta Health Services, Community Mental Health. She had provided therapy to several students from Mennes's classroom during the 2014/15 school year. Stiekma is at an early stage in her career and was casual in appearance and demeanour. Her testimony was based on second-hand information provided to her during therapy sessions with students. Her testimony was internally and externally consistent.

Stiekma had noted a pattern of concerns raised by students in Mennes's classroom. She wrote a letter of concern to the school. Mennes initiated a complaint against Stiekma with her (Stiekma's) professional college and employer. The complaints were investigated and dismissed as slanderous, yet Stiekma did not demonstrate any spite towards Mennes.

48. Denise Racz - Somewhat Credible

Racz was the school wellness mentor in Griffin Park School during the 2015/16 and 2016/17 school years. She interacted with various students from around the school who were participating in the school wellness initiative. Racz was businesslike in appearance and demeanour but was

notably intimidated and nervous while testifying. Racz recalled information that she had received from students but also had distinct gaps in her recollection. She spoke at length about a dress code violation episode and seemed really troubled by the actions that were taken by Mennes.

49. Linda deJong-Dube - Credible

deJong-Dube has been an educational assistant (EA) for 25 years with the Grasslands school division. She assisted in Mennes's classroom for two to three periods a day during the 2015/16 school year. She was businesslike in both appearance and demeanour. deJong-Dube did not appear to be nervous. She was able to make connections and had a good ability to perceive events that occurred during her time in Mennes's room. She was able to recall specific events with good detail but did read from her written statement. deJong-Dube was plausible and probable. Her testimony was internally consistent and she was confident in her responses. Her testimony was externally consistent. deJong-Dube was challenged by Mennes about her recollection of instructions provided by Mennes to EAs; but her evidence was unshaken.

50. Susan Chomistek - Credible

Chomistek began teaching with the County of Newell in 1982. She taught for seven years before moving to a vice-principal position for three years. Chomistek took a one-year sabbatical. Upon her return, Chomistek continued her career as a teacher for an additional 12 years. At that point, she assumed the role of assistant superintendent of schools for two years and advanced to superintendent of schools for six years from 2007 to 2013. Chomistek was a colleague of Mennes until she moved into central office, where she assumed a supervisory role over Mennes. Chomistek also coached sports during her time as a teacher, as did Mennes. Chomistek was professional and businesslike in appearance. She had excellent recall of events with specific details and was passionate in her testimony. Her testimony was externally consistent with that of other central office personnel. Chomistek testified about a pattern of behavior by Mennes that included attacking or challenging anyone who attempted corrective supervision of Mennes. Following the administrative action, an anonymous letter would arrive that lauded Mennes and vilified everyone else. Chomistek testified that she destroyed four or five such letters as they were hurtful, hateful and full of malice. Chomistek believed that Mennes had authored the anonymous letters. Chomistek felt motivated to testify because she felt that she was not able to provide a safe and caring environment for children in Mennes's class. Despite the personal attacks against the witness and her daughter, Chomistek remained credible. Chomistek was in a position to have first-hand knowledge of many of the events involving Mennes.

C. Witnesses for the Defence

1. Frieda Mennes – Not Credible

Mennes was a teacher in the Grasslands school division during the time identified in the charges, teaching at various schools during the period of 1981 to 2017. Mennes taught in Bassano School from 1981-1986, Haddington School from 1986-1988, Duchess School from 1988-1990, Bassano

School again from 1990-2012 and Griffin Park School from 2002-2016. She was placed on unassigned duties after November 24, 2016.

Mennes was dressed casually throughout the hearing and spoke in a quiet and often inaudible voice. Her tone was rigid and unemotional in most circumstances. When Mennes did become more emotional, her voice took on a more strident tone but she never yelled or raised her voice by any substantial amount.

Mennes was absolutely convinced of her interpretation of the events and details surrounding the charges against her. Mennes was steadfast and her narrative was generally consistent throughout her testimony but her testimony, while strident, was not probable. Mennes continually argued that only she had the correct version of events and that every other witness spoke untruths. Mennes was also consistent in her contention that she was the victim of a conspiracy that was initiated by central office and school administration and supported by all the parents and children.

Mennes also advanced the argument that school administration had provided her with a faulty chair to cause injury, that she had been made ill by eating a school lunch, that a grandparent had assaulted her, that she had near perfect attendance at work and that she was always an outstanding teacher who made valuable contributions.

Mennes testified that she provided letters critical of colleagues to various officials without providing copies to the colleagues in advance. She argued that the Code of Professional Conduct did not apply to her in these situations.

Mennes testified that the only act she had committed that she regretted was the incident regarding writing in a student's agenda on her last day of work. Mennes testified that she regretted her words in that instance.

Mennes was steadfast in her adherence to her argument that she had not been unprofessional in any other regard. She was also steadfast in her belief that if she stated something, it was the truth and the only acceptable version of events.

While her testimony was internally consistent during the hearing, it was at odds with almost all the other testimony provided.

In the various documentation Mennes provided during the hearing, her versions of the event that took place in Suik's office escalated with each retelling and became more distant from the versions provided by others. By her own admission, Mennes submitted evidence in the form of signed letters that confirmed she engaged in the types of behaviour with colleagues of which she was accused. Mennes was motivated to testify to clear her good name and confirm her upstanding citizenship as a community member and teacher in the Grasslands school division.

The committee found the perception of this witness to be in direct opposition to the testimony and written statements of about fifty other witnesses. The committee heard the conviction of Mennes's side of the story but the lack of substantiated and tested evidence and overwhelming and tested evidence to the contrary led the committee not to accept her version of events. Mennes did not provide the tribunal with substantive reasons as to why the committee should believe her evidence.

2. Norma Sharp - Credible

Sharp began teaching in 1959 and retired in 1996. She was a special needs teacher who worked in the same school as Mennes for ten years and assisted many of Mennes's students. She was business casual in appearance and appeared confident. Sharp was a friend of Mennes, stated that she and Mennes had an excellent working relationship and said she was shocked when she became aware of the charges as they did not align with the person she knew twenty plus years ago. Sharp was aware of some details of the case but became clearly upset after reading a letter entered as an exhibit. Sharp wanted more background information on the case. Sharp refuted the documents entered as Exhibit 4, tabs 3 and 9. The witness's testimony was both plausible and probable, based on her personal experience with Mennes. Her testimony was internally and externally consistent with Mennes's testimony regarding the early years of Mennes's career. Her testimony was not externally consistent with other testimony.

3. Crystal Doyle – Credible

Doyle was a Grade 8 student of Mennes in 1982/83 and is now employed as an educational assistant for the local Catholic school division. Doyle was professional in appearance and confident in her responses to questions asked. Doyle carpooled with Mennes when they both worked in Brooks. Doyle's children attended Bassano School. Doyle withdrew her daughters from Bassano School over bullying issues. In particular, Doyle had issue with the way Sproule and Andres dealt with bullying issues with one daughter. Doyle's testimony was internally and externally consistent. She had no ill feelings towards Mennes or about how she ran her classroom. Doyle was able to recall specifics, provide details and make corrections to dates. She was quick to answer.

4. Terri Penny (nee Hall) – Somewhat Credible

Penny had been a Grade 8 student of Mennes in 1982/83. Penny was professional in appearance and demeanour. Penny recalled that she was never asked to call out her weight in Mennes's class and said that if it was done by others, she never heard it. Penny stated that she was never belittled, humiliated or disrespected in any situation by Mennes. She had a limited ability to recall many facts and details and was only able to recall information when her memory was refreshed through questioning. Penny's testimony was specific to one particular aspect of one charge against Mennes. She responded to many questions with "I do not recall" or "I do not remember."

5. Betty Andrejcin – Credible

Andrejcin had two children, a son and a daughter, who attended Grade 3 in Mennes's class between the 1997 and 2001. She worked as a substitute educational assistant but never in Mennes's class. Andrejcin would volunteer about an hour a week in Mennes's room if she was able to accommodate her work schedule. She was professional in both appearance and demeanour. Andrejcin confirmed that she wrote a letter of support for Mennes on January 15, 2013 (Exhibit 90, item 46) around the time of Mennes's transfer in 2012. Andrejcin's children had a positive experience and thrived in Mennes's classroom. Andrejcin's son had attention issues in school and Mennes provided him with a squishy ball to divert his attention and allow him to focus on tasks. Andrejcin testified that her children were not kept in at recess, they were not put into the hallway and they participated in various school events. She was able to recall most events and details with ease. She believed what she was saying and her testimony was internally consistent; however, her testimony was not externally consistent with the testimony of other students who were in Mennes's classroom.

6. Agnes Kraznai – Credible

Kraznai had two daughters in Mennes's class. One daughter, *[name redacted]*, was in Mennes's classroom during the 1999/2000 school year. Kraznai was professional in both appearance and demeanour. She appeared to be comfortable and at ease during her testimony. Based on her personal experience, Kraznai believed the charges against Mennes were outrageous. Kraznai was working full time when her daughters were in Mennes's class and she was unable to volunteer in the room. Kraznai did attend parent-teacher interviews and made time for class parties. Her testimony was based on second-hand information from her daughters. Kraznai did note that both her girls were academically inclined. Her testimony was internally consistent. It was not externally consistent with other witnesses's testimony. Kraznai provided an alternate version of why *[name redacted]* fainted at a water fountain at school. Kraznai detailed some of her daughter's health concerns that led to the fainting episode rather than the allegation that she fainted out of fear of Mennes.

7. Perry Grose – Not Credible

Grose is the former spouse of the teacher who was vice-principal of Bassano School during the time that Sametz was principal. His former spouse took on the acting principalship of Bassano School after Sametz left and before Sproule arrived. Grose presented as being firmly attached to a personal agenda that did not align with the purpose of the hearing. Grose was casual in appearance but his demeanour varied greatly throughout his testimony on direct examination and cross examination. Grose's behavior ranged from arrogance, anger, frustration and off-topic outbursts to calm and relaxed as he stretched out in the witness chair. During cross examination, Grose was clearly hostile to the presenting officer's questions. It was noted that Grose mumbled under his breath, crossed his arms and on several occasions asked, "Do I get a chance to speak?" Grose was able to recall some events that he experienced with vivid detail and to provide adequate description. Much of Grose's testimony was information that he obtained second hand

from his estranged spouse. It became evident during his testimony that Grose was motivated to testify because he related the events recounted in his testimony as the direct cause of his marital breakdown, specifically the events that occurred during the time that Sametz was Mennes's and his ex-wife's principal. Grose was firmly convinced that the district and community members were engaged in a conspiracy. The probability and plausibility of Grose's testimony was called into question. At one point, Grose stated, "Oh, ... then I will change my whole testimony," suggesting that he was colouring his testimony to support his personal agenda. Grose's testimony focused on one set of events that he kept referring back to. His versions of the events were not consistent internally. Under cross examination, his testimony became confused and more inconsistent. Grose's description of Mennes and her treatment of children was not externally consistent. His testimony was of little help, if at all, in the committee's review of the charges against Mennes

8. Alicia MacDonald-Lasante– Credible

MacDonald-Lasante is a teacher with the Grasslands school division who worked as a team teacher with Mennes in 2013/14. She was casual in appearance while clear, confident and audible in her responses. She demonstrated a strong ability to recall and perceive. MacDonald-Lasante recalled many positive interactions with Mennes at Griffin Park School but her experience was limited to a single year of interaction. When she was unsure, she stated, "I don't recall" or "I can't answer that." The witness did not constrain her testimony even when people of authority were in the room. She did tire during her time testifying. Overall, her evidence was probable and plausible. Her testimony was externally consistent with previous testimony about Mennes's classroom organization and interaction with staff and colleagues. MacDonald-Lasante viewed Suik as a good administrator who was fair and considerate.

DECISION OF THE HEARING COMMITTEE

- Charge 1—Guilty
- Charge 2—Guilty
- Charge 3—Withdrawn
- Charge 4—Guilty
- Charge 5—Guilty
- Charge 6—Guilty
- Charge 7—Guilty
- Charge 8—Guilty
- Charge 9—Guilty

REASONS FOR DECISION

Given the number of students, parents and others that gave evidence against Mennes about her teaching practices, and being alive to the conspiracy allegations voiced by Mennes, the

committee was alert for any evidence that might indicate some group may have somehow coordinated efforts to have unsupportable allegations brought against her. The committee found no such evidence and was satisfied that there was no conspiracy. In fact, the truth of many of the allegations against her was confirmed by the evidence of Mennes herself.

Constant patterns of professional misconduct committed in the presence of, or inflicted on, numbers of people can be expected to create situations where numbers of people eventually testify, to similar effect, about such acts of professional misconduct. However, without more, the similarity of the evidence given does not create evidence of a conspiracy.

Furthermore, irrespective of some descriptions in evidence of her behavior appearing as “old school” the committee was satisfied that at no time during the period covered by these charges was the impugned conduct of Mennes within tolerable limits of the teaching and professional practices of the day.

Charge 1

Mennes was charged with unprofessional conduct pursuant to the *Teaching Profession Act*, extending over a long period of time. During part of her teaching career (1981-2016), Mennes failed to treat students with dignity and respect. The events presented and tested on the stand proved that the incidents were not isolated and the actions of Mennes were repeated on many occasions and were similar in nature.

Mennes did fail to treat students with dignity and respect on many occasions. A teacher is expected to engage in appropriate actions and not make derogatory comments that fail to treat each student with dignity and respect. Mennes, in her actions, did not show consideration for their individual circumstances and frequently belittled and demoralized the children in her care. The public expects teachers to create a safe and caring learning environment where children feel safe and secure and can express their individuality without judgment.

Mennes did not acknowledge that she failed to treat children with dignity and respect. Mennes did not acknowledge that her actions were wrong after repeated testimony from children who were students in her class and experienced her failure to treat them with dignity and respect. Parents testified what their children told them and when parents, school administration and central office approached Mennes, Mennes failed to take appropriate actions to solve the problems presented. There were consistent and repeated behaviours that demonstrated inaction on significant parental concerns.

During the course of the hearing, Mennes did not show any remorse for her actions. She referred to the investigation as being a witch hunt, in which many people colluded to smear her good name and community status. She failed to take ownership of the situation and demonstrated no desire to create a safe and caring learning environment or to treat students with dignity and respect.

It was stated under oath, by the previous superintendent and teachers on staff, that the Code of Professional Conduct was reviewed annually with all staff in Grasslands schools.

As the committee heard testimony and watched witnesses on the stand, it was evident that the disregard for treating children with dignity and respect has had a long-term impact on students. Witnesses spoke of anxiety, fear and persistent negative feelings about the time they spent in Mennes's classroom. Children who were most recently in Mennes's classroom were terrified to be in the same room as Mennes and required special circumstances in the hearing in order to share their stories. Mennes broke the spirit of some students.

Charge 2

Mennes was charged with unprofessional conduct, pursuant to the *Teaching Profession Act*, extending over a long period of time. During part of her teaching career (1981-2016), Mennes treated students in a differential manner based on their academic abilities whereby students who struggled in the context of a "regular" classroom were not treated with dignity and respect or in a manner that was considerate of their circumstances. Witnesses testified under oath that these inappropriate behaviours were ongoing despite efforts by school-based and central office staff to provide Mennes with measures to change the manner in which she treated students. The committee was satisfied that there was a pattern of behavior, tested on the stand, that is probable to have taken place over the years in question.

Evidence was adduced that demonstrated there was a severe impact on children. Children referenced that their health and well-being was compromised. Evidence of stomachaches, anxiety, crying, feelings of being inferior to others and a "hate" for school was the common trend of children who were in Mennes's class. Children who were "favourites" testified that they felt sorry for the students who were "less academic" because of the way Mennes treated them. The committee assessed on the balance of probability that the actions and approach of Mennes were most likely to have occurred and most certainly demonstrated that children were treated in a differential manner based on their circumstances.

The children were vulnerable. They were defenseless in their ability to protect themselves and it was noted that the differential treatment occurred consistently through 1981 to 2016 and frequently the children who suffered were marginalized. Belittling and humiliating students based on their academic ability is unacceptable behaviour for a teacher. The public expects teachers to create a safe and caring learning environment where children feel safe and secure and can express their individuality without judgment. It is expected that the teacher will teach in a manner that respects the dignity and rights of all persons without prejudice.

Mennes did not acknowledge that she failed to treat children with dignity and respect and treated them in a differential manner based on their academic abilities. Mennes did not acknowledge that her actions were wrong after repeated testimony from children who were students in her class and experienced the treatment themselves.

Charge 4

Mennes was charged with unprofessional conduct, pursuant to the *Teaching Profession Act*, in that extending over a lengthy period of time (September 2008 to March 2017), she made critical comments about the professional performance and reputation of both school-based and central office staff in a manner not consistent with Mennes's professional responsibilities towards colleagues.

Mennes engaged in many letter-writing campaigns and sent the letters to many people she believed, wrongly, were appropriate to receive such letters. These letters defamed colleagues who were active members of the Alberta Teachers' Association. Mennes signed many of these documents. Mennes criticized the professional competence and reputation of teacher colleagues in a public forum and to people who were not proper officials as required by the code. These teacher colleagues were not provided with copies of the communications being sent prior to the complaints being launched to superintendents, school board officials, the registrar, the College of Alberta School Superintendents, dean of education, the RCMP and even the premier. On the balance of probability, these reports that were made on the professional performance of another teacher, were not made in good faith. During the hearing, Mennes failed to acknowledge after several explanations that section 13 and 14 of the code pertain to reporting to the Alberta Teachers' Association on the possible unprofessional conduct of another member.

The committee considered the number of times that these letter writing campaigns occurred over the period of time in question and how the communications became more and more intense, defamed the people in question and were meant to assassinate the professional and personal character of colleagues. These defaming and vexatious letters were also threatening in nature. It was determined that the behaviours exhibited by Mennes were malicious and calculated.

The actions of Mennes had an impact on many individuals in the Grasslands school division. It was not a one-time event. The professional behaviour that all teachers in Alberta are expected to know and follow was violated on many occasions.

Chomistek testified that she provided both verbal and written communication that directed Mennes to follow the Code of Professional Conduct when complaining about teachers. Chomistek specifically referenced section 13 and 14 of the Code of Professional Conduct. Her efforts were to no avail.

The committee believed that the critical comments made by Mennes were not made in good faith, were retaliatory in nature and were meant to inflict personal and professional suffering on colleagues.

Charge 5

Mennes was charged with unprofessional conduct, pursuant to the *Teaching Profession Act*, in that extending over a lengthy period of time (September 2008-March 2017), she made written

and/or verbal statements about both school-based and central office administrators where the approach, inaccurate content and language employed were unbecoming to a professional teacher in her relationships with colleagues.

In assessing the language employed and manner in which accusations were made it was deemed that Mennes frequently used hyperbolic language that was slanderous, defaming and clearly attempted to attack the professionalism of her colleagues. The committee concluded that Mennes did not make the complaints in good faith.

In the later portions of the hearing, Mennes repeatedly stated that she received an administrative designation in 1986 based on her excellent evaluations. Given the length of her career and despite the fact that she held an administrative designation, Mennes's language and approach were inappropriate and her conduct was unacceptable for any teacher and in this case, a teacher who has been a member of the Association for such a long period of time. The fact that she was ever trusted with an administrative designation only confirms she should have known how to conduct herself professionally and that makes her misconduct all the more egregious.

Testimony provided the committee with evidence that written and verbal statements were made where the approach was indeed inappropriate and the language employed was unbecoming of a professional teacher in relationship to her colleagues. The written and verbal statements that Mennes made were not an isolated event for her but rather established a pattern of behaviour that occurred during Mennes's career.

Mennes's communications were malicious and derogatory. They defamed many colleagues on many different occasions and were done with animosity towards these colleagues and sought disciplinary and employment actions against them.

Charge 6

Mennes is charged with unprofessional conduct, pursuant to the *Teaching Profession Act*, in that during the 2016/17 school year, she refused to address legitimate parent/grandparent concerns relative to the treatment of their children.

The hearing committee heard testimony from several witnesses that stated Mennes refused to be accountable and engage in problem solving that would meet the needs of all parties involved. Mennes had no solutions to offer, denied that the events in question took place and did not act in a manner that upheld the standard expected of teachers.

The pattern of behaviour established through testimony and written statements of witnesses is evidenced in their recollection of Mennes's reactions to statements that she deemed to be critical of her. Once her conduct was questioned or she was questioned in any manner, she sought revenge in some manner. It was referenced that, on more than one occasion, when dealing with a parent, Mennes hung up on the parent. On more than one occasion, negative comments were made to children as a result of parents issuing formal complaints to school-based administration

directive that the secretary make arrangements for the hearing to reconvene for approximately one week and additional time could be scheduled as required.

The hearing resumed on Monday, June 18 at 9:00 am in Edmonton, at Barnett House, with all parties in attendance and participating. The secretary advised the committee that through e-mail discussion with Mennes, it was decided that this hearing portion was for Mennes to present her argument and the hearing would be scheduled to continue in Brooks to hear the defence witnesses. Mennes presented her case, and testified, from June 18 through to June 22, 2018.

Mennes sought to enter two specific portions of the investigation report in her case as well as the Summary of Findings from Discipline Investigation re Leonard Sproule. After hearing objections from the presenting officers, the committee ruled that the items would be entered as Exhibits 20, 21 and 31 and the committee would determine the weight to be given to each.

Mennes also sought to enter pages 97 to 134 of the investigation report in her case. The presenting officers argued that the information found in the investigation report had not been tested and should not be considered as evidence. Rand said the investigation report was “not evidence of anything.” The committee ruled that the portion of the investigation report would be entered as Exhibit 37 and would be used only as a reference and encouraged the member to focus on the charges.

Mennes interrupted her testimony on the morning of June 22, 2018 to have one witness testify who resided in Edmonton and was available. The hearing continued and adjourned at 3:22 pm.

The hearing reconvened on October 29, 2018, at 9:30 am in Brooks. Adam Benarzi was present as defence counsel to assist Mennes in her case, on a limited retainer basis. Mennes and Benarzi called scheduled witnesses in the morning but were unable to arrange witness attendance in the afternoon; consequently, the hearing adjourned at 11:35 am.

The hearing reconvened on October 30 at 9:00 am. Mennes and Benarzi continued with the presentation of witnesses as could be arranged; the hearing adjourned at 1:12 pm.

The hearing reconvened on October 31 at 9:00 am. Mennes and Benarzi continued with the presentation of a witness. The hearing adjourned at 12:48 pm.

The hearing reconvened on November 1 at 9:00 am. Mennes and Benarzi presented one witness. Following cross examination and redirect, the presenting officers attempted to ask further questions of the witness. Benarzi queried the procedure, saying that allowing “redirect on redirect” leads to the risk of a triple redirect that may lead to the process going on and on. The presenting officers argued that new elements in testimony can lead to redirect. Rand said all items in dispute deserve a full hearing. It is not inappropriate to allow questioning on new matters arising. The committee ruled that it had allowed questioning on new matters arising in the past and questioning on new matters arising would be allowed.

or central office administration. The actions pursued by Mennes were retaliatory in nature. The public has the right to expect that teachers will act in a manner, which establishes and maintains the trust relationship between, teachers, students, parents and the public. Failing to deal with issues and concerns appropriately fails to uphold the standard expected of teachers.

Charge 7

Mennes is charged with unprofessional conduct, pursuant to the *Teaching Profession Act*, in that during the 2016/17 school year, she engaged in retaliatory actions against Parent P and Grandparent P for raising legitimate concerns about how their child/grandchild was treated in Mennes's classroom.

Parent P, in her testimony and her written statement spoke about how Mennes refused to address the concerns that were raised at the November 23, 2016 meeting. Mennes did not provide any suggestions or solutions as to how to address those concerns, but rather retaliated against Parent P and Grandparent P in the most serious ways. Prior to the November 23, 2016 meeting, after Parent P raised her concerns with Suik, Mennes called Parent P. When Parent P raised concerns such as students crying in class or called a student stupid, Mennes denied such actions. Rather than address the student concerns or perceptions, Mennes told Parent P that students were ganging up on her and that everything they were saying was a lie. When Parent P responded with, "My child is not perfect, but not everything she said is a lie", Parent P states that Mennes hung up on her. At the November 23, 2016 meeting to discuss Parent P's concern for her child, Mennes's demeanour clearly established that she was not going to address those concerns. Parent P described that Mennes was already in Suik's office when Parent P and Grandparent P arrived. Parent P described Mennes as sitting there with her arms crossed, with a facial expression of being angry and essentially did not speak much at all. Also, Mennes denied that anything Student P was saying was true. This was the same approach Mennes took in the prior telephone conversation with Parent P.

Mennes then made allegations of assault to the RCMP about Grandparent P, which were found to be false. Witness testimony by all other attendees at the meeting confirmed that the allegations Mennes made were false. Other witnesses confirmed that there was no yelling or screaming in the office during the time of the meeting. A threatening phone call, from an unknown caller, threatened Grandparent P with legal action and a complaint to child protection services. Mennes admits to calling Grandparent P's employer to inquire whether or not the company had specific policies about bus employee conduct.

These behaviours and actions are unbecoming of a teacher. Making false accusations and reports about others undermines the professional standing of teachers and the profession.

Charge 8

Mennes is charged with unprofessional conduct, pursuant to the *Teaching Profession Act*, in that during the 2016/17 school year, she made false allegations against her principal, Robert Suik, to

the school district and to other persons without advising Suik of these allegations contrary to section 14 of the Code of Professional Conduct.

Mennes engaged in many letter-writing campaigns, to many different authorities in the province, that defamed Suik who was an active members of the Alberta Teachers' Association and in a position of authority. Mennes signed many of these documents. She criticized the professional competence and reputation of Suik in a public forum and not to proper officials, as outlined in the code. The colleague, Suik, was not provided with a copy of the communications being sent prior to the complaints being launched to superintendents, school board officials, the registrar, and CASS. On the balance of probability, these reports that were made on the professional performance of another teacher, were not made in good faith. During the hearing, Mennes failed to acknowledge, after several explanations, that section 13 and 14 of the code pertain to reporting to the Alberta Teachers' Association on the possible unprofessional conduct of another member.

The committee considered the number of letters Mennes wrote over a short period of time and how the letters contained falsehoods, defamed the person in question and were meant to assassinate the professional and personal character of her colleague and direct supervisor, Suik. These defaming and vexatious letters were also threatening in nature. The committee was satisfied that the behaviours exhibited by Mennes were malicious and calculated.

The actions of Mennes had an impact on many individuals in the Grasslands school division. They were not a one-time event. The professional behaviour that all teachers in Alberta are expected to know and follow was violated on many occasions.

Charge 9

Mennes is charged with unprofessional conduct, pursuant to the *Teaching Profession Act*, in that extending over a lengthy period of time (September 2008-June 2013), she sent anonymous letters and or notes to the superintendent of schools and/or school trustees in which she made inflammatory and highly critical comments about the school administration and the school librarian at Bassano School.

After weighing the bulk of evidence, the committee made a decision based on the balance of probability that Mennes was the author of the highly critical and inflammatory anonymous letters. Mennes was motivated to write the letters, as she was angry. The letters followed her pattern of language, phraseology, methodology and format consistent with other letters Mennes had signed. The anonymous letters followed closely after anyone criticizing Mennes or Mennes facing employment issues. There was a consistent pattern of lauding Mennes and defaming others. The anonymous letters often contained information known only to a few including Mennes. The unifying element in all of those factors was Mennes.

The committee agreed that the comments were highly inflammatory and critical of colleagues. These letters smeared the reputation of many individuals in the Grasslands school division and caused them to fear Mennes.

The committee deemed that the behaviour exhibited by Mennes was unbecoming of a member of the teaching profession.

SUBMISSION ON PENALTY

The presenting officers submitted that Mennes should be assessed penalties that represent the upper range. Mennes's misconduct spanned a long period of time and was of a severe nature. Mennes had a pattern of behaviour that was well entrenched and was not isolated to a bad year. The misconduct focussed on school-based and central office personnel during the period of 2008 to 2017 had an impact on the school district and damaged professional relationships. Many of Mennes's colleagues were fearful of retaliation. Mennes's misconduct had a long term impact on her students and she caused many of these students harm, even beyond the vulnerable group she bullied. Mennes misconduct was aggravated by the fact that she retaliated against parents, colleagues and other professionals.

The presenting officers also noted that Mennes did cooperate in the investigation and was impacted in her career by the unprofessional conduct of her principal, Sametz.

Mennes broke the trust of students, parents, the community and her colleagues. Her misconduct was repugnant and reprehensible. The penalties imposed should show that the misconduct is most inappropriate and should not be tolerated by the profession.

The presenting officers reviewed a list of other cases and penalties but noted that the nature and extent of Mennes's misconduct was unique in many ways.

The presenting officers recommended that the following penalty be imposed on Mennes:

Charge 1 – recommend to the minister of education that Mennes's teaching certificate be cancelled, cancel Mennes's membership in the Alberta Teachers' Association and a fine of \$8000 as a preventative measure

Charge 2 – recommend to the minister of education that Mennes's teaching certificate be cancelled, cancel Mennes's membership in the Alberta Teachers' Association and a fine of \$5000 as a preventative measure

Charge 4 – letter of severe reprimand, preventative fine of \$4500

Charge 5 - letter of severe reprimand, preventative fine of \$4500

Charge 6 - recommend to the minister of education that Mennes's teaching certificate be cancelled, cancel Mennes's membership in the Alberta Teachers' Association and a fine of \$4000 as a preventative measure

Charge 7 – letter of severe reprimand, preventative fine of \$1500

Charge 8 – recommend to the minister of education that Mennes’s teaching certificate be cancelled, cancel Mennes’s membership in the Alberta Teachers’ Association and a fine of \$2500 as a preventative measure

Charge 9 – recommend to the minister of education that Mennes’s teaching certificate be cancelled, cancel Mennes’s membership in the Alberta Teachers’ Association and a fine of \$2500 as a preventative measure

PENALTY

After discussion, the committee ordered a more severe penalty than what was proposed by the presenting officers.

The hearing committee of the Professional Conduct Committee imposes the following penalty on Mennes:

For Charge 1

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
2. a recommendation to the minister of education to cancel Mennes’s teaching certificate and
3. a fine of \$8000.

For Charge 2

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers’ Association,
2. a recommendation to the minister of education to cancel Mennes’s teaching certificate and
3. a fine of \$5000

For Charge 4

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers’ Association,
2. a recommendation to the minister of education to cancel Mennes’s teaching certificate and
3. a fine of \$4500

For Charge 5

1. a letter of severe reprimand and
2. a fine of \$4500

For Charge 6

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers’ Association,

2. a recommendation to the minister of education to cancel Mennes's teaching certificate and
3. a fine of \$4000

For Charge 7

1. a letter of severe reprimand and
2. a fine of \$1500

For Charge 8

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
2. a recommendation to the minister of education to cancel Mennes's teaching certificate and
3. a fine of \$2500

For Charge 9

1. a declaration that Mennes is permanently ineligible for membership in the Alberta Teachers' Association,
2. a recommendation to the minister of education to cancel Mennes's teaching certificate and
3. a fine of \$2500

The hearing committee further orders that the fines, totalling \$32,500 are payable as follows

1. one third, \$10,833, must be paid to the Association within 30 days of Mennes's receipt of this written decision and
2. the balance, \$21,667, must be paid to the Association within 90 days of Mennes's receipt of this written decision.

Failure to pay the fines in full, within the prescribed time will result in enforcement action.

REASONS FOR PENALTY

In the case of Mennes, the length and duration of the mistreatment of children and the repeated behaviours exhibited require a penalty that is corrective, preventative (a deterrent to any others of like mind and inclination) and will protect the interests of the public. A denunciatory collective penalty is called for.

The committee considered the Jaswal factors in determining the penalty. These factors included (a) the nature and gravity of the charges; (b) age and experience of the teacher; (c) presence or absence of previous convictions of unprofessional conduct;(d) age and condition of individuals affected by the conduct; (e) impact on the individuals affected by the unprofessional conduct; (f) whether the member already suffered other consequences; (g) presence or absence of mitigating circumstances; (h) penalties in similar case; (i) need to promote deterrence and (j) the need to maintain confidence in the profession.

1. All teachers have a responsibility to treat students with dignity and respect.

2. Any conduct of a member that, in the opinion of the hearing committee, is detrimental to the dignity of student is unprofessional.
3. Mennes failed to uphold article 4 of the Code of Professional Conduct. She failed to treat students with dignity and respect. Mennes's conduct, behaviours and actions were humiliating and belittling and tended to target marginalized students.
4. Mennes's conduct, behaviours and actions caused significant and detrimental harm to more than one student. Students while under her care and supervision, endured emotional pain and suffering that should have never happened. The committee believes that Mennes's actions have had a long-term impact on the students and may have a negative impact on their future relationships. Significant harm she caused must result in significant penalty.
5. Mennes's treatment of students was extremely disrespectful and inconsiderate of their circumstances. Her treatment of students was hurtful, humiliating, and degrading, failing to maintain the dignity of the students. This treatment caused great harm to their self-esteem and self-worth.
6. Happy-go-lucky children became withdrawn and fearful. They were often in tears and no longer believed the school to be a safe and caring learning environment. The differential treatment of students who were less academic showed blatant disrespect for students in her care and profoundly affected the students, their families, the school and the community. Even more favoured students suffered as a result of the mistreatment of their friends and classmates.
7. Mennes clearly betrayed the fundamental trust that society places on teachers and brought dishonor and disrepute to the profession. The public must be assured that teachers who are found to not uphold the values outlined in the Code of Professional Conduct will not go unpunished.
8. Mennes's actions were significant, wide-ranging and repeated over time. Therefore, the penalties are significant to reflect the egregiously unprofessional behaviour.
9. The penalties are necessary to deter members from repeating these types of behaviours. The profession will not tolerate unrestrained and widely-disseminated criticisms to persons who are not proper officials.
10. Mennes was an experienced teacher who should have been aware, accepted and acted to meet the expectations as outlined in the Code of Professional Conduct. Therefore, she should have followed protocol to relay her concerns appropriately rather than engaging in a letter writing campaign that broadcast her frustrations widely and undermined the professionalism of other members of the profession.

11. The penalty reflects that Mennes's actions took place repeatedly, over a long period of time, in which she engaged in the unprofessional behaviour, despite being reminded of her obligations to be respectful and follow protocol.
12. Parents rightfully expect, when meeting with teachers, that their legitimate concerns for their children's education and treatment will be listened to and reasonably addressed by the teachers.
13. Mennes in her retaliatory actions, harmed her professional relationship with Parent P and Grandparent P, thus undermining the trust in this important relationship and the trust in the teacher-student relationship.
14. When meeting with teachers, parents need to feel confident that they can raise legitimate concerns, in a safe and caring environment, without the fear of retaliatory action against themselves or their child.
15. Mennes failed to provide meaningful and reasonable solutions to legitimate concerns raised by a parent and a grandparent. Instead, she deflected blame to the child involved, engaged in retaliatory actions and failed to foster positive relationships.
16. During the 2016/17 school year, Mennes utterly failed to accept and deal with legitimate concerns raised by parents.
17. Parents and community members must be afforded treatment from teachers that is professional, civil and respectful of their dignity.
18. Mennes wrote letters in which her excessive use of rhetoric was malicious and defaming and seemed calculated to aggravate the effect of her communication on both the recipients and others who were copied.
19. Mennes made significant disparaging comments about school-based administration and central office administration to a broad audience and this behaviour was unprofessional.
20. Mennes's actions had significant impacts on members of the teaching profession, who were undermined to a wide audience. The impacts on Steele, Sametz, Chomistek, Suik, Sproule and Lunseth merit a significant penalty.
21. The penalty reflects the precedent cases cited by the presenting officers and appropriately elevates the penalty beyond that ordered for similar cases because Mennes's behaviour was unique and excessive in its scope, breadth, duration and effect.
22. Mennes's pattern of behaviour was malicious, calculated and vindictive, which is unbecoming of a member of the Association.

23. Society expects teachers to be trustworthy members of society who model professional behaviour for young citizens. Mennes failed to meet her professional obligations in this regard.

POSTSCRIPT

Notwithstanding the evidence presented, Mennes persisted in her beliefs that she alone was right, that her conduct was appropriate throughout, that she was the victim of some conspiracy and she demonstrated no real understanding of her wrongdoings and no real remorse.

The public may well question why the professional misconduct of Mennes was able to continue unchecked over so many years. The committee has concluded that it was most probably because of the local notoriety of her bullying and retaliatory tactics and the fear they generated and that it was only in recent years that people had the courage to communicate these concerns to the Alberta Teachers' Association. Notwithstanding that delay, the evidence presented did satisfy the committee that such unprofessional conduct did continue over the years alleged.

Dated at the City of Edmonton in the Province of Alberta, Thursday, January 24, 2019.

THE ALBERTA TEACHERS' ASSOCIATION

DECISION OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE

IN THE MATTER OF AN APPEAL BY FRIEDA ANNE MENNES OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE WITH RESPECT TO CHARGES OF UNPROFESSIONAL CONDUCT AGAINST HER

The Professional Conduct Appeal Committee (PCAC) reports that the appeal by Frieda Anne Mennes of the decision of the hearing committee of the Professional Conduct Committee (PCC) with respect to charges of unprofessional conduct against her was heard in accordance with the *Teaching Profession Act* (TPA). The appeal hearing was held at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada and commenced on Monday, May 6, 2019, at 0900.

Professional Conduct Appeal Committee members present were Brenton Baum (chair), Trevor Smith, Eric Frederick, Cassandra Jager and Vance Coulas. Aman Athwal of Shores Jardine LLP was counsel to the committee, Shelley Magnusson was secretary and Sudeep Dua was the recording secretary. Presenting officers, Marvin Hackman and Konni deGoeij, represented Provincial Executive Council. Mennes was present and was not represented by legal counsel.

The chair confirmed with each member of the PCAC that they had received a copy of the notice of appeal, electronic access to the decision of the hearing committee and the record of the hearing.

The appeal hearing continued until Thursday, May 9, 2019 at which time it was adjourned because preliminary issues had been addressed and an adjournment to hear the merits of the appeal was granted. The hearing was reconvened on Monday, September 9, 2019 at 0900 and continued, with the committee hearing submissions until Friday, September 13, 2019, at which time the committee adjourned to deliberate. The committee met independently and deliberated from Tuesday, October 29, 2019 to Wednesday, October 30, 2019 and met again to continue deliberation from Wednesday, November 6, 2019 to Friday, November 8, 2019. A decision was reached on November 8, 2019 and was communicated to the parties by letter on November 8, 2019.

COMPOSITION AND JURISDICTION

There were no objections to the composition or jurisdiction of the appeal hearing committee to hear the case.

EXHIBITS

- Exhibit 1—Notice of appeal hearing and Canada Post confirmation of delivery to Mennes on April 10, 2019
- Exhibit 1A—Record of proceedings—binders 1–7
- Exhibit 1B—Revised binder 7 from the record of proceedings
- Exhibit 2—Letter from Magnusson to Mennes, presenting officers and Dan Mason, dated May 1, 2019 with enclosing letter from Mason dated April 30, 2019 to Magnusson requesting an adjournment
- Exhibit 3—E-mails from Mennes to Magnusson, dated May 6, 2019 and two screenshots provided by Mennes in support of the request for adjournment
- Exhibit 4—Screenshot of text message timestamped for 9:46 PM on May 5, 2019 from phone number 403-903-5706
- Exhibit 5—E-mail from Magnusson, on behalf of the PCAC, to Mennes and Hackman regarding the details of the adjournment and advising how the PCAC will accept submissions regarding new evidence
- Exhibit 6—Signed letter by Mennes agreeing to the conditions of the adjournment set by PCAC, dated May 7, 2019
- Exhibit 7—Mennes’s written submission regarding new evidence, entered on May 7, 2019
- Exhibit 8—Hackman’s written submissions regarding new evidence, entered on May 7, 2019
- Exhibit 9—Mennes’s written submissions regarding new evidence
- Exhibit 10—PCAC’s table prepared regarding admission of new evidence from Exhibit 1A, appendix C1 and C2 of the record of proceedings
- Exhibit 10B—PCAC’s corrected table prepared regarding admission of new evidence from Exhibit 1A, appendix C1 and C2 of the record of proceedings
- Exhibit 11—PCAC’s written decision regarding admission of new evidence presented by Mennes and Hackman
- Exhibit 12—Excerpts of pages 3–8 of the ND1331 investigation report outlining documentation obtained during the investigation
- Exhibit 13—Excerpts of page 2 from the ND1331 investigation report with names of people interviewed
- Exhibit 14—Notice of continuation of appeal hearing and Canada Post confirmation of delivery to Mennes, on July 29, 2019
- Exhibit 15—Two copies of the letter sent to Hackman and Mennes regarding chair of the PCAC, dated June 6, 2017, signed by Mennes and Hackman
- Exhibit 16—Statement from Cecil Wells and collection of thank you cards submitted by Mennes
- Exhibit 17—Blue binder with Tabs A–Z submitted by Mennes on September 9, 2019
- Exhibit 18—Corrected blue binder with Tabs A–Z submitted by Mennes on September 13, 2019

After completion of the witness's testimony, Mennes and Benarzi advised that no further witnesses could attend at that time. Benarzi argued that the secretary had failed to act in a manner which afforded the defence the necessary time to arrange witnesses. The secretaries provided a summary of communications between them, Mennes and Benarzi, which the committee considered but did not accept as an exhibit. Benarzi also argued that changing the location of the hearing back to Edmonton constituted a disadvantage to Mennes as she did not have the same resources as the Association. The committee considered Benarzi's oral submission, the response of the presenting officers, comments from committee counsel and case law and ruled that the hearing would recommence in Edmonton on the next scheduled date of November 19, 2018. The chair said, "We have come to a decision, and the committee has decided that we are going to convene in Edmonton on November 19 at 9:00 am. We request that the defence make all possible efforts to obtain its witnesses and documents for that date." The hearing adjourned at 4:54 pm.

The hearing reconvened on November 19, 2018 at 9 am in Edmonton. Mennes was present and participating but was again not represented by counsel. Mennes advised the committee that she had no further witnesses to call and that she was ready to close her presentation and move to closing argument. Mennes said she believed at least of one of the defence witnesses had been tampered with. The presenting officers offered to recall their witness, whom Mennes alleged had committed the tampering, so that she could be examined but Mennes declined the opportunity. Mennes closed her case at 9:35 am.

Both the presenting officers and Mennes expressed a wish to provide their summations in written form as well as orally. The committee ruled that the two documents, Exhibit 96 for the presenting officers and Exhibit 97 for the defence, would be entered as references only and not as evidence.

Hackman and deGoeij presented their closing argument by written submission with summary comment. The hearing adjourned at 10:45 am and was set to resume at 1:00 pm. The hearing reconvened and Mennes requested an additional thirty minutes to complete preparation of her submission. The hearing was recessed until 1:35 pm to provide Mennes with the additional time. Mennes presented her closing argument by written submission and summary comment. The committee advised the parties that deliberations would take some time and adjourned with the direction that the hearing committee would reconvene on Friday, November 23, 2018, at 9:00 am. The committee indicated there was no surety of a decision by that time but it would be reasonable to update the parties on the timelines the committee felt were necessary to complete its work. The hearing adjourned at 4:33 pm.

Prior to recommencing, the committee had the secretary communicate with the parties that instead of commencing at 9:00 am, the hearing would reconvene at 1:00 pm on the specified day. The hearing resumed at 12:58 pm on November 23, 2018. The committee announced its finding of guilt on each charge. Mennes stated she was innocent and she would no longer participate in this process and walked out of the hearing room. The committee called a recess and directed the secretaries to determine whether Mennes remained in the building and if so, if she would, after

SUBMISSION OF THE APPELLANT ON REASONS FOR ADJOURNMENT

1. Mennes submitted a notice of appeal to the executive secretary, Dennis Theobald, dated February 20, 2019, which included a letter and two large binders of documents. (Exhibit 1A, appendix C1 and C2)
2. An adjournment was requested via a letter received by Magnusson on May 1, 2019 from Mason ICIA, WCMP, AFWCI, World Master Certified Professional with the Foundation for Justice & Social Ethics.
 - a) The PCAC was unable to determine if any of the organizations cited in the letter, and cited below, represented or served as agent to Mennes
 - Foundation For Justice & Social Ethics
 - Survivors of False Accusations (SOFA)
 - Canadian Association for Equality (CAFE)
 - b) In Mason's letter, dated April 30, 2019, Mason stated that he had reviewed the binder(s) of material and was in a position to speak to them. Mason's report for *Freida Mennes v Alberta Teachers Association* listed multiple references to exhibits presented at the PCC hearing. This led the PCAC to believe Mason had the opportunity to review Mennes's copy of the record of PCC proceedings, decision of the PCC hearing committee and Mennes's notice of appeal. (Exhibit 1A)
 - c) Mennes provided the PCAC hearing committee with a screenshot of what appeared to be a letter to the minister of education possibly from CAFE which stated, "We hope her appeal on May 6, 2019 will be handled professionally and reasonably. If it is not handled reasonably, SOFA and several volunteer defence lawyers will help Frieda take this matter to a legal remedy." The PCAC interpreted the letter as Mennes would receive representation if the appeal did not go in her favour, and she did not have representation for the appeal hearing. (Exhibit 3)
 - d) The PCAC acknowledged that Mennes had made efforts to obtain some representation; however, it was unclear to the PCAC if Mason, or any one of the three organizations listed in his letter, represented Mennes for the purposes of the appeal hearing. In her oral submissions, Mennes was unable to clarify this for the PCAC. For these reasons, the PCAC denied Mason's request for an adjournment.
3. After the adjournment was denied, the PCAC continued with the appeal hearing and heard submissions from Mennes. Early on in Mennes's submissions, she informed the PCAC about a number of documents provided with her notice of appeal (Exhibit 1A, appendix C1 and C2) that were not before the PCC hearing committee or that have since been modified. While making these submissions, Mennes made a number of statements to the effect that she, personally, needed more time to prepare for the appeal hearing, as she needed more time to review the transcripts from the PCC hearing committee. Upon hearing these comments, the PCAC sought advice from legal counsel to the PCAC and determined that in the interest of fairness, an adjournment should be granted.

4. The PCAC also heard submissions from Hackman and deGoeij on their position of an adjournment for Mennes to prepare.
5. The PCAC granted an adjournment on the merits of the appeal hearing based on the following reasons:
 - a) It was fair and reasonable to grant Mennes an adjournment given the sheer volume of material, which consisted of seven binder or 7,382 pages, to review.
 - b) Mennes had only received the materials, which consisted of seven binders on April 10, 2019.
 - c) The consequences of the decision of the PCAC hearing are serious for Mennes. Based upon the PCC hearing committee's decision, her professional standing and career along with the fine of \$32,000 was at stake.
 - d) This was the first request for an adjournment Mennes made to the PCAC
 - e) A personal adjournment for Mennes provides procedural fairness.
 - f) Mennes did not deliberately delay the proceedings.
 - g) There was not an immediate sense of urgency that would necessitate proceeding with the hearing.
 - h) The public interest would not be adversely affected if the adjournment was granted.
 - i) Mennes claimed she was unable to bring most of her documentation with her because she had to take the bus from Calgary after a snowstorm.
 - j) Mennes agreed to sign a waiver that she will not challenge the timeframes as outlined in section 50(1) of the TPA due to her request for an adjournment.
 - k) No further adjournments will be granted.
 - l) The PCAC hearing will reconvene as soon as possible with a minimum of 30 day adjournment, or sooner if both parties agreed.
6. The appeal hearing committee granted an adjournment to September 9, 2019 at which time it would hear arguments on the merits of the appeal.
7. Given that there was an issue raised on applications for new and modified evidence to be considered by the PCAC; the PCAC decided to hear arguments on the introduction of the new and modified evidence. Both parties were agreeable to the preliminary issues being resolved prior to the adjournment..

APPLICATION TO INTRODUCE NEW EVIDENCE

Mennes was instructed by the PCAC to make an application for special leave to introduce new evidence, originally submitted in two large binders, (Exhibit 1A, appendix C1 and C2) as proof of the merits for her appeal. The PCAC looked at each document in the two appendices and determined which documents would be considered as a part of the appeal.

Under section 53(1) of the TPA, an appeal to PCAC “must be founded on the decision of the hearing committee and the record of the proceedings before the appeal hearing committee.” Under section 53(2)(b) of the TPA, the PCAC “may on granting special leave for the purpose, receive further evidence.”

Where possible the PCAC used the four part *Palmer* test to determine the admissibility of new evidence or modified evidence, which requires the party seeking admission of new evidence to establish:

1. The evidence could, through due diligence, have been provided prior to the decision being appealed.
2. The evidence must relate to a decisive, or a potentially decisive issue in the appeal.
3. The evidence must be credible, in the sense that it is reasonably capable of belief.
4. The evidence must, if believed, and when considered with other evidence in the record, reasonably be expected to have affected the outcome.

The PCAC also considered whether the new evidence, if admitted, would support Mennes’s grounds for appeal.

Given the volume of material in Exhibit 1A, appendix C1 and C2, the hearing committee requested written submissions from both parties (Exhibits 7, 8 and 9) on why documents should or should not be granted special leave. The hearing committee also spent considerable time during the hearing reviewing each document from Exhibit 1A, pages 6653 to 7381, to determine if special leave should be granted. More specifically, the PCAC followed the following procedure:

Procedure of the PCAC

1. PCAC allowed Mennes to speak as to why they should grant special leave for new evidence
2. PCAC allowed Hackman to reply to Mennes
3. PCAC allowed Mennes to reply to Hackman’s remarks

The PCAC heard submissions on a group of documents, caucused and ruled on whether to grant special leave. However, the PCAC reserved orally announcing its decision for each document until both parties had completed their oral submissions on all the documents.

The PCAC looked at each document in the two appendices of Exhibit 1A, which ended up being 728 pages (Exhibit 1A, pages 6653 to 7381), and from the written and oral submissions from the parties and the *Palmer* test, determined which documents would be considered as part of the appeal hearing. There were numerous documents Mennes wished to enter as new evidence that the PCAC determined were already in existence from the record of proceeding. Mennes contended that those documents became “new” documents because she had made handwritten notes on the documents. Mennes was advised by the PCAC that her notes should be presented during her oral submissions later in the process, and were not considered new evidence. Further,

Report of the PCAC re Mennes, page 6

the PCAC spent considerable time carefully comparing over two hundred documents, or 728 pages, which Mennes had included in part of her appeal as new evidence, but where the original documents were already part of the record.

The PCAC broke the Exhibit 1A, appendix C1 and C2 into separate documents and issued a decision for each document and stated why it was granted special leave or was not granted special leave as outlined in the following chart.

Exhibit 1A, appendix C1

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 1 Page 6653	Letter to Mennes's lawyer from Hackman	Was available to the PCC hearing committee	Page 4956	<ul style="list-style-type: none"> • No
Document No 2 Page 6655	Gmail correspondence	New evidence		<ul style="list-style-type: none"> • No • Was not before the PCC hearing committee, but could have been with due diligence • Not relevant to appeal
Document No 3 Page 6657	Mennes's proof of membership with the Alberta Teachers' Association (Association)	Was available to the PCC hearing committee	Page 4940	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 7

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 4 Page 6659	Mini screen shots	New evidence		<ul style="list-style-type: none"> • No • Illegible Screenshot • Cannot determine if relevant, or not • Mennes said that they were thumbnail images of existing documents—she can still reference the original documents
Document No 5 Page 6661	Doctor’s note from Southland Sport Medicine	New evidence		<ul style="list-style-type: none"> • Yes • Weight to be determined
Document No 6 Page 6663	Excerpt from written comments made by Leonard Sproule	Was available to the PCC hearing committee	Page 5116	<ul style="list-style-type: none"> • No
Document No 7 Page 6665	Handwritten FOIP notes by Mennes	New evidence		<ul style="list-style-type: none"> • Yes • Accepted as a part of her written submission
Document No 8 Page 6671	Lethbridge Police Service (LPS) general report	Was available to the PCC hearing committee	Page 5566	<ul style="list-style-type: none"> • No
Document No 9 Page 6672	LPS Supplementary occurrence report	Was available to the PCC hearing committee	Page 5567	<ul style="list-style-type: none"> • No
Document No 10 Page 6673	Excerpt from police report	New evidence	Entirely redacted	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 8

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 11 Page 6674	LPS supplementary	New evidence		<ul style="list-style-type: none"> • No • Not relevant to this appeal
Document No 12 Page 6675	LPS Supplementary Occurrence report	Was available to the PCC hearing committee	Page 5571	<ul style="list-style-type: none"> • No
Document No 13 Page 6676	LPS Supplementary Occurrence report	Was available to the PCC hearing committee	Page 5570	<ul style="list-style-type: none"> • No
Document No 14 Page 6677	LPS Supplementary Occurrence report	New evidence		<ul style="list-style-type: none"> • No • with due diligence this document could have been available to PCC hearing committee • Not relevant to appeal
Document No 15 Page 6678	LPS Supplementary Occurrence report	New evidence		<ul style="list-style-type: none"> • Yes • Potentially germane to the grounds of the appeal • Weighting to be determined
Document No 16 Page 6679	LPS Supplementary Occurrence report	New evidence		<ul style="list-style-type: none"> • Yes • Potentially germane to the grounds of the appeal • Weighting to be determined

Report of the PCAC re Mennes, page 9

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 17 Page 6680	Excerpt from police report	New evidence		<ul style="list-style-type: none"> • Yes • Potentially related to the reasons for appeal • Weighting to be determined
Document No 18 Page 6681–6683	Medicine Hat College Terms of Use with handwritten notes by Mennes	New evidence		<ul style="list-style-type: none"> • Yes • Accepted as part of Mennes’s written submission
Document No 19 Page 6685	Excerpt from Sproule ND1362	Was available to the PCC hearing committee	Page 5564	<ul style="list-style-type: none"> • No
Document No 20 Page 6687	Grassland letter May 3, 2012	Was available to the PCC hearing committee	Page 5576	<ul style="list-style-type: none"> • No
Document No 21 Page 6689–6691	Grassland letter May 9, 2012	Was available to the PCC hearing committee	Page 5578–5579 Page 5803 Page 5801	<ul style="list-style-type: none"> • No
Document No 22 Page 6693–6699	Letter from Perry Grose	Was available to the PCC hearing committee	Page 6103	<ul style="list-style-type: none"> • No
Document No 23 Page 6701–6702	Bassano Bronco News	Was available to the PCC hearing committee	Page 6115	<ul style="list-style-type: none"> • No
Document No 24 Page 6703	Letter from McGarry Law	Was available to the PCC hearing committee	Page 6101 (incomplete version) Page 5481 (full version)	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 10

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 25 Page 6707	Anonymous letter	Was available to the PCC hearing committee	Page 5626	• No
Document No 26 Page 6709	Letter from Suzanne Thomasson (Scott)	Was available to the PCC hearing committee	Page 5664	• No
Document No 27 Page 6711	Mennes's comments regarding Thomasson (Scott)	Was available to the PCC hearing committee	Page 6515	• No
Document No 28 Page 6715	Grassland letter to Mennes for no trespassing	Was available to the PCC hearing committee	Page 6208	• No
Document No 29 Page 6717	Second Grassland letter to Mennes for no trespassing	Was available to the PCC hearing committee	Page 6209	• No
Document No 30 Page 6719–6723	Excerpt from <i>Trespass to Premises Act</i>	New evidence		<ul style="list-style-type: none"> • No • Legislation is a public document, and not entered as an exhibit
Document No 31 Page 6725	PCC hearing disclosure to Mennes from Hackman	Was available to the PCC hearing committee	Page 4946 is a longer version of this document	• No

Report of the PCAC re Mennes, page 11

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 32 Page 6729–6733	Leadership Update	New evidence		<ul style="list-style-type: none"> • No • Steps for investigations are outlined in the TPA • Legislation is a public document, and not entered as an exhibit
Document No 33 Page 6735–6744	Cards	Was available to the PCC hearing committee	Page 5574 Page 5877 Page 5899 Page 5750 Page 5861 Page 5985 Page 5865 Page 5863	<ul style="list-style-type: none"> • No to all
Document No 34 Page 6745–6756	Mennes’s comments regarding Linda Andres	Was available to the PCC hearing committee	Page 6477–6482	<ul style="list-style-type: none"> • No
Document No 35 Page 6757–6761	Mennes’s comments regarding Student B	Was available to the PCC hearing committee	Page 6507–6509	<ul style="list-style-type: none"> • No
Document No 36 Page 6763	Quotes	Was available to the PCC hearing committee	Objection Hackman Page 4966 Page 5015	<ul style="list-style-type: none"> • No • Taken out of context—not a complete statement
Document No 37 Page 6765–6769 Page 6771–6774	Individual Program Plan (IPP) for Student B	Was available to the PCC hearing committee	Page 6220–6224 Page 6226–6229	<ul style="list-style-type: none"> • No
Document No 38 Page 6775–6787	Mennes’s comments regarding Linda Holt	Was available to the PCC hearing committee	Page 6469–6475	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 12

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 39 Page 6789–6793	Mennes’s comments regarding Parent C	Was available to the PCC hearing committee	Page 6465–6468	• No
Document No 40 Page 6795	E-mail from David Steele	Was available to the PCC hearing committee	Page 5022	• No
Document No 41 Page 6797	Facebook posts Parent C	New evidence		<ul style="list-style-type: none"> • No • With due diligence this could have been presented to the PCC hearing committee • Not relevant to the grounds of her appeal.
Document No 42 Page 6799 Page 6801	Notice to attend as witness to Fern Day and Betty Andrejcin	New evidence		<ul style="list-style-type: none"> • Yes • Potentially supports grounds for appeal • Weight to be determined
Document No 43 Page 6803	Letter from Agnes Kraznai	Was available to the PCC hearing committee	Page 5905	• No
Document No 44 Page 6805–6807	Mennes’s comments regarding Kraznai	Was available to the PCC hearing committee	Page 6513–6514	• No
Document No 45 Page 6809–6813	Cards and pictures	Was available to the PCC hearing committee	Page 5900–5903	• No

collecting her thoughts, reconsider her decision to remove herself. The hearing reconvened at 1:17 pm and the secretary advised the committee that Mennes had left the property and did not communicate with a secretary as she was exiting.

Hackman and deGoeij provided a submission on penalty. The hearing was adjourned at 2:15 pm. The committee stated that deliberation on penalty would take some time and directed the secretary to communicate to Mennes that the hearing would resume at 1:00 pm on November 26, 2018 and that Mennes had a right to make a submission and/or to attend if she chose to do so.

On the morning of Monday, November 26, 2018, the secretaries advised the committee that Mennes had not responded to the communication about the scheduled reconvening. The hearing reconvened at 1:12 pm on Monday, November 26, 2018. The committee asked questions of the presenting officers for clarification and then caucused to consider the clarification, at 1:17 pm. The hearing reconvened at 1:38 pm and the committee announced its determination of penalty. The hearing concluded at 1:48 pm.

CHARGES AND PLEA

Hackman and deGoeij sought to amend the original nine charges in the notice of hearing by changing the years indicated in Charge 1 and Charge 2 from 1985 to 1981 and by withdrawing Charge 3. The committee was advised that Mennes has been aware of the intended changes to the charges since November 9, 2017 and had not raised any objection (Exhibit 4, tab 2, document 2).

The committee determined that the amendments to the charges did not impede Mennes's ability to make full answer and defence and accepted the amendments.

The following eight remaining charges, as then amended, were read aloud by the secretary to the hearing committee:

1. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September ~~1985~~ 1981 to December 2016, engaged in actions and/or made comments to students which failed to treat the students with dignity and respect and with consideration for their circumstances.
2. Frieda Anne Mennes is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period September ~~1985~~ 1981 to December 2016, treated students in a differential manner based on their academic abilities whereby students who were not strong academically were not treated with dignity and respect or in a manner that was considerate of their circumstances.

Report of the PCAC re Mennes, page 13

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 46 Page 6815–6819	Mennes’s comments about Alicia MacDonald Lasante	Was available to the PCC hearing committee	Page 6517–6519	• No
Document No 47 Page 6821	Letter from MacDonald Lasante	Was available to the PCC hearing committee	Page 5698 Page 7049	• No
Document No 48 Page 6823	Typed letter with Cecil Wells name on page	New evidence		• No • Portion of Joyce Sherwin’s investigation report
Document No 49 Page 6825–6829	Mennes’s comments regarding Andrejcin	Was available to the PCC hearing committee	Page 6521-6523	• No
Document No 50 Page 6831	Card from student	Was available to the PCC hearing committee	Page 5873	• No
Document No 51 Page 6833–6834	Mennes’s summative report from June 2008	Was available to the PCC hearing committee	Page 5540–5541	• No
Document No 52 Page 6835	Letter offering principalship to Mennes from June 1986	Was available to the PCC hearing committee	Page 5927	• No
Document No 53 Page 6837–6838	Letter from Parent B	Was available to the PCC hearing committee	Page 5915–5916	• No
Document No 54 Page 6839	Handwritten lesson plans from Lindy Angoie	Was available to the PCC hearing committee	Page 5807	• No

Report of the PCAC re Mennes, page 14

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 55 Page 6840	Lesson plan for November 18, 2016	New evidence		<ul style="list-style-type: none"> • Yes • Weight to be determined
Document No 56 Page 6841–6847	Notes from substitute teacher	Was available to the PCC hearing committee	Page 6049–6052	<ul style="list-style-type: none"> • No
Document No 57 Page 6849	Letter to Paul Macleod from Mennes	Was available to the PCC hearing committee	Page 6119 Hackman objects	<ul style="list-style-type: none"> • No
Document No 58 Page 6851	E-mails exchange with Gordon Thomas	New evidence	Hackman objects	<ul style="list-style-type: none"> • No • Only a part of an original e-mail exchange was submitted
Document No 59 Page 6853–6855	E-mail exchange between Sherwin and Mennes	New evidence	Hackman objects	<ul style="list-style-type: none"> • No • Only a part of an original e-mail exchange was submitted • PCC hearing committee was fair and reasonable
Document No 60 Page 6857	E-mail to Sherwin	New evidence	Hackman objects	<ul style="list-style-type: none"> • No • Only a part of an original e-mail exchange was submitted
Document No 61 Page 6859	E-mail from Robert Suik to entire staff, and Mennes’s reply to Suik	Was available to the PCC hearing committee	Page 5688	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 15

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 62 Page 6861–6863	Report cards for Student P and Student Q	New evidence		<ul style="list-style-type: none"> • No • This is not relevant to the appeal • With due diligence it would have been available to the PCC hearing committee
Document No 63 Page 6867–6881	Table of contents for Mennes’s evidence binder (Exhibit 1, page 6359–6524)	Was available to the PCC hearing committee	Page 6373–6380	<ul style="list-style-type: none"> • No
Document No 64 Page 6885–6893	Mennes’s comments regarding Jennifer Anthill	Was available to the PCC hearing committee	Page 6501–6501	<ul style="list-style-type: none"> • No
Document No 65 Page 6895–6901	Classroom pictures	New evidence		<ul style="list-style-type: none"> • Yes • Weight to be determined
Document No 66 Page 6903–6919	Repeat of document number 64 and 65	Repeat of previous two documents	Page 6885–6893 Page 6895–6901	<ul style="list-style-type: none"> • No
Document No 67 Page 6921–6923	Mennes’s comments on Kathleen Jensen	New evidence	Hackman objects	<ul style="list-style-type: none"> • Yes • Was part of Mennes’s written submission
Document No 68 Page 6927–6929	Mennes analysis of accusations	Was available to the PCC hearing committee	Page 6389–6390	<ul style="list-style-type: none"> • No
Document No 69 Page 6931–7023	Documented evidence of	Was available to the PCC	Page 6413–6461	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 16

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
	teaching by Mennes	hearing committee		

Exhibit 1A, appendix C2

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 2 Page 7027–7028	Mennes’s notes for committee	New evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes’s written submission
Document No 3 Page 7031	Mennes’s notes for committee	New evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes’s written submission
Document No 4 Page 7033	Mennes’s induction certificate	Was available to the PCC hearing committee	Page 5769	<ul style="list-style-type: none"> • No
Document No 5 Page 7035–7037	Mennes’s notes on charges for committee	New evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes’s written submission
Document No 6 Page 7039	Letter of reference from Spirit River School Division No 47, dated February 11, 1981	Was available to the PCC hearing committee	Page 5771	<ul style="list-style-type: none"> • No
Document No 7 Page 7043–7045	Teacher evaluation	Was available to the PCC	Page 5774 Page 5773	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 17

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
	report, dated February 16, 1981	hearing committee	Page 5775	
Document No 8 Page 7049	Letter from MacDonald Lasante	Was available to the PCC hearing committee	Page 5698	• No
Document No 9 Page 7051	E-mail to Jensen from Mennes	Was available to the PCC hearing committee	Page 6037	• No
Document No 10 Page 7053–7054	Bassano Bronco News, dated June 27, 2012	Was available to the PCC hearing committee	Page 6115–6116	• No
Document No 11 Page 7055	Transfer letter to Mennes, dated May 3, 2012	Was available to the PCC hearing committee	Page 5576	• No
Document No 12 Page 7057–7059	Transfer letter to Mennes, dated May 9, 2012	Was available to the PCC hearing committee	Page 5801	• No
Document No 13 Page 6061	Thank you post-it notes	Was available to the PCC hearing committee	Page 5931	• No
Document No 14 Page 7063	Thank you note from Lynn	Was available to the PCC hearing committee	Page 5787	• No
Document No 15 Page 7065	Thank you card from Lynn	Was available to the PCC hearing committee	Page 5789	• No

Report of the PCAC re Mennes, page 18

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 16 Page 7067	Thank you card from Lynn	Was available to the PCC hearing committee	Page 5785	• No
Document No 17 Page 7069	Thank you card from Lynn	Was available to the PCC hearing committee	Page 5783	• No
Document No 18 Page 7071	Mennes's summative report	Was available to the PCC hearing committee	Page 5540	• No
Document No 19 Page 7075	Reference letter from Larry Albrecht	Was available to the PCC hearing committee	Page 5520	• No
Document No 20 Page 7077	Reference letter from Molly Pilling	Was available to the PCC hearing committee	Page 5939	• No
Document No 21 Page 7079	Reference letter from Ron Wickson	Was available to the PCC hearing committee	Page 5941	• No
Document No 22 Page 7081	Teacher performance	Was available to the PCC hearing committee	Page 5943	• No
Document No 23 Page 7083	Reference letter from Duncan Gillespie	Was available to the PCC hearing committee	Page 5945	• No
Document No 24 Page 7085	Letter from Bruce Decoux	Was available to the PCC hearing committee	Page 5927	• No

Report of the PCAC re Mennes, page 19

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 25 Page 7087	Teacher report, dated March 20, 1985	Was available to the PCC hearing committee	Page 5947	<ul style="list-style-type: none"> • No
Document No 26 Page 7089	Teacher report, dated January 6, 1983	Was available to the PCC hearing committee	Page 5949	<ul style="list-style-type: none"> • No
Document No 27 Page 7091	Classroom observation, dated March 23, 1982	Was available to the PCC hearing committee	Page 5951	<ul style="list-style-type: none"> • No
Document No 28 Page 7093	Teacher report, dated February 26, 1982	Was available to the PCC hearing committee	Page 5953	<ul style="list-style-type: none"> • No
Document No 29 Page 7095	Teacher report, dated October 23, 1981	Was available to the PCC hearing committee	Page 5955	<ul style="list-style-type: none"> • No
Document No 30 Page 7099–7100	Believe Santa card	New evidence		<ul style="list-style-type: none"> • Yes • Weight to be determined
No31 Page 7101–7102	Christmas card	Was available to the PCC hearing committee	Page 5965–5966	<ul style="list-style-type: none"> • No
Document No 32 Page 7103–7104	Christmas card	New evidence		<ul style="list-style-type: none"> • Yes • Weight to be determined
Document No 33 Page 7105	Christmas photo	Was available to the PCC hearing committee	Page 5987	<ul style="list-style-type: none"> • No
Document No 34 Page 7107–7108	Thank you card	Was available to the PCC	Page 5893	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 20

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
		hearing committee		
Document No 35 Page 7109–7110	Card, dated June 25, 1997	New evidence		<ul style="list-style-type: none"> • Yes • Weight to be determined
Document No 36 Page 7111	Letter from Shelley Jumpsen	Was available to the PCC hearing committee	Page 5710	<ul style="list-style-type: none"> • No
Document No 37 Page 7113–7114	Thank you card	New evidence		<ul style="list-style-type: none"> • Yes • Weight to be determined
Document No 38 Page 7115	Reference letter from Karin Mann	Was available to the PCC hearing committee	Page 5708	<ul style="list-style-type: none"> • No
Document No 39 Page 7117	Reference letter from Thomasson (Scott)	Was available to the PCC hearing committee	Page 5664	<ul style="list-style-type: none"> • No
Document No 40 7119	Reference letter from Betty Miller	Was available to the PCC hearing committee	Page 5712	<ul style="list-style-type: none"> • No
Document No 41 Page 7121	Reference letter from D Mcpheson	Was available to the PCC hearing committee	Page 5843	<ul style="list-style-type: none"> • No
Document No 42 Page 7123	Reference letter from Andrejcin	Was available to the PCC hearing committee	Page 5849	<ul style="list-style-type: none"> • No
Document No 43 Page 7125	Letter of advocacy from Beddows	Was available to the PCC hearing committee	Page 5857	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 21

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 44 Page 7127	Thank you notes	Was available to the PCC hearing committee	Page 5845	<ul style="list-style-type: none"> • No
Document No 45 Page 7129	Card with notes	Was available to the PCC hearing committee	Page 5985	<ul style="list-style-type: none"> • No
Document No 46 Page 7131	Christmas card	Was available to the PCC hearing committee	Page 5887 Page 5889	<ul style="list-style-type: none"> • No
Document No 47 Page 7132	Thank you card Front face of two cards	New evidence		<ul style="list-style-type: none"> • Yes • Weight to be determined
Document No 48 Page 7133	Card with notes	Was available to the PCC hearing committee	Page 5861	<ul style="list-style-type: none"> • No
Document No 49 Page 7135	Thank you card	Was available to the PCC hearing committee	Page 5865	<ul style="list-style-type: none"> • No
Document No 50 Page 7137	Thank you card	Was available to the PCC hearing committee	Page 5863	<ul style="list-style-type: none"> • No
Document No 51 Page 7135	Thank you card	Was available to the PCC hearing committee	Page 5869 Page 5871	<ul style="list-style-type: none"> • No
Document No 52 Page 7141	Thank you card	Was available to the PCC hearing committee	Page 5873	<ul style="list-style-type: none"> • No

Report of the PCAC re Mennes, page 22

Document and Page number(s)	Description of document	New evidence or was available to the PCC hearing committee?	Note or page number(s) if already part of the record	PCAC Decision to accept submission
Document No 53 Page 7143	Thank you card	Was available to the PCC hearing committee	Page 5989	<ul style="list-style-type: none"> • No
Document No 54 Page 7145	Thank you card	Was available to the PCC hearing committee	Page 5847	<ul style="list-style-type: none"> • No
Document No 55 Page 7147	Dog picture	Was available to the PCC hearing committee	Page 6007	<ul style="list-style-type: none"> • No
Document No 56 Page 7149–7150	Year-end card	Was available to the PCC hearing committee	Page 5881	<ul style="list-style-type: none"> • No
Document No 57 Page 7151	Holiday card	Was available to the PCC hearing committee	Page 5981	<ul style="list-style-type: none"> • No
Document No 58 Page 7153	Thank you card	Was available to the PCC hearing committee	Page 7025	<ul style="list-style-type: none"> • No
Document No 59 Page 7155–7156	Happy Birthday	Was available to the PCC hearing committee	Page 5991	<ul style="list-style-type: none"> • No
Document No 60 Page 7157–7159	Handwritten notes by Mennes	New evidence		<ul style="list-style-type: none"> • Yes • Was part of Mennes’s written submission
Document No 61 Page 7161	Letter from Kraznai	Was available to the PCC hearing committee	Page 5905 Page 5740	<ul style="list-style-type: none"> • No

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST JOHN CHRISTOPHER MILLER

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against John Christopher Miller of Airdrie, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, July 3, 2014, commencing at 0900.

Professional Conduct Committee members present as the hearing committee were Wendy Maltais (chair), Cindy Gerodo and George Epp. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Michael Kischuk was secretary and Leslie Kaun was recorder. Ian Stewardson presented the case against the investigated member. The investigated member, John Christopher Miller, was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. John Christopher Miller is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between July 2012 and October 2012, engaged in conduct for which he, on November 29, 2013 was convicted of an indictable offence, to wit: On or between the 18th day of July, 2012 and the 17th day of October, 2012, at or near Airdrie in the Province of Alberta, being in a position of trust or authority towards (Student X) a young person, did for a sexual purpose, touch directly the body of (Student X), a young person, with a part of his body to wit penis contrary to Section 153 (A) of the *Criminal Code*.
2. John Christopher Miller is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between November 2012 and December 2012, engaged in conduct for which he, on November 29, 2013 was convicted of an indictable offence, to wit: Between the 16th day of November, 2012 and the 19th day of December, 2012, both dates inclusive, at or near Airdrie, Alberta, being at large on his recognizance entered into before a justice and being bound to comply with a

condition of that recognizance requiring him to have no contact direct or indirect with (Student X), did fail without lawful excuse, to comply with that condition, contrary to Section 145 (3) of the *Criminal Code* of Canada.

3. John Christopher Miller is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about July 17, 2012 to December 19, 2012, failed to treat students with dignity and respect and failed to be considerate of their circumstances.
4. John Christopher Miller is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about July 17, 2012 to December 19, 2012, failed to act in a manner which maintains the honour and dignity of the profession.

Miller entered a plea of guilty to each of the charges by written submission.

AMENDMENT TO THE CHARGES

Stewardson sought to amend Charge 1 and Charge 2 to state that the conviction on each indictable offence occurred on October 10, 2013 and not on November 29, 2013 (which was the sentencing date in each instance.)

Stewardson advised that the reference to the *Criminal Code* in the charges was taken directly from the notice of conviction. Counsel to the committee noted that the reference to the *Criminal Code* subsection on the notice of conviction was incorrect. Counsel advised the committee to consider whether the error compromised the integrity of the process for the investigated member.

The hearing committee accepted the amendment to the date in Charge 1 and in Charge 2. Irrespective of his absence from this hearing, Miller would have been aware of the date of his criminal convictions.

The hearing committee did not direct any change to the reference to the *Criminal Code* in Charge 1. The substance of the issue is whether Miller was convicted of an indictable offence and the reference to the code is less material. In any event, the specifics of the wrongdoing alleged were set out in both the certificate of conviction (Exhibit E to these proceedings) and in Charge 1 of these allegations of professional misconduct to which Miller has pled guilty.

There is no prejudice to Miller in either permitting the amended date regarding his criminal convictions or in permitting the (minor) mistake in the reference to the *Criminal Code* section in Charge 1 herein to stand as set out in Exhibit E to these proceedings. Properly the reference to "Section 153 (A)" should have been to "section 153(1)(a)."

WITNESSES

No witnesses were called.

EXHIBITS FILED

- Exhibit A—Declaration of awareness of rights, signed by Miller, dated June 13, 2014
- Exhibit B—Notice of hearing and Canada Post confirmation of delivery on June 19, 2014
- Exhibit C—Submission on plea, signed by Miller, dated June 13, 2014
- Exhibit D—Proof of Miller's membership in the Alberta Teachers' Association from September 1, 2009 to September 30, 2013
- Exhibit E—Certificate of conviction for wrongful touching
- Exhibit F—Certificate of conviction for breach of conditions
- Exhibit G—Agreed statement of facts, signed by Miller and Stewardson, dated June 23, 2014
- Exhibit H—Joint submission on penalty, signed by Miller and Stewardson, dated June 23, 2014
- Exhibit I— Letter from Miller to the investigating officer, not dated
- Exhibit J— List of precedent cases

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Miller was employed as a high school teacher at School name redacted School by Rocky View School Division No 41. (Exhibit G)
2. Miller taught at School name redacted School in Airdrie during the 2010/11 and 2011/12 school years. (Exhibit G)
3. Miller was a member of the Alberta Teachers' Association from at least September 1, 2009 to September 30, 2013. (Exhibit D)
4. Miller was born in February 1977. (Exhibits E and F)
5. In 2010/11, Miller had Student X in his classroom. Student X was 15 at the time. (Exhibit G)
6. Student X attended School name redacted School and was in Grade 10 during the 2010/11 school year and was 15 years of age; in Grade 11 during the 2011/12 school year when she was 16 years of age; and in Grade 12 during the 2012/13 school year when she was 17 years of age. (Exhibit G)
7. During 2011/12, Student X was not a student of Miller's but he tutored her in biology over the lunch hour. Miller tutored Student X in a remote portable classroom. Student X's mother was aware of the tutoring. (Exhibit G)

8. During the tutoring, Miller and Student X talked about increasingly personal information regarding the circumstances of each of them, including Student X's relationships and family breakup and Miller's relationship with his wife and his troubled childhood. (Exhibit G)
9. Toward the end of the 2011/12 school year, Miller hired Student X to babysit his children on at least one occasion. (Exhibit G)
10. After exams in June 2012, Miller and Student X kissed for the first time. They continued to kiss during the 2012/13 school year. (Exhibit G)
11. In late July 2012, on a number of occasions, Miller and Student X had sexual encounters that went beyond kissing and included sexual intercourse. (Exhibit G)
12. On October 17, 2012, Student X was interviewed by police. (Exhibit G)
13. On October 17, 2012, Miller was interviewed and arrested by police. Miller was released on a recognizance requiring him to have no further contact with Student X. (Exhibit G)
14. Between November 16, 2012 and December 19, 2012, notwithstanding the no-contact clause of his recognizance, Miller continued to have contact with Student X by texting, sending photographs over cell phones and meeting with her. (Exhibit G)
15. Miller is currently serving a 29-month sentence at Bowden Institution. (Exhibit G)
16. Miller pled guilty to all four charges of unprofessional conduct. (Exhibit C)
17. Miller was convicted of an indictable offence on October 10, 2013 for touching a young person for a sexual purpose. (Exhibit E)
18. Miller was convicted of an indictable offence on October 10, 2013 for breaching a condition of his recognizance by making contact with Student X. (Exhibit F)
19. Miller was sentenced for both convictions on November 29, 2013. (Exhibits E and F)
20. Miller was cooperative with both the investigating and presenting officers. (Exhibit I)

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty
Charge 2—guilty
Charge 3—guilty
Charge 4—guilty

REASONS FOR DECISION

1. Miller was convicted of an indictable offence on October 10, 2013 for touching a young person for a **sexual** purpose.
2. Miller was convicted of an indictable offence on October 10, 2013 for breaching a condition of his recognizance.
3. Miller engaged in inappropriate **sexual** activity with a student in his school. Miller breached the trust expected of teachers and took advantage of the student's vulnerability, thus failing to treat the student with dignity and respect.
4. Miller failed to maintain the honour and dignity of the profession by abusing his position of trust, breaching his authority and entering into a **sexual** relationship with a student.
5. Miller's actions resulted in convictions of indictable offences which are a matter of public record and awareness, thus Miller failed to maintain the honour and dignity of the profession.
6. Miller pled guilty to all four charges.
7. Under section 23 of the *Teaching Profession Act*, a teacher convicted of an indictable offence has contravened the Code of Professional Conduct.

PENALTY

The hearing committee imposed the following global penalty for all four charges:

1. Miller is declared ineligible for membership in the Alberta Teachers' Association
2. A recommendation will be made to the minister of education to cancel Miller's teaching certificate.

REASONS FOR PENALTY

1. Miller was convicted of indictable offences for touching a young person for a **sexual** purpose and for breaching a condition of his recognizance.
2. By his actions, Miller exploited a student and violated the standards of the profession, thus rendering him unfit to be a teacher.
3. The public has a high level of trust in teachers and expects that all teachers will treat students with dignity and respect and be considerate of their circumstances. Miller purposefully contravened these expectations to a high degree and on multiple occasions

Report of the Hearing Committee of PCC re J C Miller, page 6

4. While Miller's admissions of guilt are noted, they do not materially impact on the seriousness of his wrongdoings and the need for the imposition of a denunciatory penalty.

Dated at the City of Edmonton in the Province of Alberta, Thursday, July 3, 2014.

THE ALBERTA TEACHERS' ASSOCIATION

DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST BRETT DANIEL MITTELSTEADT

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Brett Mittelsteadt of Ardrossan, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Friday, September 30, 2016 at 0900.

CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. Brett Daniel Mittelsteadt is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between March 1, 2013 and September 1, 2014, engaged in conduct for which he, on August 22, 2016, was convicted of two indictable offences, to wit: sexual interference and luring a child, contrary to sections 151 and 172.1 of the *Criminal Code* of Canada.

In the absence of the member, the committee chair directed a plea of not guilty.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

REASONS FOR DECISION

1. Mittelsteadt, while a member of the Alberta Teachers' Association, between March 1, 2013 and September 1, 2014, engaged in conduct for which he, on August 22, 2016, was convicted of two indictable offences, to wit: sexual interference and luring a child, contrary to sections 151 and 172.1 of the *Criminal Code* of Canada.
2. Mittelsteadt is guilty of two indictable offenses involving sexual inference and luring a child. The *Teaching Profession Act* section 23(2) states that conduct of the member on which such indictable conviction is based is deemed to constitute unprofessional conduct.

PENALTY

The committee ordered the following penalty:

1. A declaration that Mittelsteadt is ineligible for membership in the Alberta Teachers' Association
2. A recommendation to the minister of education to cancel Mittelsteadt's teaching certificate

REASONS FOR PENALTY

1. Mittelsteadt is guilty of two indictable offences involving sexual interference and luring a child. This behaviour is a heinous and reprehensible betrayal of the trust placed in him by the public, profession and children. Society expects teachers to refrain from sexual interference and luring of students.
2. Mittelsteadt's persistent and repeated sexual interference with Student A was sustained over a period of approximately one and a half years.
3. Mittelsteadt's sexual interference with a child occurred both during and after school hours, and in a variety of locations, including the school. Through his actions, Mittelsteadt abused his position of trust, authority and responsibility.
4. Mittelsteadt influenced Student A by threatening to take action against a boy she was dating, by employing a variety of coercive and persuasive techniques and by isolating her and exhibiting controlling behaviour. This impacted the student's comfort and her age-appropriate relationships.
5. Mittelsteadt deceived a colleague and Student A's parents in order to gain access to Student A for the purposes of sexual interference and luring a child.
6. The hearing committee ordered a penalty that reflects the extreme and egregious nature of Mittelsteadt's unprofessional conduct. The penalty is intended to protect the interests of children, the profession and society.

Dated at the City of Edmonton in the Province of Alberta, Friday, October 7, 2016.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST CARI MARIE NEUDECKER

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Cari Marie Neudecker of Rochfort Bridge, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held using video technology at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada and the Southern Alberta Regional Office, 100, 3016 5 Avenue NW, Calgary, Alberta on Wednesday, April 8, 2020.

Professional Conduct Committee members present as the hearing committee were Nelson Moulton (chair), Heather Quinn and Ismat Bandali. Richard Rand of Rand & Company LLP was counsel to the hearing committee, Chris Gibbon was secretary and Sudeep Dua was recorder. Marvin Hackman presented the case against the investigated member. The investigated member, Cari Marie Neudecker, was not present and was not represented by counsel.

COMPOSITION/JURISDICTION

There were no objections to the composition of the hearing committee or its jurisdiction to hear the case.

PRELIMINARY MATTERS

Hackman requested that the names of student(s) be removed to protect their identity.

The committee decided to accept the request and directed, for the purposes of this hearing, to not use the names of the student(s) in the hearing committee's written decision.

CHARGES AND PLEA

The following charges read aloud by the secretary to the hearing committee:

1. Cari Marie Neudecker is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period August 2018–November 2018, engaged in an electronic communication(s) with

Charge 3

1. By her own admission, Neudecker admitted that during the period of August 2018 to November 2018, she was in a social relationship with Student A where she kissed Student A in the presence of other students in the Area of school redacted.
2. In the evidence adduced, there were examples of a social relationship with Student A where she kissed Student A in the presence of other students in the Area of school redacted. during the period of August 2018 to November 2018.
3. Student A acknowledged there was a social relationship with Student A where Neudecker kissed Student A in the presence of other students in the Area of school redacted.
4. In doing so, Neudecker failed to act in a manner which maintains the honour and dignity of the profession.

Charge 4

1. By her own admission, Neudecker admitted that during the period of August 2018 to November 2018, she was in a social relationship with Student A where she kissed Student A in her classroom behind closed doors.
2. In the evidence adduced, there were examples of a social relationship with Student A where she kissed Student A in her classroom behind closed doors during the period of August 2018 to November 2018.
3. Student A acknowledged there was a social relationship with Neudecker where Neudecker kissed Student A in her classroom behind closed doors.
4. In doing so, Neudecker failed to treat Student A with dignity and respect and without consideration of Student A's circumstances.

Charge 5

1. By her own admission, Neudecker admitted that during the period of August 2018 to November 2018, she was in a social relationship with Student A where she kissed Student A in her classroom behind closed doors.
2. In the evidence adduced, there were examples of a social relationship with Student A where she kissed Student A in her classroom behind closed doors during the period of August 2018 to November 2018.

3. Student A acknowledged there was a social relationship with Student A where Neudecker kissed Student A in her classroom behind closed doors.
4. In doing so, Neudecker failed to act in a manner that maintains the honour and dignity of the profession.

Charge 6

1. By her own admission, Neudecker admitted that during the period of August 2018 to November 2018, she was in a social relationship with Student A where she engaged in physical contact, in the presence of other students.
2. In the evidence adduced, there were examples of a social relationship with Student A where she where she engaged in physical contact, in the presence of other students during the period of August 2018 to November 2018.
3. Student A acknowledged there was a social relationship with Student A where she engaged in physical contact, in the presence of other students.
4. In doing so, Neudecker failed to treat Student A with dignity and respect and without consideration of Student A's circumstances.

Charge 7

1. By her own admission, Neudecker admitted that during the period of August 2018 to November 2018, she was in a social relationship with Student A where she engaged in physical contact, in the presence of other students.
2. In the evidence adduced, there were examples of a social relationship with Student A where she where she engaged in physical contact, in the presence of other students during the period of August 2018 to November 2018.
3. Student A acknowledged there was a social relationship with Student A where she engaged in physical contact, in the presence of other students.
4. In doing so, Neudecker failed to maintain the honour and dignity of the profession.

Charge 8

1. By her own admission, Neudecker admitted that during the period of August 2018 to November 2018, misrepresented her relationship with Student A to several colleagues, leading to at least one colleague supporting her.

Decision of the Hearing Committee of PCC re C Neudecker, page 12

2. In the evidence adduced, there were examples of how Neudecker misrepresented her relationship with Student A to several colleagues, leading to at least one colleague supporting her during the period of August 2018 to November 2018.
3. In doing so, Neudecker failed to maintain the honour and dignity of the profession.

Charge 9

1. By her own admission, Neudecker admitted that during the period of August 2018 to November 2018, she misrepresented her relationship with Student A to several colleagues, stating students in her Science 10 class started the rumour in retaliation.
2. In the evidence adduced, there were examples of how Neudecker misrepresented her relationship with Student A to several colleagues, stating students in her Science 10 class started a rumour in retaliation during the period of August 2018 to November 2018.
3. In doing so, Neudecker failed to act in a manner that treats those students with dignity and respect and without considerations of the students' circumstances.

SUBMISSION ON PENALTY

Hackman and Neudecker provided a joint submission on penalty to the hearing committee recommending the following penalties to address all of the charges:

1. A letter of severe reprimand
2. A declaration of permanent ineligibility for membership in the Alberta Teachers' Association
3. A recommendation for cancellation of Neudecker's teaching certificate

Hackman and Neudecker acknowledged through the signed submission on penalty their recognition that the hearing committee would make its own determination with respect to penalty. (Exhibit 9).

PENALTY

After consideration, the hearing committee imposed the following penalties that were proposed in the submission on penalty by Hackman and Neudecker. The hearing committee imposed the following penalties to cover all nine charges:

1. A letter of severe reprimand

2. A declaration that Neudecker is permanently ineligible for membership in the Alberta Teachers' Association.
3. A recommendation to the minister of education that Neudecker's teaching certificate be cancelled.

REASONS FOR PENALTY

The hearing committee considered the following factors in determining the penalty.

1. The hearing committee carefully considered the content of the submission on penalty, including the Jaswal factors listed in Exhibit 9. The committee accepted the penalties that the parties submitted. The committee felt the penalties were appropriate and would serve as a deterrent for this type of behaviour.
2. An appropriate penalty must demonstrate to members of the teaching profession, as well as members of the public, that the teaching profession will decisively respond to such acts of professional misconduct.
3. In the case of Neudecker, the inappropriate relationship and unprofessional contact with Student A require a penalty that is corrective, preventative, and will protect the interests of the students, the profession and the public.
4. As a teacher, Neudecker ought to have known that what she was doing was wrong and she should have known about her obligations under the Code of Professional Conduct.
5. The committee did not consider Neudecker's "toxic relationship" with a previous boyfriend as a mitigating factor.
6. Neudecker engaged in an inappropriate and intimate relationship with Student A. The ATA and society deem this to be reprehensible. By doing so, Neudecker failed to treat students with dignity and respect, was not considerate of their circumstances, and failed to maintain the honour and dignity of the teaching profession.
7. Neudecker clearly betrayed the fundamental trust given by society to the teaching profession. The public must be assured that the profession will punish those who transgress in this regard.
8. Neudecker's actions had both a mental and emotional impact on Student A. By doing so, Neudecker failed to treat Student A with dignity and respect, was not considerate of his circumstances, and failed to maintain the honour and dignity of the teaching profession.

Decision of the Hearing Committee of PCC re C Neudecker, page 14

9. Neudecker's actions were exploitative. Teachers are expected to be trustworthy individuals who provide healthy role modelling for young people who are under their supervision and care.

Dated at the City of Edmonton in the Province of Alberta, Friday, May 29, 2020.

Submitted for release to public 2020 08 14

[Student A], which was inappropriate to an acceptable teacher-student relationship, thereby failing to act in a manner which maintains the honour and dignity of the profession.

2. Cari Marie Neudecker is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period August 2018–November 2018, engaged in a social relationship with a student, [Student A], where she kissed [Student A] in the presence of other students in the Name of area in school redacted exercise area at School name redacted School, which was inappropriate to an acceptable teacher-student relationship, thereby failing to treat him with dignity and respect and without consideration of the student's circumstances.
3. Cari Marie Neudecker is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period August 2018–November 2018, engaged in a social relationship with a student, [Student A], where she kissed [Student A] in the presence of other students in the Name of area in school redacted exercise area at School name redacted School, which was inappropriate to an acceptable teacher-student relationship, thereby failing to act in a manner which maintains the honour and dignity of the profession.
4. Cari Marie Neudecker is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period August 2018–November 2018, engaged in a social relationship with a student, [Student A], where she kissed [Student A] in her classroom one or more times behind closed doors, which was inappropriate to an acceptable teacher-student relationship, thereby failing to treat him with dignity and respect and without consideration of the student's circumstances.
5. Cari Marie Neudecker is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period August 2018–November 2018, engaged in a social relationship with a student, [Student A], where she kissed [Student A] in her classroom one or more times behind closed doors, which was inappropriate to an acceptable teacher-student relationship, thereby failing to act in a manner which maintains the honour and dignity of the profession.
6. Cari Marie Neudecker is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period August 2018–November 2018, engaged in a social relationship with a student, [Student A], where she and [Student A] engaged in physical contact in the presence of other students including sitting close together, having one touch the thighs of the other and holding hands, thereby failing to treat him with dignity and respect and without consideration of the student's circumstances.

7. Cari Marie Neudecker is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period August 2018–November 2018, engaged in a social relationship with a student, [Student A], where she and [Student A] engaged in physical contact in the presence of other students including sitting close together, having one touch the thighs of the other and holding hands, thereby failing to act in a manner which maintains the honour and dignity of the profession.
8. Cari Marie Neudecker is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period August 2018–November 2018, misrepresented her relationship with [Student A] to several colleagues at [School name redacted] School, leading to at least one colleague supporting her in a conversation with parent(s), which failed to act in a manner which maintains the honour and dignity of the profession.
9. Cari Marie Neudecker is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the period August 2018–November 2018, misrepresented her relationship with [Student A] to several colleagues at [School name redacted] School, stating that students in her Science 10 class had started the rumor in retaliation for her enforcing tighter classroom management, thereby failing to act in a manner that treats those students with dignity and respect and without consideration of the students' circumstances.

The investigated member entered a plea of guilty to all nine charges, by written submission.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

- Exhibit 1—Request for adjournment package, with letters and e-mails between Hackman and Neudecker
- Exhibit 2—Initial notice of hearing and Canada Post confirmation of delivery, on November 16, 2019
- Exhibit 3—Notice of reconvening the hearing and Canada Post confirmation of delivery, on February 29, 2020
- Exhibit 4—Submission on plea, signed by Neudecker, dated January 19, 2020
- Exhibit 5—Declaration of awareness of rights, signed by Neudecker, dated January 19, 2020

Exhibit 6—Medical letter signed by Dr Joseph Ojedokun, dated February 10, 2020

Exhibit 7—Wellness letter signed by Caren Anderson, social worker and counsellor, dated February 3, 2020

Exhibit 8—Agreed statement of facts and acknowledgment of unprofessional conduct, signed by Neudecker and Hackman on January 19, 2020 and February 11, 2020 respectively

Exhibit 9—Joint submission on penalty, signed by Neudecker and Hackman on January 19, 2020 and February 11, 2020 respectively

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

An agreed statement of facts was submitted to the committee signed by Neudecker on January 19, 2020.

1. Carie Marie Neudecker was born on August 31, 1990. (Exhibit 9)
2. Neudecker was a member of the Alberta Teachers Association (ATA) starting in June 2014. (Exhibit 4 and Exhibit 9)
3. Neudecker was employed by Pembina Hills School Division (PHSD) at School name redacted School name redacted from the start of the 2016/17 school year until her termination effective February 6, 2019. (Exhibit 8, Pages 4/5)
4. The ATA received a request for investigation of alleged unprofessional conduct from David Garbutt, superintendent, on December 13, 2018. (Exhibit 8)
5. The matter was referred to a hearing after the investigation report was provided to the ATA executive secretary. Neudecker was informed in a registered letter dated September 26, 2019. (Exhibit 8)
6. The original notice of hearing was dated for November 4, 2019. (Exhibit 2)
7. Hackman made a request for adjournment, which the committee heard on January 9, 2020. During the request for adjournment, Hackman submitted letters and e-mails between himself and Neudecker. (Exhibit 1)
8. During the adjournment request, the committee read all nine charges into the record and entered a plea of not guilty to all charges in the absence of the investigated member. The committee granted Hackman's request for an adjournment.
9. Neudecker was under the treatment of both a medical doctor and counsellor. It was deemed by Dr Ojedokun, and Anderson that Neudecker was "aware and confident" and "retain[ed] the cognitive capacity to make appropriate decisions." Neudecker, therefore, fully

understood the content in the documents that were signed, including: the agreed statement of facts; the declaration; the submission on plea; and the submission on penalty. This also accounted for the gap between Neudecker's signatures and Hackman's signatures on the documents they had jointly submitted. (Exhibits 6 and 7)

10. A notice to reconvene the hearing was served on February 29, 2020 to Neudecker. (Exhibit 3)
11. Student A was a returning Grade 12 student at Name of school redacted. for the 2018/19 school year. He was upgrading a high school mathematics course as well as attending the Health Care Aide dual-credit program.
12. When confronted with witness statements by Garbutt and Brett Cooper, assistant superintendent, Neudecker admitted that the events related to at least one of the incidents of inappropriate physical and sexual contact with the student. (Exhibit 8, appendix 6) In her admission of unprofessional conduct to Hackman, Neudecker admitted to all events related to all nine charges.

Charge 1

13. Student A stated in his interview with Garbutt and Cooper that he did not see Neudecker outside of school but he did spend time in her classroom with her and they were in contact by social media (Instagram and Snapchat). (Exhibit 8, page 9–10, number 40)
14. Student A stated that during Summer 2018, Neudecker and Student A began communicating through social media. (Exhibit 8, page 14, number 49)
15. Student A and Neudecker did not start texting until the 2018/19 school year began. This consisted of an ongoing exchange of pictures (50–100 pictures in total) of each other including salutations, jokes and memes. (Exhibit 8, page 14, number 49)
16. Neudecker's inappropriate Instagram picture sent on September 22, 2018, to Student A, of a truck and a condom package, reflected the continuation of an inappropriate student–teacher relationship between Neudecker and Student A. (Exhibit 8, appendix 7)
17. Student A stated that Neudecker did not tell him to stop sending her the electronic communications. (Exhibit 8, page 11, number 43)
18. Neudecker admitted that she engaged in inappropriate electronic communications with Student A from August 2018 to November 2018. (Exhibit 8, page 23, number 87)

Decision of the Hearing Committee of PCC re C Neudecker, page 6

19. In November 2018, Neudecker was advised by [Principal name redacted], associate principal, of the allegations that were surfacing in the community. (Exhibit 8, page 6)
20. On December 4, 2018, Neudecker received a notice of administrative suspension pending investigation from her school division, including directive to cease all communication with any students. Neudecker failed to follow the directive and continued communications with Student A. (Exhibit 8, page 15 and appendix 5)

Charge 2 and 3

21. During the period August 2018 to November 2018, Neudecker engaged in a social relationship where she kissed Student A in the presence of other students in the exercise area, referred to as [Name of area in school redacted.] at [Name of school redacted] (Exhibit 8, page 6)
22. Students reported in interviews with Garbutt and [Principal name redacted] that they witnessed Neudecker and Student A in the [Name of area in school redacted.] and that they were “making out.” (Exhibit 8, page 6) One of the student witnesses during their interview with administration, stated Neudecker and Student A “were making out” by “kissing and hugging” (Exhibit 8, page 21). Another student witness stated to administration that, “just kissing and stuff is what [they] saw.” (Exhibit 8, page 7, number 22)
23. Student A acknowledged the kiss in the [Name of area in school redacted.] (Exhibit 8, page 7, number 25 and page 7, number 41)
24. When initially confronted, Neudecker denied the allegation, “Neudecker said she had not kissed Student A and the rumours were not true.” At a later date, Neudecker admitted to kissing Student A in the [Name of area in school redacted.] (Exhibit 8, page 7, number 24 and page 15–16)

Charge 4 and 5

25. During the time period from August 2018 to November 2018, Neudecker engaged in a social relationship with Student A where she kissed Student A, in her classroom, one or more times behind closed doors.
26. Neudecker admitted that she kissed Student A, at least one or more times, behind closed doors in her classroom. (Exhibit 8, page 23, number 88–89)
27. [Principal name redacted.] stated that there is video footage of Neudecker and Student A, behind closed doors, on more than one occasion. (Exhibit 8, page 8, number 29 and number 31)

28. Principal name redacted. stated that Neudecker's door being closed was "uncharacteristic behaviour for Neudecker. He said that all the times he passed her classroom he recalled her door was open." (Exhibit 8, page 8, number 32)

Charge 6 and 7

29. During the time period from August 2018 to November 2018, Neudecker engaged in a social relationship with Student A where they engaged in physical contact in the presence of other students including sitting close together, having one touch the thigh of the other and holding hands.
30. Student A was not enrolled in any of Neudecker's classes. (Exhibit 8, page 4, number 11 and page 10, number 42)
31. Students reported in interviews with Garbutt and Principal name redacted. that they witnessed Neudecker and Student A sitting close together, touching thighs and holding hands underneath a pillow. (Exhibit 8) During the interviews, the students reported
- a) seeing Student A sit very close to Neudecker in her classroom with Student A's hand on Neudecker's thigh" (Exhibit 8, page 21, number 78)
 - b) Student A's hands were on the small of Neudecker's back while Neudecker's hands were on Student A's neck (Exhibit 8, page 21, number 78)
 - c) saw Student A and Neudecker sitting "very close to each other and saw them holding hands under a pillow" (Exhibit 8, page 22, number 81)
 - d) After school on two or three occasions in mid-October, seeing Student A in Neudecker's classroom with his hand on Neudecker's thigh (Exhibit 8, page 22, number 82)
32. Student A acknowledged being alone and the physical contact with Neudecker in her classroom, behind closed doors. (Exhibit 8, page 8, number 31–32 and page 10, number 42)
33. Neudecker admitted that she kissed Student A, at least one time, behind closed doors in her classroom. (Exhibit 8, page 24, number 92–93)

Charge 8

34. During the time period from August 2018 to November 2018, Neudecker misrepresented her relationship with Student A to several colleagues, leading to at least one colleague supporting her in a conversation with parents.
35. Neudecker denied her relationship with Student A to colleagues. (Exhibit 8, page 6, number 17; page 7, number 24; page 14, number 50–51; page 19–20, number 71–72, number 75)

Decision of the Hearing Committee of PCC re C Neudecker, page 8

36. Neudecker admitted that she misrepresented her relationship with Student A. (Exhibit 8, page 24, number 94)

Charge 9

37. During the time period from August 2018 to November 2018, Neudecker misrepresented her relationship with Student A to several colleagues stating that students in her Science 10 class had started the rumour in retaliation for her forcing tighter classroom management. (Exhibit 8, page 15, number 52)
38. Neudecker blamed students in her Science 10 class for starting rumours of her relationship with Student A. (Exhibit 8, page 15, number 52)
39. Neudecker admitted to Garbutt that she had misled her administration when she told her vice-principal and principal that there was no substance to the rumours. (Exhibit 8, page 16, number 60)
40. Neudecker admitted that she misrepresented her relationship with Student A, blaming her Science 10 class students. (Exhibit 8, page 24, number 95 and Exhibit 9)
41. After a thorough investigation conducted by the school division, Garbutt terminated Neudecker's employment. (Exhibit 8, page 5, number 15 and appendix 6)

DECISION OF THE HEARING COMMITTEE

- Charge 1—Guilty
Charge 2—Guilty
Charge 3—Guilty
Charge 4—Guilty
Charge 5—Guilty
Charge 6—Guilty
Charge 7—Guilty
Charge 8—Guilty
Charge 9—Guilty

REASONS FOR DECISION

1. All teachers have a responsibility to treat student(s) with dignity and respect. Any conduct of a member that, in the opinion of a hearing committee, is detrimental to the honour and

dignity of a student or students is unprofessional (article 4 of the Professional Code of Conduct).

2. As a teacher, Neudecker was in a position of trust and authority over the victim. This breach resulted in students not being treated with the necessary dignity and respect and consideration of their circumstances (article 4 of the Professional Code of Conduct).
3. Neudecker failed to maintain the honour and dignity of the teaching profession (article 18 of the Professional Code of Conduct).

Charge 1

1. By her own admission, Neudecker admitted that during the period of August 2018 to November 2018, she engaged in texting and/or other electronic communications with Student A, where the comments made were inappropriate for an acceptable teacher–student relationship.
2. In the evidence adduced, there were examples of inappropriate electronic communications to Student A during the period of August 2018 to November 2018.
3. Student A acknowledged there was electronic communication between Neudecker and himself.
4. In doing so, Neudecker failed to maintain the honour and dignity of the profession.

Charge 2

1. By her own admission, Neudecker admitted that during the period of August 2018 to November 2018, she was in a social relationship with Student A where she kissed Student A in the presence of other students in the Area of school redacted.
2. In the evidence adduced, there were examples of a social relationship with Student A where she kissed Student A in the presence of other students in the Area of school redacted. during the period of August 2018 to November 2018.
3. Student A acknowledged there was a social relationship with Student A where Neudecker kissed Student A in the presence of other students in the Area of school redacted.
4. In doing so, Neudecker failed to treat Student A with dignity and respect and without consideration of Student A’s circumstances.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST BRIAN NICKEL

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Brian Nickel of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, February 4, 2010.

Professional Conduct Committee members present as the hearing committee were Dorothy Dyer (chair), Lynne Davies and Howard Gamble. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Michael Kischuk was secretary and Leslie Kaun was recorder. Robert Mazzotta presented the case against the investigated member. The investigated member, Brian Nickel, was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Brian Douglas Nickel is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about September 5, 2008, at or near Spruce Grove, Alberta, engaged in conduct for which he, on July 28, 2009, was convicted of an indictable offence, in that Brian Douglas Nickel did have in his possession child pornography, to wit: a digital video image of a nude young person, contrary to section 163.1(4) of the *Criminal Code* of Canada and in doing so, failed to maintain the honour and dignity of the profession.
2. Brian Douglas Nickel is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about September 5, 2008, at or near Spruce Grove, Alberta, engaged in conduct for which he, on July 28, 2009, was convicted of an indictable offence, in that Brian Douglas Nickel did have in his possession child pornography, to wit: multiple digital picture image files of young people, contrary to section 163.1(4) of the *Criminal Code* of Canada and in doing so, failed to maintain the honour and dignity of the profession.

3. Brian Douglas Nickel is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between August 1, 2007 and September 5, 2008, both dates inclusive, at or near Spruce Grove, Alberta, engaged in conduct for which he, on July 28, 2009, was convicted of an indictable offence, in that Brian Douglas Nickel did make child pornography to wit: a video of a young person fully nude in the shower, contrary to section 163.1(2) of the *Criminal Code* of Canada, and in doing so, engaged in activities which failed to maintain the honour and dignity of the profession.
4. Brian Douglas Nickel is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about August 13, 2008, at or near Edmonton, Alberta, engaged in conduct for which he, on July 28, 2009, was convicted of an indictable offence, in that Brian Douglas Nickel did, for a sexual purpose, touch CM, a person under the age of sixteen years, directly with a part of his body to wit: his hands, contrary to section 151 of the *Criminal Code* of Canada, and in doing so, failed to treat a pupil with dignity and respect.

In the absence of Nickel and the absence of a written plea, the hearing committee directed pleas of not guilty to each charge on his behalf.

WITNESSES

No witnesses were called.

EXHIBITS FILED

- Exhibit 1—Charges
- Exhibit 2—Notice of hearing sent to Nickel at the Bowden Institution and Canada Post confirmation of delivery
- Exhibit 3—Process server's affidavit of service of notice of hearing to Nickel's home address
- Exhibit 4—Agreed statement of facts entered at the Provincial Court of Alberta
- Exhibit 5—Order of Prohibition and four certificates of conviction with respect to Nickel
- Exhibit 6—Proof of Nickel's membership in the Alberta Teachers' Association

EVIDENCE ADDUCED INDICATED THAT:

1. Nickel was a member of the Alberta Teachers' Association during the period January 1, 2007 to April 30, 2009 inclusive (Exhibit 6).
2. Nickel was employed by Evergreen Catholic Separate Regional Division No 2 as a teacher at a junior high school in Spruce Grove, Alberta during that time period (Exhibits 4 and 6).

3. Nickel was convicted of four indictable offences under sections 163.1(2), 163.1(4) and 151 of the *Criminal Code* of Canada (Exhibit 5).
4. Nickel admitted to, and was convicted under section 163.1(4) of the *Criminal Code* of Canada of, possessing child pornography in the form of a digital video image of a nude young person and multiple digital picture image files of young people (Exhibits 4 and 5).
5. Nickel admitted to, and was convicted under section 163.1(2) of the *Criminal Code* of Canada of, making child pornography in the form of a video of a young person fully nude in the shower (Exhibits 4 and 5).
6. Nickel admitted to, and was convicted under section 151 of the *Criminal Code* of Canada of, touching a young person under the age of 16 for a sexual purpose (Exhibits 4 and 5).
7. Nickel engaged in an inappropriate relationship of a sexual nature with a student and, in so doing, failed to treat the student with dignity and respect (Exhibit 4).
8. Nickel possessed and created child pornography and, in so doing, failed to maintain the honour and dignity of the profession (Exhibit 4).

DECISION OF THE HEARING COMMITTEE

The hearing committee found Nickel guilty of all four charges.

REASONS FOR DECISION

1. Nickel was convicted of four indictable offences under sections 163.1(2), 163.1(4) and 151 of the *Criminal Code* of Canada and is therefore guilty of unprofessional conduct under section 23(2)(a) of the *Teaching Profession Act*.
2. Nickel was convicted of four indictable offences. He did not adhere to the Code of Professional Conduct and thus failed to maintain the honour and dignity of the profession.
3. The public has a right to expect that children will be protected from those who engage in the possession or creation of child pornography. By his conduct, Nickel jeopardized the public's trust in the profession and failed to uphold the honour and dignity of the profession.
4. A student has the right to expect that teachers will not abuse their positions of trust and authority. By engaging in inappropriate behavior of a sexual nature with a student, Nickel failed to treat the student with dignity and respect.

PENALTY

The hearing committee imposes the following penalties:

1. Nickel will be given a letter of severe reprimand for the four charges.
2. Nickel is declared permanently ineligible for membership in the Alberta Teachers' Association
3. A recommendation will be made to the minister of education for permanent cancellation of Nickel's teaching certificate.

REASONS FOR PENALTY

1. Nickel was convicted of four indictable offences under sections 163.1(2), 163.1(4) and 151 of the *Criminal Code* of Canada.
2. Nickel's actions showed disregard for society's expectations of teachers. Society and the profession view such actions as repugnant and reprehensible.
3. Nickel's possession and creation of child pornography was unbecoming of a teacher and dishonoured the profession.
4. Nickel's actions represent serious violations of the Code of Professional Conduct.

Dated at the City of Edmonton in the Province of Alberta, Thursday, February 4, 2010.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE REPORT OF THE
HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST DUANE OSTAPIW

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Duane Ostapiw of Edmonton, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, May 26, 2005 at 0900.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Duane Ostapiw is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, on February 22, 2005, was convicted of an indictable offence which was based on his conduct on or about June 2003, while he was a member of the Alberta Teachers' Association.
2. Duane Ostapiw is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about June 2003, failed to treat a student with dignity and respect in that he, while in a position of trust and authority, engaged in a sexual relationship with a grade 9 student from the school at which he taught.
3. Duane Ostapiw is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about June 2003, acted in a manner which failed to maintain the honour and dignity of the profession in that he, while in a position of trust and authority, engaged in a sexual relationship with a grade 9 student from the school at which he taught.
4. Duane Ostapiw is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about June 2003, acted in a manner which failed to maintain the honour and dignity of the profession in that he engaged in an attempted cover-up of a sexual relationship with a grade 9 student from the school at which he taught.

The prosecuting officer submitted the following amendment to Charge 1:

1. Duane Ostapiw is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, on or about June 2003, while a member of the Alberta Teachers' Association, engaged in a sexual relationship with a grade 9 student which led to his conviction, on February 22, 2005, of an indictable offence.

The hearing committee accepted the amendment.

The investigated member entered a plea of guilty to each of the charges through a written submission. (Exhibit 5)

The committee directed that the name(s) of any student(s) referenced in the hearing would not be used during the proceedings or in any documents issued by the hearing committee, to protect their privacy.

DECISION OF THE HEARING COMMITTEE

The hearing committee accepted Ostapiw's plea of guilty to each of the four charges.

REASONS FOR DECISION

1. Ostapiw was convicted of an indictable offence under section 153 of the Criminal Code of Canada. He, therefore, is guilty of unprofessional conduct under section 23(2)(a) of the *Teaching Profession Act*.
2. Students have a reasonable expectation that teachers will not abuse their positions of trust and authority by engaging in sexual relationships with them. Such relationships fail to treat the students involved with dignity and respect.
3. Ostapiw brought dishonour and disrepute to the teaching profession through his actions which gave rise to his conviction of an indictable offence.
4. Ostapiw attempted to cover-up the sexual relationship with Student X by engaging in duplicitous action. In so doing, he attempted to discredit a colleague's reporting on a matter of possible misconduct.

PENALTY

The hearing committee imposes the following penalty for each of the four charges:

1. Ostapiw is declared ineligible for membership in the Alberta Teachers' Association.
2. The Alberta Teachers' Association will recommend to the minister of education that Ostapiw be declared ineligible for teacher certification in the province of Alberta.
3. A severe reprimand, the four reprimands to be addressed in a single letter.

REASONS FOR PENALTY

1. Ostapiw was convicted of an indictable offence which constitutes unprofessional conduct.
2. Ostapiw had a sexual relationship with Student X which violated his position of trust and authority.
2. The relationship and ensuing publicity caused significant emotional harm to Student X. The youthful age of the victim exacerbates the severity of Ostapiw's breach of trust and authority. The responsibility for the relationship rested solely on Ostapiw in his role as teacher.
3. The profession views the abuse of authority involving sexual activity with a student as abhorrent.
4. Teachers must not engage in sexual activities with their students. Society views such actions as repugnant and reprehensible.
5. Society has a reasonable expectation that teachers will act in a manner that establishes and maintains a trust relationship between teachers and students. Ostapiw exploited that relationship by cultivating and engaging in a sexual relationship with a student.
6. Ostapiw initially made a deliberate attempt to cover up his actions.
7. Ostapiw failed to fully recognize that any sexual relationship between a teacher and a student of school age is a breach of trust and is unacceptable.
8. Ostapiw's criminal actions harmed the honour and dignity of the profession.

Dated at the City of Edmonton in the Province of Alberta, Thursday, May 26, 2005.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST [AP]

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against [AP] of Calgary, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held online, via video conference, on Thursday, September 10, 2020.

The participants were Professional Conduct Committee members appointed as the hearing committee Rick Kremp (chair), Richard McAdie and Ismat Bandali. Richard Rand of Rand & Company LLP as counsel to the hearing committee; Chris Gibbon as secretary; Sudeep Dua as recorder; and Ian Stewardson as presenting officer.

The investigated member, [AP], was not present but was represented by Shanna Hunka of Bishop & McKenzie LLP, who also participated via video conference.

COMPOSITION/JURISDICTION

There were no objections to the composition of the hearing committee or the jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. [AP] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about July 1, 2017, to September 5, 2017, failed to treat a student with dignity and respect or be considerate of their circumstances when she encouraged a personal nonsexual relationship with the student by meeting the student four times and/or communicating through e-mail with the student making reference to body types and discussing personal matters thus violating article 4 of the Code of Professional Conduct.

The investigated member entered a plea of guilty to the charge, by written submission.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

- Exhibit 1—Notice of hearing and Canada Post confirmation of delivery, dated May 14, 2020
- Exhibit 2—Court order restricting access or publication, dated March 27, 2018
- Exhibit 3—Court order restricting access or publication, dated January 11, 2019
- Exhibit 4—Proof of [AP]’s membership in the Association, dated March 16, 2020
- Exhibit 5—Declaration of awareness of rights, signed by [AP], dated July 13, 2020
- Exhibit 6—Submission on plea, signed by [AP], dated July 13, 2020
- Exhibit 7—Agreed statement of facts and acknowledgement of unprofessional conduct, signed by [AP] and Stewardson on July 13, 2020 and August 19, 2020 respectively
- Exhibit 8—Written petition to the Professional Conduct Committee
- Exhibit 9—Joint submission on penalty signed by [AP] and Stewardson on July 13, 2020 and August 19, 2020 respectively

PUBLICATION BAN

Both parties requested, via a petition to the Professional Conduct Committee that the name of the teacher and the school be redacted from the ATA’s public decision for the protection of the student.

The committee granted the request and directed that [AP], in the public copy of the written decision, be referred by her initials only.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. [AP] was a member of the Alberta Teachers Association from May 1, 2016 to June 30, 2016 and again from August 1, 2016 to November 30, 2017. (Exhibits 4 and Exhibit 7, page 2)
2. In the 2016/17 school year, [AP] taught at a high school in Calgary. (Exhibit 7, page 2)
3. Student A was in [AP]’s class during the second semester of the 2016/17 school year. (Exhibit 7, page 2)
4. Student A stayed, more than once, with [AP] after school for support and extra project credit. Some of these sessions concluded after 7:00 PM. (Exhibit 7, page 2)
5. Student A played on a sports team where [AP] was a co-coach and worked directly with Student A. (Exhibit 7, page 2)
6. When Student A was not allowed to participate in a particular sporting event, Student A’s mother requested that [AP] contact her. [AP] did not contact Student A’s mother; instead [AP] had the other co-coach contact Student A’s mother. It upset Student A’s mother that [AP] had not contacted her. [AP] was not aware that Student A’s mother was upset that with her because [AP] had not contacted her. (Exhibit 7, page 2)

7. Student A asked [AP] if Student A could use [AP]'s name as a reference if he was applying for work. [AP] gave Student A a business card that included her address and cellphone number. Student A texted [AP] using the information from the business card. [AP] told Student A that she only provided the business card for Student A to use as a reference. (Exhibit 7, page 2)
8. [AP] met with another student at the University of Calgary (Student B) in July of 2017 whom she had taught at the same school as Student A. [AP] was going to show Student B around the university because Student B was enrolled there in the fall. Student B informed [AP] that Student A was showing an image of a girl's back in panties and claiming the girl was [AP]. There was a rumour being spread that [AP] was "banging a student." Student B did not believe the rumour but thought [AP] should know the information. The images were sent by Student A. (Exhibit 7, page 2)
9. [AP] admitted to meeting Student A four times over the summer of 2017. These meetings took place at two different locations over the summer. Each of these meetings lasted between one to two hours. (Exhibit 7, page 3)
10. [AP] confronted Student A about the rumour and the supposed image of [AP] in her underwear. Student A told [AP] that it was not Student A who sent the message but it was a friend who borrowed Student A's phone, found the image and sent the image to friends saying the image was of [AP]'s back. Student A was embarrassed by this situation. (Exhibit 7, page 3)
11. Student A was reported missing to the Calgary Police Service by his parents over the summer of 2017. They suspected that Student A was at [AP]'s residence. No evidence was gathered related to this allegation by the Calgary Police Service. Student A told [AP] that he had been camping down by the Bow River for a couple of days. (Exhibit 7, page 3)
12. [AP] and Student A exchanged e-mails over the summer of 2017. Student A's mother intercepted one e-mail exchange between [AP] and Student A from July 28–29, 2017, and she reported the e-mail exchange to the school division on August 24, 2017. There were statements between [AP] and Student A that outlined his questions about how she had enjoyed the folk festival. (Exhibit 7, page 3)
13. In the summer of 2017, a series of e-mails messages were exchanged between [AP] and Student A that were not appropriate for a student–teacher relationship. The e-mails exchanged are as follows (Exhibit 7, pages 3–5):
 - a) [AP] to Student A

Like "I never keep my promises". You meanie.
But you have a swimmers [*sic*] build! Minus the short legs. You don't have short legs
haha.
 - b) Student A to [AP]

I was joking :(
And I'll take your word for it cutie haha

What are you getting up to today?

c) [AP] to Student A

Ohhh. Well, I just did a ballet-type workout at home (which is funny because I'm the least ballerina-like person you've ever met), and my bum muscles are now fried.

d) Student A to [AP]

And it's cool. You're pretty cute soooo ;)

14. On July 31, 2017, [AP] met with Student A and recognized that Student A had developed feelings for her. She attempted to "let him down easy" by telling him that she had a boyfriend. Student A was upset about this information, and it confirmed for [AP] that she should not meet with Student A again. (Exhibit 7, page 5)
15. On August 28, 2017, at approximately 9:00 PM, [AP] met with Student A to tell Student A that she would not see Student A outside of controlled situations, like tutoring. [AP] told Student A she was firm on her decision. Student A expressed an interest in continuing their relationship romantically. [AP] told Student A that she was happy in her present relationship, in addition to the many logical reasons as to why that could not happen. Student A was upset but accepted the situation. (Exhibit 7, page 5)
16. [AP] communicated with Student A on September 6, 2017, to ask about Student A's new semester and whether or not Student A would still want a tutor. [AP] stated, "In vain, I believed that I would be able to 'keep tabs' on him in that setting. He seemed upset with myself [*sic*] that I had hurt him. I told him that this was not something that could happen, as he was a student and a minor. I told him that we could no longer see each other as friends, but I still cared about his happiness and success." (Exhibit 7, page 6)
17. On September 7, 2017, [AP] was placed on unassigned duties pending investigation from her school division. A clear cease and desist order from the school division was also issued that forbade [AP] to contact any of the school division's students, particularly Student A. Student A was specifically named in the order. (Exhibit 7, page 6)
18. On September 8, 2017, [AP] attended a meeting with human resources personnel to investigate the allegations of an inappropriate relationship. [AP] denied an inappropriate relationship with Student A. [AP] refused to answer some of the questions but made a statement that the e-mails provided to the school board were from her to Student A and were from her e-mail address. The school division found the content of the e-mails to be unprofessional and inappropriate. [AP] was uncooperative with the investigation. She made statements such as "Why are you asking me that?" and "Is this all you have?" during the interview. (Exhibit 7, page 6)
19. On September 11, 2017, [AP] provided a statement, with a full description of her actions to the school division's investigators. [AP]'s statement confirmed some basic demographic information as well as outlined her actions over the summer. In the statement [AP] denied any sexual contact with Student A and that Student A was at either her or her parents' residence. (Exhibit 7, page 6)

20. Student A was hospitalized after a suicide attempt in the fall of 2017. During Student A's hospitalization, Student A gained access to a cellphone and contacted [AP]. (Exhibit 7, page 6)
21. On October 19, 2017, the Calgary Police Service interviewed [AP] regarding her relationship with Student A. (Exhibit 7, page 6)
22. On November 3, 2017, [AP] resigned from her temporary teaching contract. (Exhibit 7, page 6)
23. On January 11, 2019, [AP] agreed to a peace bond for one year, and the two charges that were laid against her on March 22, 2018 were withdrawn by the crown prosecutor. (Exhibit 7, page 7)
24. The conditions of [AP]'s peace bond included that [AP] would (Exhibit 7, page 7):
 - a) "Report to a probation officer within 2 business days and thereafter as directed, which may be by telephone.
 - b) Take any counselling or assessment as directed by the probation officer and provide the probation officer with proof of completion of such counselling and assessment.
 - c) Consent to the release of treatment, counselling and medical reports to your probation officer.
 - d) You shall not seek, obtain, or have any employment, whether or not the employment is remunerated, or volunteer in any capacity, that involves being in a position of trust or authority towards persons under the age of 18 years.
 - e) You shall not have any contact or communication with Student A, his mother, or his father."
25. [AP] was teaching on an interim certificate that expired in August of 2019. She no longer holds a teaching certificate and does not want to teach again as a result of this situation. (Exhibit 7, page 8)

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

REASONS FOR DECISION

1. By [AP]'s own admission in the agreed statement of facts and her plea of guilty, she crossed the boundaries of an acceptable teacher–student relationship.
2. [AP] communicated with Student A through text messages and e-mails. The content of the messages demonstrated that this communication was concerning when describing Student A's body, her workout routines, her physical soreness in her "bum muscles" from a workout and her social activities.

3. Although there was no physical contact with Student A, [AP]'s actions fall within the spectrum of unprofessional conduct. The student involved in the communication with [AP] was young and both mentally and emotionally vulnerable.
4. The nature of this charge is significant due to the breach of the trust accorded to teachers by students, parents, and the public. Teachers are expected to act as positive role models and create a safe environment for all of their students.
5. Teachers hold a position of authority over, and trust with, students. It is essential that teachers live up to the high expectations and limit their relationships by being clear about the boundaries so there can be no misunderstandings by impressionable young people.
6. Teachers are expected to follow the Code of Professional Conduct at all times. [AP]'s inappropriate communication and meetings with Student A proved to the committee that she failed to treat Student A with dignity and respect and to be considerate of Student A's circumstances, thus violating article 4 of the Code of Professional Conduct

SUBMISSION ON PENALTY

[AP] and Stewardson provided a written joint submission on penalty to the hearing committee recommending the following penalties:

1. A letter of severe reprimand
 2. A declaration of ineligibility for membership in the Alberta Teachers' Association for a period of two years
 3. A recommendation to the minister of education that [AP] be ineligible for a teaching certificate for a period of two years because she currently does not hold a teaching certificate
- The written joint submission on penalty acknowledged that the hearing committee is not bound by the recommended penalty and will make its own determination.

PENALTY

The hearing committee imposed the following penalties:

1. A letter of severe reprimand
2. A declaration that [AP] will be ineligible for membership in the Alberta Teachers' Association for a period of two years effective September 10, 2020
3. A recommendation to the minister of education that [AP] be ineligible for a teaching certificate for a period of two years

REASONS FOR PENALTY

1. [AP] acknowledged that her actions failed to treat Student A with respect and dignity and were not considerate of Student A's circumstances. These actions damaged the trust of the

student, the teacher and the public. The public expects that teacher will behave in manner that respects the dignity of students.

2. There is a need for deterrence. Teachers must always establish clear boundaries in their professional relationships with students.
3. An appropriate penalty must demonstrate to members and the public that the profession takes these charges seriously. These sanctions will maintain the public's confidence in the profession.
4. While the committee reviewed and considered the mitigating circumstances to this case, the committee did not find them such to make the joint submission on penalty overly punitive.

Dated at the City of Edmonton in the Province of Alberta, Monday, October 19, 2020.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST ROBERT JOHN PAOLINELLI

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Robert John Paolinelli of Stony Plain, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, December 16, 2013 at 0900.

Professional Conduct Committee members present as the hearing committee were Howard Gamble (chair), Terry Gibson and Lynne Davies; Dan Coles also attended as an observer. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Philip McRae was secretary and Leslie Kaun was recorder. Konni deGoeij presented the case against the investigated member. The investigated member, Robert Paolinelli, was not present and was not represented by counsel.

The presenting officer requested that hereafter any documents naming the young person referenced in the charges refer to that young person by the initials "AF" only. The hearing committee allowed that request and so directed.

CONSTITUTION/JURISDICTION

There were no objections to either the constitution or the jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Robert John Paolinelli is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about October 4, 2011, at or near Stony Plain, in the Province of Alberta, engaged in conduct for which he was convicted of an indictable offence, where he did, for a sexual purpose, touch directly the body of "AF", a young person, with a part of his body, his hand, contrary to section 153(1)(a) of the *Criminal Code*, thus failing to treat the student with dignity and respect and consideration for his circumstances.
2. Robert John Paolinelli is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about October 4, 2011, at or near Stony Plain, in the Province of Alberta, provided alcohol to a minor, thus failing to treat the student with dignity and respect and consideration for his circumstances.

3. Robert John Paolinelli is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about October 4, 2011, at or near Stony Plain, in the Province of Alberta, engaged in conduct for which he was convicted of an indictable offence where he did, for a sexual purpose, touch directly the body of "AF", a young person, with a part of his body, his hand, contrary to section 153(1)(a) of the *Criminal Code*, thus failing to maintain the honour and dignity of the profession.
4. Robert John Paolinelli is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about October 4, 2011, at or near Stony Plain, in the Province of Alberta, engaged in partying and consuming alcohol with a minor, in Paolinelli's home, thus failing to maintain the honour and dignity of the profession.

The investigated member entered a plea of guilty to each of the charges by written submission.

WITNESSES

No witnesses were called.

EXHIBITS FILED

- Exhibit 1—Notice of hearing and affidavit of service on December 5, 2013
- Exhibit 2—Proof of Paolinelli's membership in the Association from September 1, 2006 to December 31, 2011 inclusive
- Exhibit 3—Declaration of awareness of rights, signed by Paolinelli, dated December 12, 2013
- Exhibit 4—Submission on plea, signed by Paolinelli, dated December 12, 2013
- Exhibit 5—Agreed statement of facts, signed by Paolinelli and deGoeij, dated December 12, 2013
- Exhibit 6—Certificate of Conviction (Condamnation) from the Province of Alberta
- Exhibit 7—Joint submission on penalty, signed by Paolinelli and deGoeij, dated December 12, 2013
- Exhibit 8—Personal letter to the hearing committee, titled Speaking to Penalty, from Paolinelli, dated December 12, 2013

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Paolinelli was a member of the Alberta Teachers' Association during the period September 1, 2006 to December 31, 2011 inclusive (Exhibit 2).
2. Paolinelli was employed by Evergreen Catholic Separate Regional Division No 2 from 2006 to 2012 (Exhibit 5).

3. Paolinelli was a food studies teacher at St Thomas Aquinas High School (Exhibit 5).
4. On December 14, 2011, Paolinelli was convicted of an indictable offence under section 153(1)(a) of the *Criminal Code* (Exhibit 6).
5. Paolinelli resigned his teaching position with Evergreen Catholic Separate Regional Division No 2 in January 2012 (Exhibit 5).
6. Paolinelli was a minor hockey coach and was actively involved in coaching since 1986, except for a period of four years while he was attending university (Exhibit 5).
7. In the spring of 2007, Cindi Vaselenak, then deputy superintendent, spoke to Paolinelli regarding an accusation from a parent that Paolinelli had hosted a party in his home where adults, hockey players and minors drank alcohol. Paolinelli acknowledged that alcohol was served but stressed that no one was intoxicated. The next day, Paolinelli resigned from his coaching position (Exhibit 5).
8. Paolinelli was the sole occupant of a residence where he was a billet host for hockey players (Exhibit 5).
9. AF, a sixteen-year-old hockey player and high school student, stayed with Paolinelli for approximately three weeks prior to the offence date of October 4, 2011 (Exhibit 5). AF did not attend the same school as that where Paolinelli taught.
10. Paolinelli allowed hockey players who were billeted with him to consume alcohol, some of which he provided, at his residence (Exhibit 5).
11. Paolinelli, AF and two other hockey players drank alcohol in Paolinelli's residence during the evening of October 3, 2011 and during the early morning hours of the day of the incident, October 4, 2011. All voluntarily consumed the alcohol, including Paolinelli, who, at times, mixed drinks for the young persons including AF (Exhibit 5).
12. Paolinelli, AF and the two other hockey players played a drinking game. The game concluded about midnight, at which point AF and Paolinelli wanted to keep on drinking and to discuss hockey (Exhibit 5).
13. Paolinelli invited AF upstairs to Paolinelli's bedroom to discuss hockey (Exhibit 5).
14. Paolinelli and AF went to Paolinelli's second floor bedroom, while the other drinking game participants went to bed (Exhibit 5).
15. Once inside Paolinelli's second floor bedroom, the door was closed (Exhibit 5).

16. Paolinelli and AF sat on the bed, each wearing only boxer shorts, and consumed more alcohol (Exhibit 5).
17. AF covered his legs with a blanket while sitting on the bed (Exhibit 5).
18. During the course of their conversation about hockey, AF made cell phone calls and sent text messages to young ladies who, Paolinelli understood, had provided, or promised to provide, sexual favours to AF (Exhibit 5).
19. Paolinelli and AF left the bedroom on at least one occasion to obtain more alcohol which added to the wide variety of intoxicants they had already consumed (Exhibit 5).
20. The incident followed the replenishment of their alcohol and both of them were very intoxicated (Exhibit 5).
21. While in the bedroom sitting on the bed, AF told Paolinelli that two girls were sending him text messages saying they wanted to give AF a “blow job.” Paolinelli and AF discussed this and while they were talking about “blow jobs,” AF said it would be great to get a “blow job” (Exhibit 5).
22. Paolinelli formed the opinion from the discussion that perhaps this is what AF wanted him to do (Exhibit 5).
23. Paolinelli offered to help AF out by saying, “I can take care of that.” He further said, “I would love to give you a blow job and let you fuck me” (Exhibit 5).
24. Paolinelli then reached over and lifted the blanket that AF had covered himself with and touched AF’s leg. This was stopped by AF, who then left the bedroom without further incident (Exhibit 5).
25. The offence took place on October 4, 2011 at approximately 1:00 am. (Exhibit 5).
26. The following day, AF’s hockey coach called Paolinelli and told him that the billeted boys had been removed from the house and that there was an accusation against him and it was being investigated (Exhibit 5).
27. On October 8, 2011, Paolinelli was arrested at his home and detained by the RCMP (Exhibit 5).
28. Paolinelli was subsequently formally charged by the RCMP, in the fall of 2011 (Exhibit 5).
29. Paolinelli plead guilty to engaging in conduct for which he was convicted of an indictable offence, in that he, on or about the 4th day of October, AD 2011, at or near Stony Plain, in the province of Alberta, being in a position of trust or authority towards a young person, did

for a sexual purpose, touch directly the body of AF, a young person, with a part of his body, his hand, contrary to section 153(1)(a) of the *Criminal Code* (Exhibit 6).

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

Charge 4—Guilty

REASONS FOR DECISION

1. Paolinelli was convicted of an indictable offence under section 153(1)(a) of the *Criminal Code* of Canada. Paolinelli is therefore guilty of unprofessional conduct under section 23(2)(a) of the *Teaching Profession Act*.
2. By engaging in inappropriate discussions and actions of a sexual nature with a student, Paolinelli failed to treat the student with dignity and respect and violated his position of trust as a teacher.
3. By engaging in inappropriate discussions and actions of a sexual nature with a student, Paolinelli failed to maintain the honour and dignity of the profession.
4. Teachers should not engage in sexual activities with students; such actions are repugnant and reprehensible.
5. By providing alcohol to a student who was also a minor, and engaging in an alcohol-related drinking game with the student, Paolinelli failed to treat the student with dignity and respect and consideration for his circumstances.
6. By providing alcohol to the student/minor, and engaging in an alcohol-related drinking game with the student, Paolinelli failed to maintain the honour and dignity of the profession.
7. Society has the right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. Paolinelli violated this trust relationship.

PENALTY

The hearing committee of the Professional Conduct Committee imposed the following penalty on Paolinelli:

1. A declaration of ineligibility for membership in the Alberta Teachers' Association.
2. A recommendation to the minister of education to permanently cancel his teaching certificate.

REASONS FOR PENALTY

1. Paolinelli brought dishonour and disrepute to the teaching profession because of his conviction of an indictable offence and his conduct giving rise to that conviction.
2. The penalty imposed is consistent with previous cases of a similar nature where there is evidence of inappropriate actions of a sexual nature with a student.
3. Paolinelli acted in a manner that was detrimental to the best interests of a student when he provided alcohol to the student/minor and engaged in an alcohol-related drinking game with the student/minor.
4. Paolinelli brought dishonour and disrepute to the profession when he provided alcohol to a student/minor and engaged in an alcohol-related drinking game with the student/minor.
5. Society has the right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. Paolinelli violated this trust relationship.

Dated at the City of Edmonton in the Province of Alberta, Monday, December 16, 2013.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST DOUGLAS PAUL

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Douglas Paul of St Albert, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, January 10, 2006.

Professional Conduct Committee members present as the hearing committee were Denise Peterson (chair), Craig Polk and George Epp. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Tim Johnston was secretary and Leslie Kaun was recorder. Marvin Hackman presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

COMPOSITION/JURISDICTION

There were no objections to the composition or jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Douglas Paul is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about June 1, 2002, failed to treat a student with consideration and respect for her circumstances by discussing with her matters of a sexual and/or personal nature.
2. Douglas Paul is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about June 11, 2002, failed to treat a student with dignity and respect by providing the student with a massage in a closed environment.
3. Douglas Paul is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about June 11, 2002, engaged in activities that did not adhere to appropriate student-teacher boundaries and thus failed to act in a manner that maintains the honour and dignity of the profession.

By way of a written submission, the investigated member entered a plea of guilty to each of the three charges.

WITNESSES

No witnesses were called.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. An agreed statement of facts was presented by the prosecuting officer (Exhibit 4).
2. Paul was employed by Edmonton Catholic School District No 7 from September 1, 1982 to August 31, 2003. From September 1, 1983 to June 30, 2002, Paul taught at School name redacted. School name redacted. School in Edmonton (Exhibit 4).
3. Paul was a member of the Alberta Teachers' Association during the 2001/2002 school year, the period when the actions under review occurred (Exhibits 3 and 4).
4. On June 12, 2002, Edmonton Catholic School District No 7 received a complaint from the mother of a student enrolled at School name redacted. School regarding an interaction between Paul and her daughter who was a student of his. This interaction, which occurred June 11, 2002, caused the daughter considerable embarrassment and discomfort (Exhibit 4, point 4).
5. The interaction referred to Paul massaging the student's legs and back in a locked room within the school (Exhibit 4).
6. The interaction also referred to comments made by Paul that were sexually explicit and highly inappropriate (Exhibit 4, appendix B).
7. On June 13, 2002 the student provided the principal of the school, Principal name redacted with a verbal statement (Exhibit 4, appendix B).
8. Paul was forthright and co-operative in interviews with the investigating officer (Exhibit 4).
9. Paul acknowledged that the student had been negatively affected by his behavior (Exhibit 4, appendix C).
10. Paul acknowledged that his behaviour negatively affected the student, the school community and the school jurisdiction (Exhibit 4).

DECISION OF THE HEARING COMMITTEE

The hearing committee found the defendant, Paul, guilty on the three charges.

REASONS FOR DECISION

1. The hearing committee found that Paul failed to treat a student with consideration and respect for her circumstances by discussing with her matters of a **sexual** and personal nature.
2. The hearing committee found that Paul failed to treat a student with dignity and respect in that he provided a student with a massage in a closed environment.
3. The hearing committee found that Paul engaged in activities that did not adhere to appropriate student-teacher boundaries and thus failed to act in a manner that maintained the honour and dignity of the profession.
4. The hearing committee found that Paul acknowledged the harm that his actions caused to the student, the school, the school district and the profession.
5. The hearing committee found that Paul acknowledged that his actions were wrong.

PENALTY

The hearing committee recommends that the Minister of Education suspend the teaching certificate of Paul for a period of one year commencing January 10, 2006 and ending January 10, 2007.

REASONS FOR PENALTY

1. The actions of the defendant toward his student were inappropriate. Society has the right to expect that teachers will only form relationships that preserve the dignity of and respect for students.
2. By his own admission, Paul acknowledged that he dishonoured the profession by engaging in an inappropriate activity with a student.
3. The hearing committee finds that this breach of trust on the part of Paul caused harm to the student and the student's family, the school jurisdiction and the profession.

Report of the Hearing Committee of PCC
D Paul, page 4

4. Paul was forthright and cooperative throughout the investigation.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, January 10, 2006.

3. Murray M Peglar is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association between November 10, 2000 and December 12, 2001, failed to cooperate with the investigator in the investigation of a complaint of alleged unprofessional conduct.

In the absence of the accused, the hearing committee entered a plea of “not guilty” to each of the three charges.

WITNESSES

No witnesses were called.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. M Peglar was employed as a teacher at Name of school redacted. by Canadian Rockies Regional Division No 12 from August 26, 1999 until December 15, 2000. (Exhibit 3)
2. The hearing committee determined that M Peglar was a member of The Alberta Teacher's Association during that time. (Exhibit 3)
3. M Peglar plead guilty to and was convicted of an indictable offence contrary to section 153 (1)(A) of the *Criminal Code* on July 11, 2001. (Exhibit 5)
4. In keeping with the ban of publication imposed by the court, the victim's identity was not revealed during the hearing. She is referred to hereafter as “Student A.” (Exhibit 4)
5. Student A was registered in M Peglar's Social Studies class in April 2000. (Exhibit 7)
6. A personal relationship evolved between Student A and M Peglar and it escalated into a physical relationship on June 23, 2000. (Exhibit 7)
7. On July 1, 2000, M Peglar engaged in sexual intercourse with Student A on two occasions at his home. (Exhibit 7)
8. Following a five-week absence during which Student A was on an out-of-province course, she and M Peglar met on August 24 and August 25, 2000. At this point, M Peglar indicated that he wished to terminate the physical and sexual relationship and return to a friendship relationship. (Exhibit 7)
9. On more than one occasion, M Peglar expressed concern about the vulnerability of his job.

(Exhibit 7)

10. On October 26, 2000, Student A disclosed the nature of her relationship with M Peglar to Teacher name redacted. a teacher at School name redacted. (Exhibit 6)
11. Teacher name redacted. advised his principal, Principal name redacted. who in turn advised the deputy superintendent of schools, M Kurtz, of the disclosure. (Exhibit 6)
12. On October 27, 2000, after speaking with S Fraser of The Alberta Teachers' Association, Teacher name redacted. informed M Peglar that the matter was being disclosed to the superintendent of schools, Child Welfare and the RCMP. (Exhibit 6)
13. When confronted with the facts, M Peglar did not deny the allegations. (Exhibit 6)
14. Student A indicated that she felt betrayed and taken advantage of and that, as a result of the events, she had difficulty dealing with day-to-day life at school. (Exhibit 7)
15. On November 10, 2000, D Jeary, investigating officer, advised M Peglar in writing that an investigation into his possible unprofessional conduct was underway. (Exhibit 11)
16. Despite having been convicted of an indictable offence on July 11, 2001, M Peglar did not advise the Association forthwith as required in section 22 (2)(b) of the *Teaching Profession Act*.
17. In a letter dated October 11, 2001 to B Carbert, counsel for M Peglar, D Jeary requested information as to the outcome of the court case, quoting section 22(2) of the *Teaching Profession Act*, which supported the fact that the conviction had not been reported at that time. (Exhibit 11)

DECISION OF THE HEARING COMMITTEE

- Charge 1—guilty
- Charge 2—guilty
- Charge 3—guilty

REASONS FOR DECISION

1. M Peglar was convicted of an indictable offence under the *Criminal Code* and is guilty of unprofessional conduct under section 22 (2)(a) of the *Teaching Profession Act*. (Exhibit 5)
2. Society has a right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. M Peglar betrayed that trust.
3. By engaging in a physical and sexual relationship with Student A, M Peglar failed to treat the student with dignity and respect.
4. The honor and dignity of the profession are harmed by a teacher who engages in physical and/or sexual relationships with students.
5. M Peglar failed to comply with his obligations under section 22 (2)(b) of the *Teaching Profession Act*.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalty on M Peglar:

1. That M Peglar's eligibility for membership in the Association be suspended for five years
2. That a recommendation be made to the minister of learning that M Peglar's teaching certificate be suspended for five years

This penalty will cover all three charges.

REASONS FOR PENALTY

1. M Peglar was convicted of an indictable offence under the *Criminal Code*. (Exhibit 5)
2. While M Peglar admitted his guilt from the outset, his communication with the Association, subsequent to his conviction, fell far short of honoring his obligations under section 22 (2)(b) of the *Teaching Profession Act*.
3. M Peglar disclosed that, during the time of the infraction, he was involved in counseling for depression and alienation. (Exhibit 2)
4. The physical/sexual portion of the relationship was short in duration.
5. Sexual contact between teachers and students must be considered to be a serious breach of

Report of the Hearing Committee of PCC
Peglar, page 5

professional conduct.

Dated at the City of Edmonton in the Province of Alberta, Friday, February 8, 2002.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST MURRAY MCARTHUR PEGLAR

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Murray Peglar of Banff, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Friday, February 8, 2002 at 0900.

Professional Conduct Committee members present as the hearing committee were Ron J Ritz (chair), Geoff G Buxton, E Molly Pilling and Lillian C Kordic. Richard W Rand of Frohlich Rand Kiss was counsel to the hearing committee, Marc C Arnal was secretary and Leslie A Kaun was recorder. Dave L Jeary presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There was no objection to the constitution of the hearing committee nor to its jurisdiction to hear the case.

PLEA

The following charges were read by the secretary to the hearing committee.

1. Murray M Peglar is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about July 11, 2001, was convicted of an indictable offence contrary to the Criminal Code of Canada.
2. Murray M Peglar is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, between June 23, 2000 and July 1, 2000, did, for a sexual purpose, touch the body of a young person with whom he was in a position of trust and authority.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST LOUIS-GEORGES PELLETIER

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Louis-Georges Pelletier of Red Deer, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada commencing on Monday, April 11, 2016.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Louis-Georges Pelletier is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2013/14 and/or the 2014/15 school year(s), made comments to pupils and/or engaged in actions which failed to treat a pupil or pupils with dignity and respect.
2. Louis-Georges Pelletier is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2013/14 and/or the 2014/15 school year(s), made comments to pupils and/or engaged in actions which failed to maintain the honour and dignity of the profession.

The investigated member entered a plea of guilty to each of the charges.

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—guilty

REASONS FOR DECISION

Charge 1

1. Pelletier failed to treat pupils with dignity and respect when he embarrassed them, made disparaging remarks about their intellectual capabilities and made them stand on desks punitively or to belittle them. These actions were disrespectful and humiliated students in a manner which was clearly unprofessional.

2. Pelletier failed to treat students with dignity and respect when he engaged with them physically in a manner that was inappropriate and unprofessional. Pelletier physically harmed students, wrote on their bodies with a marker, moved student desks while students were still in them, slapped students' heads, and poured water on a student. These actions were profoundly disrespectful of students.
3. Pelletier caused students significant stress and anxiety by not responding with compassion when family circumstances warranted it and ridiculing students about their physique, employment, sexual orientation, possible learning disability and gender. Pelletier also employed questioning tactics and made comments that caused students to cry. Through these actions, Pelletier harmed students' dignity and neglected to treat them respectfully.
4. Through his actions, Pelletier caused students significant stress and created an unwelcoming learning environment where students felt unable to take risks to learn. This ultimately caused some students to withdraw from his class and thus from the French immersion program. Through his actions and comments, Pelletier adversely affected some of his students' well-being and thus did not treat students with dignity and respect.
5. Pelletier made inappropriate comments about topics such as homosexuality, student masturbation, prostate surgery, bestiality and sex clubs, which exposed students to matters inappropriate for school. These comments made students feel uncomfortable and thus failed to treat students with dignity and respect.
6. Teachers are expected by the public, the profession and their students, to treat all students with dignity and respect. Through his many unprofessional comments and actions, over a period of two school years, Pelletier failed to treat his students with dignity and respect.

Charge 2

1. Through his comments and actions, Pelletier failed to maintain appropriate boundaries with his students and created a classroom atmosphere which adversely affected students' comfort and sense of safety. He did this by engaging in sexual innuendo and by making comments about a student's chador, a colleague's skin colour, students' gender, sexuality, intelligence, employment and future prospects. Through his failure to maintain boundaries, Pelletier failed to maintain the honour and dignity of the profession. His failure to create an environment where students felt comfortable and safe also showed disregard for the honour and dignity of the profession.
2. Pelletier engaged in behaviours related to matters of assessment in a manner that failed to uphold the dignity of the profession. He frequently engaged in conflict with students about assignments and exams, which ultimately caused parents to become involved. Pelletier's unwillingness to negotiate these instances fairly, and with regard for students, undermined the honour and dignity of the profession.
3. Teachers are expected to treat matters of assessment with the highest degree of fairness and care. Pelletier failed to do so on several occasions, which became apparent to students,

parents, administrators and the school secretary. Through his careless and cavalier handling of issues related to assessment, Pelletier undermined the honour and dignity of the teaching profession.

4. Pelletier engaged in inappropriate and unprofessional physical interaction with students, including slapping, grabbing at, and writing on their bodies. The public and the profession expect teachers to maintain professional physical boundaries and interaction with students at all times. Through his actions, Pelletier failed to uphold the honour and dignity of the profession.
5. Pelletier admonished students who reached out to their parents or other professionals for help with their concerns. In so doing, he created a sense of fear and secrecy around his actions. The public, profession, parents and students expect teachers to support students when they attempt to advocate for themselves; instead, Pelletier created a sense in students and parents that addressing their concerns could result in retribution. This undermined the profession's standing in the school community.

PENALTY

To address both charges, the committee ordered a penalty of a letter of severe reprimand and that Pelletier be declared ineligible for membership in the Alberta Teachers' Association for a period of six months. Further, the committee recommends to the minister of education that Pelletier's teaching certificate be suspended for a period of six months.

REASONS FOR PENALTY

1. The nature and gravity of the charges was significant; Pelletier's offending actions and comments were pervasive and persistent and affected many students and their parents over the course of two school years.
2. Pelletier is an experienced teacher who had familiarity with the school, the community and his employer's expectations on the matters related to the charges.
3. During the time giving rise to the charges, Pelletier stated that he found his classes difficult to work with. The committee did not deem this to be a significant mitigating factor in light of the expectations of the profession.
4. While the parties were in agreement that a severe letter of reprimand, a declaration that Pelletier is ineligible for membership in the Alberta Teachers Association and a recommendation to the minister of education that Pelletier's teaching certificate be suspended for a period of four months were appropriate orders for penalty in the circumstances of this case, the hearing committee had concerns that a more significant penalty was warranted in order to protect students, the profession and the public interest.

5. In particular, in the precedent case referenced by Hackman, where a four-month period of suspension was ordered, the unprofessional conduct was between a principal and his staff. The committee considered that in this case, the power differential was between a teacher and his students, a considerably more significant imbalance of power.
6. When this concern was put to the parties, Hackman indicated that he did not have concerns with the penalty being increased to a six-month period of ineligibility for Association membership and a recommendation for a six-month period of suspension of teaching certificate. Pelletier requested that a fine be considered instead of an increased period of suspension.
7. The committee determined that in light of the significant power differential between Pelletier and his students, a more significant penalty was warranted than in the precedent case involving unprofessional conduct between a principal and his staff. The committee declined to order a fine as no fine was ordered in the relevant precedent case. Instead, the committee determined that the period of ineligibility for Association membership and the recommendation for suspension of teaching certificate should both be increased to six months.
8. The committee also considered that some of the students who were most affected by Pelletier's comments and actions were vulnerable due to their stage of social development and due to a variety of personal circumstances.
9. The impact of Pelletier's comments and actions was significant and detrimental to the health, well-being and French language educational opportunities of several students.
10. The committee determined that the penalty given for such a range and depth of unprofessional conduct must provide specific deterrence to Pelletier and general deterrence to members of the teaching profession.

Dated at the City of Edmonton in the Province of Alberta, June 1, 2016.

THE ALBERTA TEACHERS' ASSOCIATION

DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST TIMOTHY WAYNE PENNER

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Timothy Wayne Penner of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, May 29, 2003 at 0900.

Ernie C Clintberg presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee.

1. Timothy Wayne Penner is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about November 7, 2001, was convicted of an indictable offence under Part XIX of the Criminal Code of Canada to wit: between the 1st day of November, 1999, and the 31st day of January, 2000, both dates inclusive, at or near Airdrie, Alberta, being in a position of trust or authority towards Student A, a young person, did for a sexual purpose, touch directly the body of the student, with part of his body, to wit: his hands, contrary to section 153(1)(A) of the Criminal Code.
2. Timothy Wayne Penner is charged with unprofessional conduct contrary to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, in or near the town of Airdrie in the Province of Alberta, between the months of October 1999 and February 2000, engaged in a relationship of a sexual nature with Student A, a young person who was a student at the school where he taught, thereby failing to act to treat the pupil with dignity and respect and with consideration of her circumstances.
3. Timothy Wayne Penner is charged with unprofessional conduct contrary to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, in or near the town of Airdrie in the Province of Alberta, between the months of October 1999 and February 2000, engaged in a relationship of a sexual nature with Student A, a young person who was a student at the school where he taught, thereby failing to act in a manner which maintains the honor and dignity of the profession.

In the absence of the investigated member, a plea of “not guilty” to all charges was entered on his behalf.

DECISION OF THE HEARING COMMITTEE

The hearing committee of the Professional Conduct Committee considered the three charges before it and ruled as follows:

1. Charge 1—Guilty
2. Charge 2—Guilty
3. Charge 3—Guilty

REASONS FOR DECISION

1. T Penner was convicted of an indictable offence under section 153(1)(A) of the Criminal Code of Canada.
2. By engaging in inappropriate actions and conversations of a **sexual** nature with students, T Penner failed to treat the students with dignity and respect and violated his position of trust as a teacher.
3. By engaging in inappropriate actions and conversations of a **sexual** nature with students, T Penner failed to maintain the honor and dignity of the profession. Resulting extensive newspaper coverage that detailed the incidents also brought dishonor to the profession.

PENALTY

1. On Charges 1 and 2, given the circumstances of this case, the hearing committee would normally impose on T Penner a cancellation of his membership in the Alberta Teachers' Association. However, T Penner is not currently a member of the Association; therefore, the committee declares that T Penner is ineligible for membership in the Alberta Teachers' Association, henceforth. The committee also recommends to the minister of learning that T Penner's teaching certificate be revoked indefinitely.
2. In addition, on Charge 2, the committee imposes a fine of \$1,500.
3. On Charge 3, the committee imposes a fine of \$1,000.

REASONS FOR PENALTY

1. T Penner's actions resulted in his conviction of an indictable offence under section 153(1)(A) of the Criminal Code of Canada.
2. By engaging in inappropriate actions and conversations of a sexual nature with students, T Penner failed to treat the students with dignity and respect and violated his position of trust as a teacher.
3. By engaging in inappropriate actions and conversations of a sexual nature with students, T Penner failed to maintain the honor and dignity of the profession. Resulting extensive newspaper coverage that detailed the incidents also brought dishonor to the profession.
4. Any suggestion that the young persons in question were willing participants in no way would absolve T Penner from his obligations as a teacher and person in authority. It was his duty to discourage such conversations and actions. He did just the opposite.
5. T Penner did not cooperate with the investigating officer.
6. The penalties are consistent with other similar fact cases.

Dated at the City of Edmonton in the Province of Alberta, Thursday, May 29, 2003.

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE

IN THE MATTER OF AN APPEAL BY TIMOTHY WAYNE PENNER OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE WITH RESPECT TO CHARGES OF UNPROFESSIONAL CONDUCT AGAINST HIM

The Professional Conduct Appeal Committee reports that the appeal by Timothy Wayne Penner of the decision of the hearing committee of the Professional Conduct Committee with respect to charges of unprofessional conduct against him was heard in accordance with the *Teaching Profession Act*. The appeal hearing was held at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, September 15, 2003. The hearing commenced at 0915 after being delayed 10 minutes to allow the appellant extra time to arrive, no notice of his intention to attend or not having been received.

Professional Conduct Appeal Committee members present were Greg T Atkinson (chair), Beth Malcolm-Worsfold, Ed G Somerville and Helen A Stewart. Richard W Rand of Frohlich Rand Kiss was counsel to the committee, Marvin E Hackman was secretary and Leslie A Kaun was recorder. Ernie C Clintberg represented Provincial Executive Council. The appellant was not present and was not represented by legal counsel.

CONSTITUTION AND JURISDICTION

There were no objections to either the constitution of the committee or its jurisdiction to hear the appeal by either the respondent or by the appellant in his written submission.

SUBMISSION OF THE APPELLANT

1. The appellant submitted his notice of appeal by way of an undated letter, submitted by fax and showing a fax transmittal date of June 26, 2003. The letter was addressed to Gordon R Thomas, the executive secretary of the Alberta Teachers' Association.
2. The appellant, in his letter of appeal, stated that he understood the finding of guilt on Charge 1 and the penalty assigned by the hearing committee of the Professional Conduct Committee given the finding of his guilt of an indictable offence by the court.
3. The appellant appealed the finding of guilt on Charges 2 and 3, apparently arguing that all three charges stemmed from the same events. Further, he denied that the events in question ever occurred despite the finding of guilt by the court.

4. The appellant also appealed the penalties imposed on Charges 2 and 3, arguing that the penalties were excessive for the following reasons:
 - a) The loss of his teaching certificate was an adequate penalty without any assignment of fines.
 - b) The hearing committee's finding that the newspaper coverage was "extensive" was incorrect.
 - c) He did not state that the students in question were willing participants.
 - d) He disagrees with the assessment that he was uncooperative with the investigating officer.

SUBMISSION OF THE RESPONDENT

1. The hearing committee of the Professional Conduct Committee acted within its authority.
2. T Penner acknowledged that he had been found guilty of an indictable offence and that he therefore understood the hearing committee revoking his membership in the Association and recommending the revocation of his teaching certificate.
3. T Penner, by his actions, failed to treat the students involved with dignity and respect.
4. T Penner's actions were extensively covered by the media as evidenced by more than 20 articles appearing in the province's four largest newspapers. This coverage brought dishonor to the profession.
5. The charges were separate and distinct and dealt with different issues:
 - a) being charged with an indictable offence,
 - b) failing to treat the students with dignity and respect and
 - c) failing to maintain the honor and the dignity of the profession.
6. The penalties imposed by the hearing committee were consistent with similar fact precedent cases. E Clintberg cited seven such cases.
7. T Penner continued to deny his guilt, failed to demonstrate remorse and, as such, failed to take responsibility for his actions.
8. T Penner was not cooperative with the investigating officer. While T Penner met with the investigating officer, he refused to accept the facts presented to the courts leading to his conviction of the indictable offence.

9. The reference to consent not being a mitigating factor for sexual contact with students, referred to an observation by the court in its decision, not to a comment made by T Penner.

DECISION OF THE COMMITTEE

The Professional Conduct Appeal Committee rejected the appeal of the convictions on Charges 2 and 3 and upheld the guilty verdicts. The committee further rejected the appeal on penalty and upheld the penalties imposed, including the two individual fines of \$1,500 and \$1,000, totalling \$2,500. The committee confirmed the finding of guilt and penalty related to Charge 1, recognizing that the appellant's submission did not contest this charge.

REASONS FOR DECISION

1. T Penner's submission provided no cogent argument as to why the findings of guilt should be reversed. The Professional Conduct Appeal Committee rejected the arguments which might have been inferred from the appellant's letter of appeal.
2. Although the three charges arose from the same circumstances, they related to three distinct breaches of professional conduct under the *Teaching Profession Act*:
 - a) T Penner was convicted of an indictable offence.
 - b) T Penner failed to treat the students in question with dignity and respect.
 - c) T Penner harmed the honor and dignity of the profession.
3. The penalties imposed by the hearing committee of the Professional Conduct Committee were within its authority and were consistent with penalties imposed in similar fact cases.
4. The appeal committee found that the scope of newspaper coverage was extensive.
5. The appeal committee found the statement that any willing involvement of the victim could not be a defence was consistent with the law and the decision of the court. However, the committee further agreed with the position taken by the hearing committee that a teacher must actively discourage the type of conversations and actions which occurred.
6. While the level of T Penner's cooperation might be subject to interpretation, T Penner's lack of remorse and unwillingness to take responsibility for his actions were evident.
7. The committee could find no palpable error by the hearing committee in either the findings of guilt or the penalties imposed, having regard to all the circumstances of this case.

Report of the Hearing Committee of PCAC
T W Penner, page 4

Dated at the City of Edmonton in the Province of Alberta, Monday, September 15, 2003.

REPORT OF THE HEARING PANEL
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST GORDON W PICKUP

The hearing panel of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Gordon W Pickup of Spruce Grove, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was first convened by telephone conference call originating in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, September 11, 1997 at 0900. Professional Conduct Committee members serving as the hearing panel were E M Pilling (chair), R J Ritz and R R St Jean. R Y Palichuk of Field Atkinson Perraton was counsel to the hearing panel, E L Hjelter was secretary and L A Kaun was recorder. V A Riewe was the prosecuting officer. All parties named participated in the conference call.

The accused did not participate in the conference call. Legal counsel for the accused, R J A Gregory of Davidson Gregory, did not participate in the conference call but submitted a written request for adjournment on the basis that the accused was in custody awaiting trial on criminal charges. Prosecuting officer, V A Riewe, supported the request for adjournment. The hearing panel granted an adjournment until criminal proceedings against the accused could be concluded with the proviso that the hearing may reconvene if criminal proceedings were not completed by February 28, 1998.

APPOINTMENT OF NEW HEARING PANEL

Since the accused was convicted of an indictable offence, the original hearing panel was unable to proceed to hear the case as it lacked a public member, as specified under the *Teaching Profession Act*. The executive secretary dissolved the panel and appointed a new hearing panel to include a public member.

RESUMPTION OF HEARING

The hearing panel of the Professional Conduct Committee convened in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, December 16, 1997 at 0900. Professional Conduct Committee members present as the hearing panel were J H Lummis (chair), G G Buxton and S L Antonini. R W Rand of Frohlich Rand Kiss was counsel to the hearing panel, E L Hjelter was secretary and L A Kaun was recorder. V A Riewe presented the case against the accused. The accused was neither present nor represented by legal counsel. The secretary informed members of the panel that correspondence had been received from

Report of Hearing Panel of PCC
Gordon W Pickup, p 2

R J A Gregory indicating that neither R Gregory nor G Pickup would be in attendance at the hearing. (Exhibit 1) The hearing panel was satisfied that the accused was properly notified that he and legal counsel representing him, or either of them, could attend the hearing. The hearing proceeded.

The hearing panel was informed that a ban on publication of the name of the victim identified in Charges 1, 2, 3 and 5 had been imposed by the courts. Thus the hearing panel decided to refer to the student named in Charges 1, 2, 3 and 5 as Person X.

CONSTITUTION/JURISDICTION

There was no objection either to the constitution of the hearing panel or its jurisdiction to hear the case.

PLEA

The following charges were read by the secretary to the hearing panel:

1. Gordon W Pickup is charged with unprofessional conduct contrary to the *Teaching Profession Act* in that he, on or about the 3rd day of November, 1997 in Stony Plain, Alberta, plead guilty to and was convicted of an indictable offence under the Criminal Code of Canada to wit: On or between the 1st day of October, A.D. 1996, and the 1st day of March, A.D. 1997, at or near Spruce Grove, in the Province of Alberta, being in a position of trust or authority towards (Person X) a young person, did for a sexual purpose, touch directly the body of (Person X), a young person, with a part of his body, contrary to the provisions of section 153 (a) Criminal Code. (Court Docket No. 70799754P10101)
2. Gordon W Pickup is charged with unprofessional conduct contrary to the *Teaching Profession Act* in that he, on or about the 3rd day of November, 1997 in Stony Plain, Alberta, plead guilty to and was convicted of an indictable offence under the Criminal Code of Canada to wit: On or about the 5th day of August, A.D. 1997, at or near Edmonton, in the Province of Alberta, did being at large on his undertaking given to a justice and being bound to comply with a condition of that undertaking directed by the said justice fail without lawful excuse to comply with that condition to wit: to have no contact directly or indirectly with (Person X), contrary to Section 145(3) of the Criminal Code. (Court Docket No.

71097372P101)

3. Gordon W Pickup is charged with unprofessional conduct contrary to the *Teaching Profession Act* and Clause 4 of the Code of Professional Conduct in that he did not treat (Person X), a student, with dignity and respect and was not considerate of her circumstances.

4. Gordon W Pickup is charged with unprofessional conduct contrary to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, failed to treat a student, [Student name redacted.] with dignity and respect and to be considerate of her circumstances.

5. Gordon W Pickup is charged with unprofessional conduct contrary to the *Teaching Profession Act* and Clause 18 of the Code of Professional Conduct in that he, while a member of The Alberta Teachers' Association, failed to act in a manner which maintains the honor and dignity of the profession by his conduct in relation to (Person X) and [Student name redacted.]

The prosecution requested that Charge 5 be revised to delete "in relation to Person X and [Student name redacted.]". The hearing panel declined to accept the revision on the grounds that no prior notice of amendment had been communicated to the accused.

As the accused was not present and had made no plea, a plea of "not guilty" to the charges was entered.

WITNESSES

The prosecution called [Student name redacted.] Person X's father and Person X's mother. [Student name redacted.] [Student name redacted.] sworn testimony was provided by speaker phone from the offices of the Canadian Teachers' Federation in Ottawa, Ontario, Canada.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. G Pickup was a member of The Alberta Teachers' Association at the time of the offences. (Exhibits 1A and 6)

2. G Pickup was employed as a teacher by Parkland School Division No 70 from 1981 until 1997. (Exhibits 1A and 5)

3. G Pickup taught at [School name redacted.] during the 1990/91 and the 1996/97 school years. (Exhibits 1A and 4)

4. [Student name redacted.] attended [School name redacted.] during the 1990/91 school year. [Student name redacted.] was a [Grade redacted.] student in G Pickup's [Specific class subject redacted.] (Exhibit 4)

5. Late in the semester, G Pickup asked [Student name redacted.] to stay after school to read a poetry assignment aloud. There were no other students present. [Student name redacted.] found this situation embarrassing and uncomfortable. G Pickup indicated to [Student name redacted.] that he had been thinking about her and that there was something about her that appealed to him. (Exhibit 4)

6. On a subsequent occasion, G Pickup asked [Student name redacted.] to stay after school. G Pickup indicated that he wished to meet [Student name redacted.] in a small book room beside his [Specific class subject redacted.] room. At this meeting G Pickup told [Student name redacted.] that he loved her. G Pickup took [Student name redacted.] hand and stated "No, I really love you". G Pickup said this several times. (Exhibit 4)

7. After these incidents, [Student name redacted.] feared that G Pickup would approach her again. [Student name redacted.] indicated that she changed her behavior when dealing with G Pickup. She ensured that she left class with other students and was not the last student out of the classroom. [Student name redacted.] made a point of not going to the book room or staying after school. (Exhibit 4)

8. In testimony [Student name redacted.] indicated that she is now 22 years old.

9. Testimony indicated that Person X attended [School name redacted.] during the 1996/97 school year. Person X was born [Student full birthdate redacted.]

10. During the 1996/97 school year, Person X was a [Grade redacted.] student who was enrolled in G Pickup's [Specific class subject redacted.] She participated in an [Specific class subject redacted.] class offered by G Pickup after school. (Exhibit 1A)

11. Testimony indicated that G Pickup and Person X were involved in a production of [Specific event redacted.]

Specific event redacted.

12. Following production rehearsals, G Pickup drove Person X home frequently. G Pickup began telephoning Person X at home on a regular basis. Testimony indicated that not all the telephone calls related to school matters.

13. On at least two occasions when G Pickup was driving Person X home from after-school activities, G Pickup's vehicle was observed parked at the side of the road in the vicinity of Person X's family's residence. Person X was observed to be in the vehicle.

14. In testimony, it was indicated that during October and November of 1996, Person X exhibited personality and behavior changes. These included sleeplessness, not eating well and not interacting with family and friends. Her grades deteriorated.

15. Person X's parents became suspicious of her relationship with G Pickup.

16. On 1996 11 16, Person X attended a Specific event redacted. Person X's parents indicated they would come into Spruce Grove and pick up their daughter. Person X's parents did not receive a phone call to pick up their daughter.

17. Person X returned home at approximately 4:00 am the next morning.

18. Person X's parents met with G Pickup on 1996 12 06 and expressed concerns regarding their daughter's relationship with G Pickup. Person X's parents requested that G Pickup have no further phone contact or after school meetings with their daughter. Person X's parents indicated to G Pickup that they would provide transportation for Person X.

19. In Person X's room, Person X's mother discovered correspondence written to Person X from G Pickup. The correspondence was dated after the 1996 12 06 meeting between Person X's parents and G Pickup. (Exhibits 1A and 10)

20. In testimony Person X's mother indicated she had discovered, in Person X's room, a motel receipt dated 1996 11 16, the same day as the Specific event redacted.

21. Person X's parents contacted Principal name redacted. principal of School name redacted. School and David Young, superintendent of Parkland School Division No 70. Person X's parents provided evidence of G Pickup's relationship with their daughter. Person X's parents were advised that G Pickup would be confronted by school authorities with the evidence and escorted from school property.

Report of Hearing Panel of PCC
Gordon W Pickup, p 6

22. Person X became estranged from her parents. (Exhibit 1A)
23. Person X went on a Specific event redacted. from early March to early June.
24. In early June, Person X returned home from Geographic location redacted.
25. A restraining order was issued by the courts. It specified that G Pickup was to have no contact directly or indirectly with Person X. (Exhibit 8)
26. Person X enrolled in a summer school program at School name redacted.
27. Person X's parents became suspicious that G Pickup was violating the restraining order by contacting their daughter at school.
28. On 1997 08 05, Person X's father observed G Pickup meeting with Person X behind School name redacted. School name redacted. Person X's father videotaped the meeting and contacted the police.
29. Person X went missing on 1997 08 05. Person X turned up at her grandmother's home in Edmonton on 1997 08 16.
30. Person X did not complete her summer school program. Testimony indicated that Person X has not returned to school.
31. During the fall of 1997, G Pickup continued a relationship with Person X. (Exhibit 1A and 9)
32. On 1997 11 03, G Pickup plead guilty in court to indictable offences under sections 145(3) and 153(a) of the *Criminal Code*. (Exhibits 1A, 7, 8 and 9)
33. The criminal charges and convictions for two indictable offences received much media coverage. G Pickup was identified as a teacher. (Exhibit 16)
34. Testimony indicated that all the events and circumstances relating to G Pickup's relationship with Person X caused a great deal of stress and anxiety for Person X's family.

DECISION OF THE HEARING PANEL

Charge 1 - Guilty
Charge 2 - Guilty
Charge 3 - Guilty
Charge 4 - Guilty
Charge 5 - Guilty

REASONS FOR DECISION

Charge 1 - G Pickup was convicted of an indictable offence under the *Criminal Code* of Canada and is guilty of unprofessional conduct.

Charge 2 - G Pickup was convicted of an indictable offence under the *Criminal Code* of Canada and is guilty of unprofessional conduct.

Charge 3 - As a teacher in a position of trust, G Pickup established, maintained and continued a romantic relationship with a student, Person X. On his initiative, this relationship continued in spite of the request of Person X's parents that G Pickup terminate the relationship. G Pickup chose to continue the relationship even after a court issued restraining order. Person X became estranged from her parents as a result of her relationship with G Pickup. Person X's education and health suffered.

Charge 4 - By his actions and behavior toward Student name redacted. G Pickup did not treat her with dignity and respect. G Pickup placed Student name redacted. in a position that caused the student distress. G Pickup's advances interfered with the maintenance of an appropriate student/teacher relationship.

Charge 5 - By initiating inappropriate touching and a romantic relationship with two female students, G Pickup failed to uphold the honor and dignity of the profession. Resulting newspaper and media coverage that detailed the incidents brought dishonor to the profession.

PENALTY

The hearing panel of the Professional Conduct Committee imposes the following penalties on G Pickup:

Charge 1 - cancellation of G Pickup's membership in The Alberta Teachers' Association, a recommendation to the minister of education that G Pickup's teaching certificate be cancelled and a fine of \$4,000.

Charge 2 - cancellation of G Pickup's membership in The Alberta Teachers' Association, a recommendation to the minister of education that G Pickup's teaching certificate be cancelled and a fine of \$2,000.

Charge 3 - a letter of severe reprimand and a fine of \$1,000.

Charge 4 - a letter of severe reprimand.

Charge 5 - cancellation of G Pickup's membership in The Alberta Teachers' Association, a recommendation to the minister of education that G Pickup's teaching certificate be cancelled and a fine of \$1,000.

REASONS FOR PENALTY

1. G Pickup was convicted of two indictable offences under the *Criminal Code* and is guilty of unprofessional conduct under s.22(2) of the *Teaching Profession Act*.

2. Teachers who are convicted of indictable offences bring dishonor and disrepute to the profession.

3. A teacher should not be engaged in sexual relationships with students. Society views such actions as repugnant and reprehensible. G Pickup's actions showed disregard for societal expectations of teachers.

4. Society has the right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. G Pickup exploited vulnerable female students who viewed their teacher as an understanding, caring and trustworthy adult.

5. Teachers who engage in such deplorable activities create negative impacts on families and the

Report of Hearing Panel of PCC
Gordon W Pickup, p 9

teaching profession.

6. There is no evidence that G Pickup accepts responsibility for his behavior or has demonstrated remorse.

7. The court proceedings received widespread media coverage which brought dishonor and disrepute to the profession.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, January 13, 1998.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST RAYMOND JULES ROUTHIER

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Raymond Jules Routhier of Lethbridge, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, February 3, 2000 at 0900.

Professional Conduct Committee members present as the hearing committee were G G Buxton (chair), D E J Arnold, L S Krause and S Antonini. R Y Palichuk of Neuman Thompson was counsel to the hearing committee, E L Hjelter was secretary and L A Kaun was recorder. M A Kurucz presented the case against the investigated member. The investigated member was neither present nor represented by counsel.

A number of documents were entered as exhibits on R Routhier's behalf. The committee was apprised of a court publication ban concerning any information that might lead to identification of the victim.

CONSTITUTION/JURISDICTION

The prosecution did not object to either the constitution of the committee or its jurisdiction to hear the matter.

PLEA

The following charge was read by the secretary to the hearing committee.

Raymond Jules Routhier is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about 1999 03 29 plead guilty to and was convicted of an indictable offence under section 151 of the *Criminal Code* to wit: Between 1994 09 01 and 1998 06 26 at or near Lethbridge, Alberta, being in a relationship of trust or authority towards or in a relationship of dependence with a female student under the age of fourteen years, who was a student in the same school during 1994 09 01 to 1998 06 26 and who was a student Redacted to protect student identity. during the 1994-95 school year, did,

for a sexual purpose, touch directly or indirectly, with a part of his body or with an object, parts of her body, contrary to section 151 of the *Criminal Code*.

In the absence of the investigated member, a plea of "not guilty" to the charge was entered on his behalf.

WITNESSES

No witnesses were called.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. R Routhier was a member of The Alberta Teachers' Association and was employed as a teacher with Lethbridge RCSSD No 9 and then with Holy Spirit CSRD No 4 from the beginning of the 1977/78 school year to the end of the 1998/99 school year. (Exhibits 4 and 8)
2. Between 1994 09 01 and 1998 06 26, R Routhier developed an intimate relationship with a student while he was her teacher at School name redacted. The student was under the age of fourteen. (Exhibits 8, 9 and 21)
3. The relationship commenced with R Routhier providing moral support to the student. R Routhier admitted that the relationship progressed to hugging, kissing the student's cheek, giving back and shoulder massages and touching the student's breasts.
4. R Routhier took the student on a camping trip in the summer of 1997. R Routhier and the student slept in the same tent but in separate sleeping bags. R Routhier touched the student's breast while he thought the student was asleep. (Exhibits 9 and 21)
5. In the summer of 1997, R Routhier and the student went on another outing. While driving the student home, R Routhier placed his hand on the student's leg. The student slapped R Routhier's hand. (Exhibits 9 and 21)
6. R Routhier was charged with, and plead guilty to, an indictable offence of sexual interference under section 151 of the *Criminal Code*. (Exhibits 5 and 6)

DECISION OF THE HEARING COMMITTEE

Guilty.

REASONS FOR DECISION

1. R Routhier was convicted of an indictable offence under the *Criminal Code* and therefore, is guilty of unprofessional conduct under Section 22(2)(a) of the *Teaching Profession Act*.

PENALTY

The Professional Conduct Committee imposes the following penalty:

1. That R Routhier's membership in The Alberta Teachers' Association be canceled and that he be declared ineligible for future membership
2. That a recommendation be sent to the minister of learning requesting that R Routhier's teaching certificate be canceled

REASONS FOR PENALTY

1. A teacher convicted of an indictable offence brings dishonor and disrepute to the profession.
2. Society has a right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. R Routhier violated this trust relationship.
3. A teacher should not be engaged in inappropriate intimate relationships with students. Society views such actions as repugnant and reprehensible. R Routhier's actions showed disregard for societal expectations of teachers.
4. R Routhier plead guilty in court to the criminal charge. He took responsibility for his actions by taking the initiative to notify the Association of his conviction.

Report of the Hearing Committee of PCC
Routhier, page 4

5. Extensive correspondence submitted on behalf of R Routhier demonstrated that R Routhier was respected as a teacher and a member of the community.

Dated at the City of Edmonton in the Province of Alberta, Thursday, February 3, 2000.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST [SR]

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against [SR] of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada commencing on Monday, January 22, 2018 at 0900.

Professional Conduct Committee members present as the hearing committee were Wayne Prokopiw (chair), Sharalynn Anderson and Sheila Fraser. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Ernest Clintberg was secretary and Leslie Kaun was recorder, assisted by Sudeep Dua. Konni deGoeij presented the case against the investigated member. The investigated member, [SR], was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the hearing committee.

CHARGES AND PLEA

The presenting officer, deGoeij, provided amended charges. Within the partial agreed statement of facts, [SR] acknowledged she had received a copy of the amended charges. The committee accepted the amendments to the original charges.

The following amended charges were read aloud by the secretary to the hearing committee:

1. [SR] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2011/12 school year through to the end of September 2012, engaged in a social relationship outside the school with a student, [Student A], which was inappropriate to an acceptable teacher–student relationship.
2. [SR] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2011/12 school year through to the end of September 2012, engaged in regular text messaging and telephone calls with a student, [Student A], and transported the student, all of which were inappropriate to an acceptable teacher–student relationship.

[name redacted]– Principal (retired)

1. [Principal] was the principal of [School A] for three years (2009 to 2012). He had 30 years of teaching experience with Calgary School District No 19.
2. [Principal] presented himself as empathetic. He has a background in working with troubled students and [Principal] observed Student A was troubled. Student A was from a broken family, and he used drugs and alcohol. He was a non-academic student who did not make good choices in general. He appeared not to be fully supported by his family. [Principal] commented he tried to work with Student A and tried to help Student A appreciate his own worth.
3. [Principal] commented [SR] was a dedicated, kind, compassionate and astute teacher. [SR] allowed students in her room at lunch which was against school policy.
4. [SR] approached [Principal] to discuss working with Student A. [Principal] advised her to keep proper boundaries and never to be alone with Student A. Doors were to remain open at all times. However, [SR], did not take [Principal]’s cautions to heart. “In many aspects, she did her own thing.” he said.
5. At no time did [Principal] direct [SR] to work with Student A or transport Student A.
6. When [SR] asked [Principal] if she could advocate on behalf of Student A, he said it was not a problem. However, he noticed expressions of concern from other teachers regarding [SR]’s relationship with Student A.
7. [SR] was not the resource teacher and [Principal] said he never assigned her to work with Student A.
8. [Principal] said the inappropriate relationship between [SR] and Student A offended his “normative sense of right and wrong.” He was distressed these events happened under his leadership.
9. [Principal] confirmed, under oath, that his signed statement dated December 7, 2017, was accurate and true (Exhibit 8, tab 2).

[name redacted] – Assistant Principal and Grade Partner with [SR]

1. [Assistant principal and grade partner] testified she had 21 years of teaching experience with Calgary School District No 19. She was assistant principal and part-time Grade 1 partner with [SR] during the second half of the 2011/12 school year. She was responsible for the resource role, working with staff, students and families to support students emotionally, behaviourally and academically (Exhibit 8, tab 3, page 1).

2. [Assistant principal and grade partner] said she observed [SR] had “interesting relationships with junior high students and regularly hung out with them in a different way. I thought it odd Student A was hanging out in the Grade 1 class.”
3. [Assistant principal and grade partner] said when she arrived at the school in January 2012, she observed [SR] had deeply entrenched relationships with her teaching colleagues and these relationships began to “fall apart” as the year progressed. They were struggling with [SR]’s relationship with Student A and began to question [SR]’s decision to spend all of her non-instructional time with one student, Student A. [SR] was not part of Student A’s tutorial team (Exhibit 8, tab 3, page 2).
4. [Assistant principal and grade partner] addressed her concerns with [SR] on more than one occasion. She said [SR]’s relationship and interventions with Student A were “getting more out of hand.”
5. [Assistant principal and grade partner] testified [SR] took Student A under her wing and it was almost like he became part of her family. [Assistant principal and grade partner] further testified, [SR] and Student A had a close relationship in that he “hung out” with her a lot. She took him to the mall and the zoo and fed him. [Assistant principal and grade partner] stated [SR] felt Student A was troubled and needed a mother figure.
6. [Assistant principal and grade partner] said that on one occasion in September 2012, when she saw Student A in the school, she asked Student A why he was in the school and he responded, “just checking in with Ms [SR].” She said she found this odd as Student A was no longer a student at Rideau Park School.
7. [Assistant principal and grade partner] confirmed, under oath, that her signed statement dated December 8, 2017, was accurate and true (Exhibit 8, tab 3).

Dean Vause – Executive Director, Alberta Adolescent Recovery Centre (AARC)

1. Vause is the executive director of the AARC in Calgary. He has 28 years’ experience working with troubled youth. His doctoral dissertation was about the development and implementation of a clinical model for treating adolescents with addictions. His doctoral work formed the foundation of the AARC.
2. The AARC’s program has 600 graduates, over 26 years, with an 80 per cent success rate.
3. Vause spent considerable time with Student A and he was one of Vause’s “top 10” cases of 600 graduates. This close relationship was confirmed when Vause said he saw Student A on Christmas Day 2017.

4. Vause said that during a counselling session, Student A disclosed he had sexual intercourse with a teacher. Vause said, while Student A felt the sexual relationship was consensual, the AARC staff reported the disclosure to the Calgary Police Service, as per the law.
5. When Vause was asked if Student A's account about the relationship between himself and [SR] ever deviated, Vause replied emphatically, "No!"
6. Vause said Student A came as a client who was "trapped, confused, damaged and deep in the pathology of his addictions." However, Student A can be charming and smooth with a dark side and "does not understand his own arrogance."
7. Vause's professional opinion was Student A's sexual relationship with his teacher, [SR], damaged him at a significant developmental stage.
8. Vause provided his evidence orally; there was no written statement.

Student B

1. Student B was a Grade 9 student at [School A] during the 2011/12 school year. He described himself as not fitting in with the other kids. He was "not sporty or preppy." Student A was a friend who "smoked and walked" with Student B at school. Outside of school, they smoked, drank and were trouble, according to Student B's testimony.
2. Student B joined [SR]'s band class part way through the school year. He described her as an upbeat peppy teacher. [SR], he said, was outgoing and would sit down and talk.
3. Towards the end of the first semester, Student A started spending lunch hours in the band room with Student B.
4. Student A disclosed to Student B he was "dating the band teacher." At first Student B didn't believe Student A; however, he saw Student A grab [SR] and kiss her. From that point he observed frequent and friendly interactions (Student B's testimony).
5. Student B's testimony was congruent with his signed written statements.
6. Student B confirmed, under oath, that his signed statements dated February 18, 2016 and December 6, 2017, are accurate and true (Exhibit 8, tab 4).

[name redacted] – Friend of Student A and Parent A

1. [Friend] is a family friend of Parent A and Student A. Parent A and [Friend]'s partner, [name redacted], have been friends since childhood. [Friend] has known Parent A for 15 years.

[Friend] and [Partner] are trusted people Student A could call if Parent A was not available ([Friend]'s testimony).

2. [Friend] said that as a younger child, Student A was "smart, witty, athletic and into music." She said Student A later made a "180 change" in his behaviour. He got into rap music and he "walked the talk." She added he was still funny, smart and easy to talk to. "You would often forget how young he was" she said.
3. In consideration of the demographic area of Calgary that the school was in, Student A was having difficulty "infiltrating and making new friends." ([Friend]'s testimony).
4. Initially, when [Friend] heard about [SR], she thought [SR] was an advocate and confidant for Student A ([Friend]'s testimony).
5. [Friend] testified that Student A knew more than a 14-year-old student should know about his teacher.
6. [Friend]'s testimony was congruent with her signed written statement.
7. [Friend] confirmed, under oath, that her signed statement dated December 14, 2015, was accurate and true (Exhibit 7, tab 13).

Parent A

1. Parent A is the father of Student A. He lives in Calgary.
2. There was discontent between Student A and his mother and step-father resulting in Student A's moving to Calgary to live with Parent A in September 2011.
3. Parent A first met [SR] at an autumn 2011 parent/teacher meeting. There was palpable tension in the air between the staff members attending the meeting. While [SR] did not teach Student A, she was at the meeting and advocated for Student A.
4. Parent A assumed that Student D, a Grade 9 student at [School A], was present when [SR] and Student A were together outside of school. He believed Student A may have been dating Student D.
5. Parent A recalled making arrangements for Student A to attend Sylvan Learning Centre. There were times when he drove Student A to the sessions. At other times the grandmother of Student A drove Student A. However, he never asked [SR] to drive his son at any time but she did so of her own volition. Parent A received charges from Sylvan Learning Centre for a "substantial number" of missed appointments on Student A's part. He said one or two missed

appointments would make sense but he found the other missed appointments curious and unexplained.

6. Parent A initially perceived [SR] as a positive female role model for his son.
7. Parent A testified that prior to Student A's disclosure of a sexual relationship in October 2012, "I was in high enough denial that (I thought) a change in scenery would change the situation. I wanted her name (Ms [SR]) disappeared for a while over the summer."
8. Following Student A's admittance to AARC, Parent A cleaned out the closet in Student A's bedroom and found, among other things, drug paraphernalia and several empty liquor bottles.
9. Parent A, upon reflection of his son's inappropriate relationship with [SR], said "How naïve was I. It is not something that came into the psyche." He added, [SR]'s relationship with his son was "catastrophic and diabolical and inexplicable."
10. Parent A's testimony was congruent with his written signed statements.
11. Parent A confirmed, under oath, that his signed statements dated November 27, 2015 and December 8, 2017 are accurate and true (Exhibit 7, tab 10).

Student A

1. When Student A enrolled at [School A] in September 2011, he saw himself as a little wilder than the other students. He and his best friend, Student B, "hung out lots in school and evenings: mall, girls, smoke, dope, drink ...teenager stuff."
2. Student A was clear that he did not date Student D; however, he briefly dated Student E for three weeks, somewhere in the time period of January to March 2012.
3. Student A described personal information shared with him by [SR]. These included her abuse as a child, the couple's counselling she was in with her husband, a previous affair she had had, the tracking device her husband had put on her car as a result of the affair, a miscarriage of her child, the tattoo she had on her lower back, her bra size and her previous drug use. He commented that the "sex toy talk weirded me out."
4. Student A testified [SR] became jealous about him seeing another girl. He thought [SR] was concerned that he would become attached to the girl, Student F, and talk about his sexual relationship with [SR]. He said that [SR] commented, "I'm a woman ...don't see other girls ...just be with me."

5. Student A recalled having a conversation with [SR] when she spoke to him about the iPhone note, “You are having an affair with me and you are complaining. Give your head a shake.” Later in testimony he stated, “I was trying to spend less time with her, because she was such a fucking headache.”
6. Student A testified, “I wasn’t on my way to becoming a scholar, anyway ... I probably would have gotten into drugs and alcohol anyway, she made it quicker and more accessible. My relationships today are fucked. It is clear that my relationship with [SR] did fuck up my relationships.”
7. While the committee understood, at all times, that Student A’s evidence had to be approached with caution, Student A’s testimony was congruent with his written signed statements and was internally and externally consistent.
8. Student A confirmed, under oath, that his undated statement and another signed statement dated December 7, 2017 are accurate and true (Exhibit 8, tab 5).

Rich Wiebach – Calgary Police Service Detective

1. Wiebach is a detective with Calgary Police Service, assigned to the child abuse unit. He has served for more than 12 years, has extensive forensic intervention training and has interviewed over 300 people under the age of eighteen.
2. Wiebach first met Student A in 2012 when he interviewed him regarding his disclosure during a counselling session. He interviewed Student A formally three times and met with him again for the Crown’s preparation before [SR]’s trial. While the criminal charges against [SR] were directed to trial post preliminary inquiry, they were eventually stayed.
3. Wiebach testified Student A was consistent at each interview, remembering other events and new details through his narrations. Wiebach initially thought Student A’s account was implausible but with more interviews and evidence, the story was corroborated.
4. When Wiebach met with Student B, he found Student B’s account of events to be generally consistent with that of Student A.
5. Wiebach, through the investigation, also interviewed Parent A, [Partner], [Friend], Grandmother of Student A and several members of the [School A] staff.
6. Wiebach said it was unfortunate that they (Student A and Student B) did not get a chance to be heard in court, because he believed he had put together a case that had grounds for the conviction of [SR].
7. Wiebach provided his evidence orally; there was no written statement.

Greg Francis – Superintendent of Human Resources, Calgary School District No 19

1. Francis is superintendent of Human Resources and general counsel for the school district.
2. Francis began his investigation of [SR]’s conduct in September 2015, after the Crown had stayed the charges against [SR].
3. Francis said there was nothing incredible about Student A’s account of events. Student A provided sufficient details that the relationship he described was plausible. Student A never gave Francis any reason to disbelieve his account of events.
4. Francis said “Everyone cooperated,” “No one added things. The story started to reinforce itself, as others were interviewed.”
5. Francis said Student A was more credible than [SR]. “In my opinion, she ([SR]) had a relationship that went way beyond what I would expect a teacher would have with a student.” Francis said he was convinced [SR] had a sexual relationship with Student A.
6. Francis said, “I don’t think she [[SR]] appreciated how much trouble she was in.”
7. Francis recalled that Student A was, “not contradicted by any one or any concrete fact. To his credit, he admitted to the drug selling and use. I might not trust him in other aspects but I would trust him in this.” Further, he said “alcoholics and drug users can still tell the truth.”
8. Francis, in a subsequent interview with [SR], confronted her with forensic evidence of her many text messages and phone calls with Student A. This led [SR] to offer her resignation.
9. Francis provided his evidence orally; there was no written statement.

Credibility of Witnesses

1. [Principal]

[Principal], although appearing agitated, was articulate and consistent within his testimony when recalling detail and facts. He was motivated by his sense of duty to appear and testify in the case. He was troubled that these events had occurred under his leadership at the school.

2. [Assistant principal and grade partner]

[Assistant principal and grade partner] presented details confidently and concisely. Her testimony was internally and externally consistent.

3. Student B

Student B appeared nervous throughout his testimony. However, he offered basic details without embellishments. His testimony was externally consistent with other witnesses and his comments were consistent with his written testimony.

4. Dean Vause

Vause was confident and spoke from a position of authority based on experience and education. He has created a program for adolescents with substance abuse issues and could, therefore, provide a context for who Student A was and the effects related to this case. His testimony was believable as it was externally consistent with other witnesses.

5. [Friend]

[Friend] was outspoken, expressive and passionate in her presentation of her testimony. She was articulate and provided extensive details that were corroborated by her written statement and the testimony of other witnesses.

6. Parent A

Parent A was articulate and his testimony was consistent externally. Despite his dejection and exasperation with the circumstances and difficulty recalling some details, he provided a consistent, larger picture of the events which was corroborated by his written statement and the testimony of other witnesses.

7. Student A

Student A appeared confident and was articulate. His testimony was consistent with his written statement. He provided considerable detail regarding events that were corroborated by other witnesses' written statements and testimony.

8. Rich Wiebach

Wiebach presented himself as comfortable, calm and aware. He spoke with confidence and the authority of a police officer having more than 12 years of experience and training specific to child abuse investigation. His testimony consistently corroborated that of other witnesses.

9. Greg Francis

Francis presented himself as confident. He had extensive knowledge of the case and his testimony consistently corroborated the statements and testimony of other witnesses. Francis has worked in the Human Resources department of the Calgary school district for a number of years.

His written statement and testimony demonstrated his knowledge and experience as an investigator.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

Charge 4—Guilty

Charge 5—Guilty

REASONS FOR DECISION

Charge 1

1. [SR] purchased many gifts of a personal nature for Student A.
2. Uninvited, [SR] attended the shopping excursion during which Parent A bought a suit for Student A. While in the store, she cradled Student A's head on her shoulder.
3. [SR] purchased lunch for Student A on many occasions, while driving him around in her vehicles.
4. On one occasion, [SR] brought soup to Student A when he was ill, at home.
5. [SR] admitted, in the agreed statement of facts, that she had crossed boundaries of an acceptable teacher–student relationship with Student A.
6. [SR] shared with Student A intimate details regarding her personal life that were inappropriate to an acceptable teacher–student relationship.

Charge 2

1. On many occasions, [SR] drove Student A to liquor stores, to a drug paraphernalia store and on casual “Doobie Cruises.”
2. [SR] avoided interactions with other adults when she picked up Student A in her vehicle.
3. The preponderance, nature and time of day that [SR] exchanged text messages and phone calls with Student A far exceeded the context of an acceptable teacher–student relationship.

4. When presented with concrete evidence of her text messaging and phone calls with Student A, by the superintendent, [SR] resigned her teaching position.

Charge 3

1. [SR] engaged in sexual inducement, stimulation and intercourse with Student A on many occasions, in many locations, over an extended period of time, spanning nine months.

Charge 4

1. On several occasions, [SR] smoked marijuana in the company of Student A:
 - a) [SR] shared a pipe of marijuana with Student A on one occasion.
 - b) [SR] smoked joints of marijuana with Student A in her van at Fish Creek Park, at another student's home and at a cemetery.

Charge 5

1. [SR] allowed up to three students, on various occasions, to smoke marijuana and cigarettes in the vehicles she drove.
2. [SR] purchased alcohol for students and allowed students to drink alcohol in the vehicles she drove.
3. [SR] allowed students to drink alcohol and smoke marijuana in her presence, at their homes and in parking lots around the city.

SUBMISSION ON PENALTY

The presenting officer, deGoeij, submitted the following recommendations on penalty:

Charge 1—Recommendation to the minister of education for cancellation of [SR]'s teaching certificate, a declaration of ineligibility for membership in the Alberta Teachers Association and a fine of \$1,500.

Charge 2—Recommendation to the minister of education for cancellation of [SR]'s teaching certificate, a declaration of ineligibility for membership in the Alberta Teachers Association and a fine of \$1,500.

Charge 3—Recommendation to the minister of education for cancellation of [SR]'s teaching certificate, a declaration of ineligibility for membership in the Alberta Teachers Association and a fine of \$5,000.

3. [SR] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2011/12 school year through to the end of September 2012, engaged in sexual contact with a student [Student A].
4. [SR] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2011/12 school year through to the end of September 2012, smoked marijuana in the company of a student, [Student A].
5. [SR] is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during the 2011/12 school year through to the end of September 2012, allowed students to use illegal drugs in her presence.

[SR] entered her plea to each of the charges, by written submission, as follows:

Charge 1—guilty

Charge 2—guilty

Charge 3—not guilty

Charge 4—not guilty

Charge 5—not guilty

WITNESSES

[Principal] (retired)

[Assistant principal and grade partner]

Student B—former student

Dean Vause—executive director, Alberta Adolescent Recovery Centre

[Friend]—adult friend of Student A and Parent A

Parent A—father of Student A

Student A—former student

Rich Wiebach—detective, Calgary Police Service

Greg Francis—superintendent, Human Resources

EXHIBITS FILED

Exhibit 1—Declaration of awareness of rights, signed by [SR] and deGoeij, dated December 23, 2017

Exhibit 2—Letter to [SR] confirming deGoeij's request to amend charges

Exhibit 3—Amended charges

Exhibit 4—Notice of hearing and Canada Post confirmation of delivery on October 2, 2017

Exhibit 5—Proof of [SR]'s membership in the Alberta Teachers' Association

Exhibit 6—Submission on plea

Exhibit 7—Partial agreed statement of facts with appendices

Charge 4—Recommendation to the minister of education for cancellation of [SR]’s teaching certificate, a declaration of ineligibility for membership in the Alberta Teachers Association and a fine of \$3,000.

Charge 5—Recommendation to the minister of education for cancellation of [SR]’s teaching certificate, a declaration of ineligibility for membership in the Alberta Teachers Association and a fine of \$4,000.

PENALTY

The committee imposed the following penalties:

Charge 1—Recommendation to the minister of education for cancellation of [SR]’s teaching certificate, a declaration of ineligibility for membership in the Alberta Teachers Association and a fine of \$3,000.

Charge 2—Recommendation to the minister of education for cancellation of [SR]’s teaching certificate, a declaration of ineligibility for membership in the Alberta Teachers Association and a fine of \$1,500.

Charge 3—Recommendation to the minister of education for cancellation of [SR]’s teaching certificate, a declaration of ineligibility for membership in the Alberta Teachers Association and a fine of \$10,000.

Charge 4—Recommendation to the minister of education for cancellation of [SR]’s teaching certificate, a declaration of ineligibility for membership in the Alberta Teachers Association and a fine of \$3,000.

Charge 5—Recommendation to the minister of education for cancellation of [SR]’s teaching certificate, a declaration of ineligibility for membership in the Alberta Teachers Association and a fine of \$5,000.

REASONS FOR PENALTY

1. By her own admission, [SR] engaged in an inappropriate social relationship with a student, outside the school.
2. Society expects that a teacher will form only appropriate relationships with students, which preserve the dignity and respect of students.
3. [SR] repeatedly failed to heed the advice of school administrators to be cautious in her relationship with students, particularly with Student A.

4. Due to the ongoing, extensive and reprehensible nature of [SR]’s social interaction with Student A, the committee declared [SR] ineligible for membership in the Association and recommended cancellation of her teaching certificate plus an assessed fine of \$3,000.
5. Society expects that a teacher will preserve the integrity and trust of the teacher–student relationship.
6. By her own admission, [SR] engaged in regular text messaging, phone calls and transporting of a student in a manner that was inappropriate to an acceptable relationship with a student.
7. Because of [SR]’s extensive text messaging often going into the early hours of the day, phone calls and inappropriate transport of the student, the committee declared her ineligible for membership in the Association and recommended cancellation of her teaching certificate plus an assessed fine of \$1,500.
8. Society expects that teachers will act in a manner that establishes and maintains appropriate boundaries in trust relationships with their students.
9. Teachers who engage in deplorable activities with students cause significant harm to their victims and families.
10. Society expects that teachers will not engage in sexual activities with students.
11. Because [SR]’s inappropriate sexual relationship with a student was continuous and prolonged, which caused developmental damage to the student, the committee assessed the maximum penalties.
12. Society expects that teachers will not contribute to the delinquency of minors.
13. Because [SR] repeatedly smoked marijuana with a student, the committee declared her ineligible for membership in the Association and recommended cancellation of her teaching certificate plus an assessed fine of \$3,000.
14. Because [SR] frequently allowed and enabled three students to use illegal drugs in her presence over a prolonged period of time, the committee declared her ineligible for membership in the Association and recommended cancellation of her teaching certificate plus an assessed fine of \$5,000.
15. [SR] did not take responsibility for her conduct for Charges 3, 4 and 5.
16. [SR] has not been apologetic and there is no evidence of her expressing any remorse related to any of the charges. Instead, [SR] accused Student A of being “a self-proclaimed perpetual liar and his stories and allegations do not have any backing.” Witness statements and testimony consistently proved otherwise.

Report of the Hearing Committee of PCC re [SR], page 22

17. Teachers have a responsibility to treat students with dignity and respect.

18. Teachers have a responsibility to maintain the honour and dignity of the profession.

Dated at the City of Edmonton in the Province of Alberta, Friday, March 16, 2018.

Submitted for release to public 2019 02 13

Report of the Hearing Committee of PCC re [SR], page 3

Exhibit 8—Exhibit binder for ND1305

Exhibit 9—Past discipline cases provided by deGoeij

PUBLICATION BAN

DeGoeij requested that a publication ban be imposed on names of the students and their families to protect their identities.

The committee decided to accept the recommendation and directed, for the purposes of this hearing, that the names of the students and family members not be shown in the committee's written decision.

CLOSURE OF A PORTION OF THE HEARING

The hearing was open to the public throughout, save and except for a period of approximately five minutes when the chair, at the request of a witness (concerned about confidentiality matters about to be entered as evidence), sought the exclusion of the media representative who was observing the hearing. That person complied with the request and was invited back into the hearing shortly thereafter.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED:

1. Service of notice of the hearing on [SR] was effected in compliance with the *Teaching Profession Act*.
2. During the time of the incidents that gave rise to the charges, [SR] was a teacher employed by Calgary School District No 19 (aka Calgary Board of Education), at [School A].
3. [SR] was a member of the Alberta Teachers' Association from January 1, 1998 to May 31, 2016 (Exhibit 5).
4. Student A was a student enrolled at [School A], in September 2011, in Grade 9.
5. [SR] taught Grade 1, band and music at [School A] during the time of the incidents. She was not assigned to teach Student A.
6. The teacher–student relationship developed in November 2011 when [SR] voluntarily offered to help Student A with his school work.

Charge 1

1. In the third week of September 2011, Student A moved from his mother and step-father's home in St Albert, Alberta, where things were not going well socially or academically, to live in his father's home in Calgary's [District A] (Exhibit 8, tab 5, page 2).
2. Student A was not doing well academically. He described himself as not a typical student and that he did not fit in with the other students at [School A]. "Right away," Student A said, "teachers did not like me."
3. Student A first met [SR] in October 2011 while setting up for the school's Halloween presentation (Exhibit 8, tab 5, page 2).
4. Student A was known as "the kid who smoked." [SR] approached him to speak about his smoking (Exhibit 8, tab 5, page 2).
5. [SR] further suggested that if Student A ever wanted to talk about anything, he could talk to her (Exhibit 8, tab 5, page 2).
6. About one week later, Student A was sitting in the hallway by the drama room and [SR] invited him to come to her room and talk (Exhibit 7, agreed statement, page 4).
7. At the end of their talk, [SR] gave Student A a hug which he did not perceive to be inappropriate (Exhibit 7, agreed statement, page 4).
8. A couple of times a week, [SR] took Student A out for fast food (Exhibit 8, tab 5, page 2).
9. [SR] shared personal information with Student A about her previous sexual abuse, her miscarriage in 2005, the tattoo on her lower back to recognize her lost child, sex toys used with her husband to spice things up, [SR]'s bra size, extra-marital affair and her recreational drug use (Exhibit 7, agreed statement, page 8).
10. [Friend] testified that when Student A was staying overnight at her house, [SR] came to pick up Student A early on Saturday morning. [Friend] saw [SR] parked up the street. However, [SR] never came to introduce herself, and Student A ran out and got in [SR]'s Mustang convertible (Exhibit 7, tab 13, page 1 and [Friend's] testimony).
11. Parent A, Student A's father, was with Student A and [another] one of Parent A's friends on a Saturday morning at the Deer Run Starbucks, sitting outside on the patio. [SR] drove up and parked away from the Starbucks. Student A told his father that his teacher was picking him and left to get into [SR]'s vehicle. Parent A testified that there was no adult interaction with him (Parent A's testimony, Exhibit 7, tab 10, page 1).

12. Parent A recalled that while shopping for a suit for Student A on a Friday, [SR] invited herself to attend. Parent A commented he thought it odd that when Student A was in the dressing room, he and [SR] had no common ground or common discussion. There was dead awkward silence. When Parent A was paying for the suit, he saw Student A “lean his head on [SR]’s shoulder and she cradled it.” Parent A said he thought it odd and that it “spooked me” (Parent A’s testimony and Exhibit 7, tab 10, page 1).
13. While in Los Angeles to attend a concert for Student A’s birthday, Student A asked for his father’s phone to call [SR]. Parent A said, “I obliged but was surprised by the request. I again thought something was amiss” (Exhibit 7, tab 10, page 1).
14. [SR]’s phone contact information was listed on Student A’s phone as “Mom.” (Exhibit 8, tab 5, page 8)
15. [SR] gave gifts to Student A including a large mounted “Scarface” poster from a pawn shop, jeans from Costco, rings, a belt, fast food from Wendy’s and Taco Bell, iPod (with [SR]’s husband’s name on it), a chain, a hat labelled “Cocaine and Caviar” and a set of speakers. Other purchases were made but are listed in Charges 4 and 5.
16. During the summer of 2012, [SR] wrote and shared an iPhone note with Student A, expressing her dissatisfaction with their relationship. She wrote:
 - a) “ ... plans have been broken”
 - b) “ ... disrespectful”
 - c) “Clearly you have a way with words and you play many people. I don’t want to be one of them. It hurts too much.”
 - d) “I miss the period 3 talks.”
 - e) “I have done nothing but show you kindness and love and care.”
 - f) “I have taken you places and purchased things for you against my better judgement and beliefs.”
 - g) “You’ve said many things lately to see if I’m jealous. A part of me is, and I shouldn’t be.”
 - h) “I have always made an extreme effort, often to the detriment of my own family, to see you.”
 - i) “I call, twice against my better judgement, and you’re not there.”
 - j) “I love you mum (emoji happy face)”(Exhibit 7, tab 14) (Student A’s testimony and Detective Wiebach’s testimony) (verified by agreed statement, Exhibit 7, page 11, item 30)

Charge 2

1. Between December 29, 2011 and July 18, 2012, there were approximately 700 telephone calls between [SR]’s cell phone and Student A’s cell phone (Exhibit 2, agreed statement, page 13 and tab 8).

2. Between June 30, 2012 and August 28, 2012, there were approximately 300 text messages exchanged between [SR]'s and Student A's cell phones. A significant number of the forensically recovered text messages were sent or received between 2300 hours and 0500 hours (Exhibit 7, agreed statement and tab 7).
3. The text messages were often obscure and vague (Exhibit 7, tab 7).
4. Text messages sometimes displayed familiarity as in the following examples:
 - "I think I've figured out a way to extend our time tomorrow if you want to go for a drive you like that don't you." Sent by [SR] to Student A at 0404 July 2, 2012.
 - "OK sweet boy I going to try to sleep" Sent by [SR] to Student A at 0420 July 2, 2012.
 - "Wanna go for a drive this morning" Sent by [SR] to Student A at 1031 July 12, 2012. (Exhibit 7, tab 7)
5. On July 6, 2012, while Student A was staying at [Friend]'s home, she observed Student A receiving text messages "all night long." According to [SR]'s agreed statement of facts, it was [SR] who was texting Student A (Exhibit 7, agreed statement, page 4, item 11 and tab 13, page 1 and [Friend's] testimony).
6. [SR] drove Student A to fast food places, Green Thumb (drug paraphernalia), the mall, Sylvan Learning Centre, to or from school, or they would "cruise" the streets together (Exhibit 7, agreed statement, page 14, item 14).
7. Student B stated "I recall two times that Ms [SR] drove us to a liquor store beside Ducky's pub ... and the liquor store beside the Green Thumb ..." (Exhibit 8, tab 4, page 1).
8. Student B stated, "In July 2012 Ms [SR] drove Student A and myself to either pick-up or sell marijuana. She was aware what we were doing because we told her and she still agreed to drive us." (Exhibit 8, tab 4, page 1).
9. Student B stated "Sometimes Ms [SR] would just take us out to drive around and smoke pot." (Exhibit 8, tab 4, page 2).
10. Student A stated "Most of the time [SR] would drive us around while Student C, Student B and I smoked pot. By this point, I was selling pot and [SR] used to drive me around the city picking up pot, making drops and collecting money." (Exhibit 8, tab 5, page 6).

Charge 3

1. From the initial hug, in the first week of November 2011, the relationship between [SR] and Student A progressed beyond the professional boundaries expected of a teacher-student relationship (Exhibit 7, agreed statement, page 4).

2. Initially, [SR] made arrangements to tutor Student A after school twice a week in her Grade 1 classroom (Exhibit 7, agreed statement).
3. Student A said he had begun to embellish his personal problems to have an excuse to talk with [SR] (Exhibit 8, tab 5, page 1).
4. [SR] approached the principal, [*name redacted*], regarding working with Student A during her preps. [Principal] cautioned [SR] to be careful and leave the doors open at all times. ([Principal's] testimony).
5. [SR] began to provide Student A with gifts (as previously mentioned).
6. The first evidence of intimacy occurred when [SR] and Student A planned to meet at South Centre Mall during the December 2011 Christmas break. Student A said the intent was for the two of them to "hang out and cuddle" and they did so, in the back of [SR]'s Astrovan (Exhibit 8, tab 5, page 1).
7. "After Christmas (2011)," Student A said, "the topics of our conversations became pretty personal. [SR] told me about how she was abused as a child by her father and about an affair she had several years ago with a man she had met at Nashville North (Exhibit 8, tab 5, page 1).
8. In March 2012, [SR] and Student A made plans to meet and smoke marijuana at Fish Creek Sacomy (sic) Lake. They laid together in the back of the Astrovan, sexually stimulating each other. At a certain point, she stopped and said, "We should not do this. I can't think about you this way." (Exhibit 8, tab 5, page 1).
9. A week later, [SR] and Student A were in the band room, massaging each other, when [SR] indicated she was getting aroused and they decided to take a drive. They drove in her Astrovan to St Mary's Church parking lot where they performed oral sex on each other (Exhibit 8, tab 5, page 2).
10. Student A said, "Beginning around the time I met her at South Centre Mall, and continuing up until the end of the Grade 9 school year, I would meet [SR] in her band room during Period 3 ...towards the end year we were having 'Period 3s' together several times a week. During these period 3s, I would digitally penetrate her and she would give me oral sex. [SR] said this was less disrespectful to her husband than having sex with each other. A lot of the time [SR] would coach me on what she liked, she would describe it to me and tell me what to do. I was 14 and didn't know a lot about sex." (Exhibit 8, tab 5, page 2).
11. Student B states he saw, towards the end of the first semester, Student A go up to [SR] and grab her by the waist and kiss her. "She was mad but didn't freak out." (Exhibit 8, tab 4, page 2).

12. After Student B found out about the nature of [SR]'s and Student A's relationship, he was asked to keep a lookout when they went into the band room office. He testified he would "screw up" playing rhythms on the drum set and make lots of noise to alert them when others were coming in (Exhibit 8, tab 4, page 2 and Student B's testimony).
13. Toward the end of the school year (2012), Student B and Student A met [SR] at the Stampede Grounds. Inside the van, [SR] moved to the back of the van where Student A was. Student B stayed in the front seat. Student A said "check this out." Student B turned around and saw [SR] performing oral sex on Student A (Student B's testimony).
14. At the end of the school year, [SR] picked up Student A to attend the Grade 9 Farewell at the Glencoe Club. "We ended up having sex in her car before going into the Glencoe." (Student A's testimony and Exhibit 8, tab 5, page 4).
15. In August 2012, [SR] met up with Student A and they ended up having sex before he went to meet another girl (Exhibit 8, tab 5, page 6).
16. After returning from a vacation in the USA, [SR] met with Student A for the purpose of giving him cigarettes she brought back from the USA. Their meeting ended with digital penetration and oral sex (Exhibit 8, tab 5, page 6).
17. Late one night after [SR] had volunteered at a casino, she came to Student A's home and had "full on sex" and then she left (Student A's testimony).
18. Throughout September 2012, [SR] came to Student A's home at lunch, or after school, regularly. "...we were having a lot of sex." (Exhibit 8, tab 5, page 7).

Charge 4

1. In March 2012, [SR] and Student A went to Fish Creek Sacomy (sic) Lake and "smoked a couple of joints and lay in the back of the Astrovan together." (Exhibit 8, tab 5, page 1).
2. The following Saturday, [SR] and Student A met at Erlton Park Stampede Station around 11:30 am. They drove to the top of the nearby cemetery and "smoked a couple of joints outside the van." (Exhibit 8, tab 5, page 2).
3. Another time, after Student A had purchased a new pipe, they smoked marijuana and "it was super windy and we had a hard time getting it lit, but we managed to and we both got stoned." (Exhibit 8, tab 5, page 2).
4. Shortly before spring break in 2012, at Student B's house, [SR], Student A and Student B "were all at Student B's getting stoned after school." (Exhibit 8, tab 5, page 3).

5. Student A stated “In late April or early May 2012, [SR] and I smoked pot together at Student B’s house.” (Exhibit 8, tab 5, page 4).
6. Student B stated “Though Ms [SR] only smoked marijuana with us a few times, she did get high other times because we were using a hot box or blowing smoke in her face.” (Exhibit 8, tab 4, page 1).
7. Student B stated “I know she smoked with us at least once towards the end of the school year but she got weird when she got high so we were okay with her not wanting to smoke a lot.” (Exhibit 8, tab 4, page 2).

Charge 5

1. Student B stated “Sometimes Ms [SR] would just take us out to drive around and smoke pot. We’d call these ‘Doobie Cruises.’ Ms [SR] would not smoke with us but she was fine with us smoking in the car.” (Exhibit 8, tab 4, page 2).
2. Student B commented [SR] would often pick them up (Student A and Student B) to go on a “Doobie Cruise” or to go get cigarettes or alcohol (Exhibit 8, tab 4, page 1).
3. Student B stated, whenever Student A would call her ([SR]) to buy us smokes, “she’d drive to wherever we were and pick them up for us.” (Exhibit 8, tab 4, page 2).
4. Student B stated, in reflection, “there were moments that felt like we were living the plot of a movie, driving around smoking pot in our teacher’s car.” (Exhibit 8, tab 4, page 2).
5. Student A and Student B were smoking pot when [SR] went to Student B’s house to pick up her copy of a video game after school. They were smoking pot and playing video games when she arrived (Exhibit 8, tab 4, page 2).
6. Student B stated, in the summer of 2012, [SR] drove Student A, Student B and Student C (a student attending Western Canada High School) around on “Doobie Cruises” (Exhibit 8, tab 4, page 2).
7. Student B, Student C and Student A would frequently smoke pot in [SR]’s vehicles. Student B commented they would drink alcohol in front of her, in her car, at their houses and in parking lots (Student B’s testimony and Student A’s testimony).
8. Student A stated that in August 2012, Student C, Student B, Student A and [SR] spent time together. “Most of the time [SR] would drive us around while Student C, Student B and I smoked pot.” (Exhibit 8, tab 5, page 6).
9. Student A said [SR] “knew that we were minors but we drank in her car right in front of her. She knew how much booze I was drinking.” (Student A’s testimony).

THE ALBERTA TEACHERS' ASSOCIATION

DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST DARYL SAMETZ

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Daryl Sametz of Regina, Saskatchewan (formerly of Bassano, Alberta) were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, June 19, 2014.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Daryl Sametz is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about February 2009 to December 2010, attended as a referee at school events at which he appeared intoxicated, thus acting in a manner which failed to maintain the honour and dignity of the profession.
2. Daryl Sametz is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about September 2006 to March 2011, attended at school after he had been drinking, smelling of alcohol and acting in an inappropriate manner towards staff and students, thus engaging in activities that adversely affected the quality of the teacher's professional service.
3. Daryl Sametz is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about September 2006 to March 2011, made derogatory statements toward students, in front of other students and staff, thus failing to treat students with dignity and respect.
4. Daryl Sametz is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about September 2006 to March 2011, bullied and intimidated staff, thus acting in a manner that failed to maintain the honour and dignity of the profession.
5. Daryl Sametz is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about

September 2006 to March 2011, criticized the professional reputation of colleagues contrary to section 13 of the Code of Professional Conduct.

6. Daryl Sametz is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about September 2006 to March 2011, attended various social functions where he behaved in an intoxicated and aggressive manner, thus acting in a manner detrimental to the best interests of the profession.

The presenting officer, Kruk, withdrew Charges 1, 2 and 6 and to support that action, submitted a letter from Sametz's doctor stating that his actions with respect to those charges were attributable to a medical condition, specifically alcoholism.

Sametz entered a plea of guilty to each of Charges 3, 4 and 5 by written submission.

The hearing committee noted that the exhibits referred to the remaining charges (3, 4 and 5) as Charges 1, 2 and 3 and, in some other places as (a) (b) and (c). However, for the purpose of this decision, those charges remain as originally identified, ie, Charges 3, 4 and 5.

DECISION OF THE HEARING COMMITTEE

Charge 3—guilty
Charge 4—guilty
Charge 5—guilty

REASONS FOR DECISION

Charge 3

1. By his own admission and as described in the evidence set out in the agreed statement of facts, Sametz repeatedly used inappropriate language and profanity when referring to students, thus failing to treat students with dignity and respect, and failed to be considerate of their circumstances.
2. By his own admission and as described in the evidence set out in the agreed statement of facts, Sametz repeatedly used inappropriate language and profanity when addressing students, thus failing to treat students with dignity and respect, and failed to be considerate of their circumstances.
3. Students, parents and the public have the right to expect that teachers will treat students with dignity and respect and in a manner that is considerate of their circumstances. Sametz failed

to fulfill that expectation and, as such, engaged in unprofessional conduct pursuant to the *Teaching Profession Act*.

Charge 4

1. By his own admission, and as described in the evidence set out in the agreed statement of facts, Sametz did bully and intimidate staff, thus acting in a manner that failed to maintain the honour and dignity of the profession.
2. Sametz, using profanity, berated a staff member for providing assistance to a student who was not in the staff member's regular class, thus acting in a manner that failed to maintain the honour and dignity of the profession.
3. Sametz did place his hand on a female staff member's thigh during a staff function, thus acting in a manner that failed to maintain the honour and dignity of the profession.
4. Sametz, during staff meetings, would ask for staff input. Sametz was then impatient, interrupted staff members, rolled his eyes, swore and asked if they could get on with the meeting, thus failing to be respectful of his colleagues and acting in a manner that failed to maintain the honour and dignity of the profession.
5. The hearing committee recognizes that there are various appropriate leadership styles. However, regardless of style, the committee believes that an administrator must strive diligently to maintain the collegiality and respect of the staff members to which the administrator is responsible. Sametz's actions in using profanity towards staff members, berating them and ignoring their input failed to meet this standard and as such, his actions amount to unprofessional conduct as defined in the *Teaching Profession Act*.

Charge 5

1. Sametz undermined the confidence of students in a teacher by repeatedly criticizing his professional competence in the presence of students in a manner that was derogatory and demeaning and violates professional conduct standards as outlined in section 13 of the Code of Professional Conduct.
2. Sametz showed no respect for his vice-principal as part of the administrative team when he made comments at staff meetings that included "She is never here," and "I might as well run the school by myself," thus violating the professional conduct standards as outlined in section 13 of the Code of Professional Conduct.
3. Sametz made critical comments about diploma marks to teachers in front of students, thus violating the professional conduct standards as outlined in section 13 of the Code of Professional Conduct.

4. By his own admission, Sametz, at a Grasslands Leadership and Administration Development session, made a public comment about [name redacted] sexual orientation, which made other teachers who were present to hear the comment uncomfortable. This conduct was insensitive, inappropriate and unprofessional.
5. The hearing committee recognizes that there are various appropriate leadership styles. However, regardless of style, the committee believes that an administrator must strive diligently to maintain the collegiality and respect of the staff members to which the administrator is responsible. Sametz's open criticism of and lack of respect for teachers at his school and a fellow administrator failed to meet this standard and as such, his actions amount to unprofessional conduct as defined in the *Teaching Profession Act*.

PENALTY

The hearing committee received a joint submission on penalty recommending a severe letter of reprimand for each of Charge 3 and Charge 4 and a letter of reprimand for Charge 5.

After receiving the joint submission on penalty from the presenting officer, the committee went into caucus to consider the joint submission. After considering the joint submission, the committee reconvened the hearing and advised the presenting officer that it was considering imposing more serious penalties than those recommended in the joint submission on penalty. In particular, the committee advised that it was considering imposing a period of suspension and a fine.

As Sametz was not present at the hearing at this time, arrangements were made for Sametz to be connected into the hearing by phone. Sametz was advised that the committee was considering the more serious penalties of suspension and a fine. Both Kruk and Sametz were then given an opportunity to provide submissions on the committee's advice that it was considering more serious penalties than those recommended by the parties in the joint submission.

Kruk indicated that he considered including a period of suspension in the joint submission on penalty but that in his review of the relevant precedent cases dealing with similar charges, none of these cases had imposed suspensions. Rather, most precedent cases dealing with similar charges imposed severe letters of reprimand.

Sametz advised the committee that he was extremely regretful for his actions and that his alcoholism had an effect on his patience which led him to be short and abrupt with his staff. He noted that for 31 years he had given his heart and soul to education. Sametz was concerned about the possibility of the committee ordering a fine as he indicated that he was currently struggling to make ends meet. He indicated that he was presently drawing employment insurance, trying to find an alternate income and trying to rebuild his life.

The committee considered the submissions provided by Kruk and Sametz and Sametz's apology for his actions, but felt that the penalty proposed remained too lenient, given the extensive nature of the offences and for the reasons set out below.

The hearing committee imposed the following penalty for Charge 3:

1. A letter of severe reprimand
2. A declaration of ineligibility for membership in the Alberta Teachers' Association for a period of six months
3. A recommendation to the minister of education to suspend Sametz's teaching certificate for a period of six months

The hearing committee imposed the following penalty for Charge 4:

1. A letter of severe reprimand
2. A declaration of ineligibility for membership in the Alberta Teachers' Association for a period of six months
3. A recommendation to the minister of education to suspend Sametz's teaching certificate for a period of six months.

It is the hearing committee's intention that the suspensions for Charge 3 and Charge 4 run concurrently so that the effective total suspension would be a period of six months.

The hearing committee imposed the following penalty for Charge 5:

1. A letter of severe reprimand

The hearing committee determined that a fine was ultimately not necessary as a penalty, both in consideration of Sametz's current financial circumstances and the fact that Sametz has already suffered financially as a result of the conduct described in the charges. As set out in the joint submission on penalty, Sametz resigned from his employment at Bassano School on March 31, 2011. He was then employed as the superintendent of schools for Meadow Lake Tribal Council from August 19, 2012 to March 17, 2014. Sametz was summarily dismissed from his employment on March 17, 2014 after the Meadow Lake Tribal Council received an anonymous letter outlining incidents that occurred at Bassano School during Sametz's employment there. He has since been unable to obtain employment in the education sector. As indicated both by Sametz in his submissions and in the agreed statement of facts, he is currently in receipt of employment insurance and pursuing small business interests in the construction field.

REASONS FOR PENALTY

The hearing committee chose to vary the penalty from that proposed in the joint statement on penalty for the following reasons:

1. Sametz engaged in intimidation, bullying and the use of profanity, on numerous occasions,

with numerous staff members and students. He continued these actions over a period of four and a half years.

2. Sametz used highly inappropriate and offensive language in front of, and about, students.
3. Sametz used highly inappropriate and offensive language in front of, and about, staff members.
4. Sametz's behaviour and comments had a profoundly negative impact on students and staff members.
5. Sametz's negative comments regarding a person's sexual orientation were offensive, insensitive and potentially damaging.
6. Sametz was in a leadership position and did not maintain the collegiality and respect of the staff members to whom he was responsible.
7. Sametz was in a leadership position and did not maintain a safe and caring environment for the students for whom he was responsible.
8. The committee also considered the following mitigating circumstances:
 - (a) The effects of Sametz's alcoholism
 - (b) The high price he has already paid for his actions
 - (c) His loss of employment due to his actions
 - (d) His apologies and the accountability he has shown for his actions by entering into an agreed statement of facts and acknowledging his unprofessional conduct
9. While the hearing committee commends Sametz for taking responsibility for his actions and taking steps to rebuild his life, the committee is of the view that the relevant mitigating factors must be weighed against the serious and prolonged nature of the conduct at issue. The conduct displayed by Sametz as set out in Charges 3, 4, and 5 was completely unacceptable for the leader of a school and negatively impacted both students and staff over a prolonged period. More weight must be put on these factors when determining penalty.
10. As such, when all of the above factors are considered, the hearing committee was of the view that a period of suspension was warranted in addition to the severe letters of reprimand.

Dated at the City of Edmonton in the Province of Alberta, June 20, 2014

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST FARYN SCHNAPP

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Faryn Schnapp of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, December 11, 2012, commencing at 0900.

Professional Conduct Committee members present as the hearing committee were Elaine Willette-Larsen (chair), Wouter Broersma and George Epp. Richard Rand, assisted by Greg Turner, both of Rand Kiss Turner, was counsel to the hearing committee, Gaylene Schreiber was secretary and Leslie Kaun was recorder. Cynthia Malner-Charest presented the case against the investigated member. The investigated member, Faryn Schnapp, was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Faryn Schnapp is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about March 2011, engaged in an inappropriate conversation with several female School name redacted. School students about tattoos and piercings and, in so doing, did not treat the students with respect and dignity and failed to show consideration for their circumstances.
2. Faryn Schnapp is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about December 2010, during the Christmas vacation break, engaged a former School name redacted. School student in a Skype online sexual conversation thereby failing to treat the student with respect and dignity and failing to show consideration for her circumstances.
3. Faryn Schnapp is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about December 2010, failed to uphold the honour and dignity of the profession when he used technology to interact with a student, during off-duty hours, for nonprofessional and inappropriate purposes.

4. Faryn Schnapp is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about March 2011, engaged in an inappropriate conversation with several female School name redacted. School students and, in so doing, failed to uphold the honour and dignity of the profession.
5. Faryn Schnapp is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about December 2010, during the Christmas vacation break, engaged a former School name redacted. student in a Skype online sexual conversation and, in so doing, failed to uphold the honour and dignity of the profession.

The investigated member entered a plea of guilty to each of the charges, by written submission.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

Exhibit 1—Notice of hearing

Exhibit 2—Canada Post confirmation of delivery, on October 24, 2012

Exhibit 3—Proof of Schnapp's membership in the Association from November 1, 2004 to March 31, 2011 inclusive

Exhibit 4—Declaration of awareness of rights, signed by Schnapp, dated December 04, 2012

Exhibit 5—Submission on plea, signed by Schnapp, dated December 04, 2012

Exhibit 6—Agreed statement of facts, signed by Schnapp and Malner-Charest, dated December 04, 2012

Exhibit 7—Package of media clippings, containing copies of news articles regarding the incident

Exhibit 8—Joint submission on penalty, signed by Schnapp and Malner-Charest, dated December 04, 2012

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Schnapp was a member of the Alberta Teachers' Association during the time of the incidents giving rise to the charges. (Exhibit 3)
2. Schnapp was employed as a teacher at School name redacted. from 2007 until August 2010, at which time he was transferred to School name redacted.. He taught at School name redacted. School until his resignation on March 11, 2011. (Exhibit 6)
3. While a member of the School name redacted. staff, Schnapp maintained his connection to School name redacted.. He volunteered with the fine arts department, held a key to the school and supervised students after hours. He stated a desire to return to employment at School name redacted. (Exhibit 6)

4. Schnapp maintained relationships with several colleagues and former students from School name redacted. (Exhibit 6)
5. Schnapp was known for the personal quality of his relationships with some of his students. He especially looked out for students who felt they had no place, the vulnerable. Schnapp often had students visiting in his classroom during lunch hour and during his preparation periods. (Exhibit 6)
6. Schnapp gave his cell phone number to one student, shared Facebook and Skype accounts with another student, exchanged text messages with yet another student and maintained e-mail contact with former students. (Exhibit 6)
7. Schnapp sometimes served as confidante, therapist or counsellor to some of his students. He also worked closely with the school counsellor by referring students who had confided in him. (Exhibit 6)
8. One Grade 12 student, who had been a student of Schnapp's in Grade 9 and in Grade 11, had maintained a relationship with Schnapp and his transfer to School name redacted. was difficult for her. She saw Schnapp as the guy she could talk to because he treated her like an equal. She described Schnapp as a safe person to talk to about her difficult relationship with her mother. (Exhibit 6)
9. When Schnapp transferred to School name redacted. she was no longer able to be in contact with him daily and only saw him at musical theatre practices. Even there she had far less contact with him than she hoped for. She described him as the only person she could totally trust and said she felt she lived a normal life because of him. They provided each other access to their respective Facebook accounts. (Exhibit 6)
10. On or about March 3, 2011, Schnapp was supervising students during prop construction for an upcoming play, and in a conversation with those Grade 10 to 12 students, relayed his knowledge of piercings and tattoos from his time as a medic/reservist with the armed forces. In this conversation, Schnapp referred to penile tattoos and clitoral piercings. Of the group of students, three were Grade 12 students and at least two of those were female. (Exhibit 6)
11. Schnapp realized after speaking that he had crossed a professional boundary so he redirected the conversation. In his mind, the conversation was an attempt to explain the risks of piercings. He did not intend the conversation to go in a sexual direction. He noted the students were of high school age, not four or five year olds. (Exhibit 6)
12. A female student who was involved in the conversation went, with her mother, to the principal of School name redacted. Principal name redacted., to question the professionalism of the teacher for engaging students in the subject matter. (Exhibit 6)

Report of the Hearing Committee of PCC re F Schnapp, page 4

13. Principal name redacted. confirmed the conversation occurred by interviewing three students who were part of the conversation. The coordinator of Human Resources, Pat Worthington, was called to investigate and subsequently interviewed two of the girls. (Exhibit 6)
14. The students interviewed said they thought it was a weird and inappropriate topic of conversation for a teacher to discuss. One of them commented that Schnapp had crossed the line. (Exhibit 6)
15. At various times during the investigation, Schnapp indicated he knew he had transgressed professional boundaries but he also, at times, diminished the significance of the conversation. (Exhibit 6)
16. On March 10, 2011, Schnapp divulged information about the investigation to his colleagues, Teacher name redacted. and Teacher name redacted. via telephone conversations with each of them. He then confessed to his colleagues that he had participated in a sexual, online interaction, via Skype, with a student during the 2010 Christmas holidays. (Exhibit 6)
17. The student with whom Schnapp engaged in the online conversation was a student he had previously taught and is the same student referenced in paragraphs 7 and 8 above, in this section. The student continued to attend School name redacted. and graduated in June 2011. (Exhibit 6)
18. Teacher name redacted., who viewed himself as a mentor to Schnapp, called Principal name redacted. that evening to report what Schnapp had revealed in their telephone conversation. He was very upset about what Schnapp had reported to him and felt an urgency to report the matter. (Exhibit 6)
19. Teacher name redacted. also viewed himself as a mentor to Schnapp and he felt stunned by the information. The student who was involved was one of Teacher name redacted. English 30 students. He reported the incident to Principal name redacted. on the morning of March 11, 2011, believing that Schnapp needed to be removed from contact with the drama students. (Exhibit 6)
20. The student who was involved in the Skype interaction revealed to Principal name redacted. that there was communication going on between her and Schnapp that included rude jokes, sexual innuendo and inappropriate questions. The student indicated that when she felt uncomfortable, she would ask Schnapp to stop and usually he would stop. (Exhibit 6)
21. The online sexual conversation consisted of text messages (no video or audio contact) which included each of the participants masturbating and revealing the masturbation to each other. (Exhibit 6)
22. Regarding the masturbation, the student said that Schnapp gave her an “assignment” to do while in the shower and when she came back online he asked her if she had performed those things. While she was telling him what she did in the shower, he told her he was masturbating. She said he had masturbated while speaking with her on other occasions and

when she asked if he had done this before, he said he had done this with former students who had graduated. (Exhibit 6)

23. The Skype incident occurred while the student's mother was away in Las Vegas. During this event, Schnapp asked the student to do audio but she resisted and said no. (Exhibit 6)
24. On March 11, 2011, Schnapp resigned from his teaching position with the Rocky View school division. (Exhibit 6)
25. The Royal Canadian Mounted Police engaged in a criminal investigation between March 2011 and July 2011 that was initiated by the mother of the student involved in the online sexual Skype interaction. A further complaint was brought forward to the RCMP by the school district. A police investigation concluded with no charges being laid. (Exhibit 6)
26. Throughout March 2011, several articles regarding the incidents were published in the *Calgary Herald*, *Calgary Sun*, *Rocky View Weekly* and *Metro Calgary publications* and appeared on the Rocky View school division website. The articles did not include the name of the teacher or the specifics of the incidents and inaccurately reported the teacher as being fired. Copies of nine articles were submitted as an exhibit. (Exhibit 7)
27. Schnapp contacted the Association in August 2011, after the conclusion of the criminal investigation of the incident, to indicate he was willing to cooperate in the Association's investigation. (Exhibit 6)

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty
Charge 2—guilty
Charge 3—guilty
Charge 4—guilty
Charge 5—guilty

REASONS FOR DECISION

Charge 1

1. Schnapp failed to treat students with dignity and respect and failed to show consideration for their circumstances when he, by his own admission, led a conversation with female students that included his references to penile tattooing and clitoral piercing.
2. Teachers are expected to refrain from conversations that do not have an appropriate pedagogical context, are highly personal or are likely to lead to the unnecessary discomfort of students. Teachers are expected to deal with controversial topics in a sensitive and judicious manner.

Report of the Hearing Committee of PCC re F Schnapp, page 6

3. The students themselves found the conversation inappropriate and weird and caused one student to question the professionalism of Schnapp.
4. Teachers are in a position of trust and authority and are expected to maintain appropriate social conduct with students.

Charge 2

1. Schnapp did not treat his former student with dignity and respect, nor was he considerate of her circumstances when he, by his own admission, initiated and sustained online sexual interaction with her via Skype text messaging.
2. Schnapp violated the trust relationship that he developed over time with this student, while knowing full well that she was emotionally vulnerable.
3. Teachers are expected to refrain from inappropriate and sexual interactions with students.
4. Teachers are expected to refrain from actions with students which serve only to fulfil their own gratification.
5. Teachers are expected to build and maintain healthy and trusting relationships and to recognize the position of trust and authority they hold with students.

Charge 3

1. Schnapp failed to uphold the honour and dignity of the profession when he, by his own admission, used technology to communicate with a student, for inappropriate and nonprofessional purposes, during off-duty hours.
2. Schnapp's misuse of technological communication created a situation where the student's vigilance was diminished and her trust was violated.
3. Schnapp's use of technology exacerbated the betrayal suffered by the student because the student should be able to expect an online space between teacher and student to be neutral and safe.
4. Schnapp's use of technology was neither safe nor neutral and therefore, undermined the honour and dignity of the profession.
5. Schnapp's use of technology to engage in self-gratifying sexual acts constituted a situation where he abused his power and corrupted his position of trust.
6. When Schnapp used technology for self-gratifying, sexual interaction involving a student, he undermined the honour and dignity of the profession.

Charge 4

1. Schnapp failed to uphold the honour and dignity of the profession when he, by his own admission, engaged with students in an inappropriate conversation that included references to genitalia. Such behaviour tends to reflect negatively on the profession as a whole.
2. Schnapp's conduct harmed the standing of the profession because a parent and a student complained about the incident and questioned the professionalism of the teacher.
3. Media reports about Schnapp's actions and the school district website posting, though not specific enough to identify either the teacher or the specific behaviour, served to undermine public confidence in teachers because it was noted that a teacher had lost his job due to unbecoming conduct.
4. Schnapp's conduct was unprofessional because it undermined the confidence of the community in teachers.

Charge 5

1. Schnapp harmed the honour and dignity of the profession by having an inappropriate relationship with a student.
2. Schnapp failed to uphold the honour and dignity of the profession when he, by his own admission, engaged in an online sexual conversation with a student. Such behaviour tends to reflect negatively on the profession as a whole.
3. The investigation and the resulting media reports drew negative attention to the teaching profession in this small community.
4. Teachers are expected to maintain the dignity of the profession by cultivating healthy student-teacher relationships. Through his actions, Schnapp failed to fulfil this expectation.

PENALTY

The hearing committee imposed the following penalty to address all five charges:

1. Schnapp is ineligible for membership in the Alberta Teachers' Association for a period of four years.
2. A recommendation shall be made to the minister of education to suspend Schnapp's teaching certificate for a period of four years.

REASONS FOR PENALTY

1. The hearing committee received a joint submission on penalty, recommending a three-year suspension of eligibility for membership in the Association and a three-year suspension of teaching certificate.
2. The committee concluded that the proposed penalty did not adequately address the severity of Schnapp's misconduct and its effect on students and the community.
3. Schnapp broke a fundamental trust placed upon teachers by society and damaged the public's faith in teachers.
4. Society has a right to expect that teachers will not establish inappropriate relationships nor have inappropriate conversations with students. Schnapp's actions clearly violated this expectation.
5. Schnapp's actions were deliberate and intentional and harmed students.
6. Through his actions, Schnapp brought dishonour and disrepute to the teaching profession.
7. The committee noted that Schnapp had acknowledged his wrongdoing and was cooperative in the investigation.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, December 11, 2012.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST DWAYNE EVAN SCHNELL

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Dwayne Schnell of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, December 9, 2019.

Professional Conduct Committee members present as the hearing committee were Heather Quinn (chair), Brice Unland and Abisola Adesanya. Richard Rand of Rand & Company LLP was counsel to the hearing committee, Lisa Everitt was secretary and Leslie Kaun was recorder. Genevieve Blais presented the case against the investigated member. The investigated member, Dwayne Schnell, was not present and was not represented by counsel.

PRELIMINARY MATTERS

Blais requested the hearing committee consider closing the hearing to the public, given the court ordered publication ban on the criminal proceedings (Exhibit 1). The hearing committee agreed to close the hearing.

Blais sought to withdraw the fourth charge because given the criminal charges and subsequent conviction, the fourth charge was redundant. The hearing committee agreed to allow the fourth charge to be withdrawn.

COMPOSITION/JURISDICTION

There were no objections to the composition of the hearing committee or its jurisdiction to hear the case.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Dwayne Evan Schnell is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about December 15, 2014 to February 22, 2017, engaged in conduct for which he, on July 10, 2018, was convicted of an indictable offence, to wit:

On or about the 15th day of December, 2014, and the 22 day of February, 2017, at or near Lethbridge, Alberta, did make available, distribute, sell, import, export, or possess for the purpose of transmission, making available, distribution, sale or exportation, child pornography, contrary to section 163.1(3) of the Criminal Code of Canada.

2. Dwayne Evan Schnell is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about September 1, 2015 to June 30, 2016, engaged in conduct for which he, on July 10, 2018, was convicted of an indictable offence, to wit:

Between the 1st day of September, 2015, and the 30th day of June, 2016, both dates inclusive, at or near Lethbridge, Alberta, did make, print, publish or possess for the purpose of publishing, child pornography, contrary to section 163.1(2) of the Criminal Code of Canada.

3. Dwayne Evan Schnell is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teacher's Association, on or about February 18, 2017, engaged in conduct for which he, on July 10, 2018, was convicted of an indictable offence, to wit:

On or about the 18 day of February, 2017, at or near Lethbridge, Alberta, did knowingly publish, distribute, transmit, sell, make available or advertise an intimate image of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct, contrary to section 162.1(1) of the Criminal Code of Canada.

Schnell entered a plea of guilty to each of the charges, by written submission (Exhibit 6).

WITNESSES

No witnesses were called.

EXHIBITS FILED

Exhibit 1—Orders restricting access or publication, re identity of complainant or witness or victims

Exhibit 2—Withdrawal of Charge 4

Exhibit 3—Notice of hearing and Canada Post confirmation of delivery on November 7, 2019

Exhibit 4—Confirmation of Schnell's membership in the Association from May 1, 2014 to August 31, 2017

Exhibit 5—Declaration of awareness of rights, signed by Schnell on November 18, 2019

Exhibit 6—Submission on plea, signed by Schnell on November 18, 2019

Exhibit 7—Conviction certificate file No 170883565P1-01-007

Exhibit 8—Conviction certificate file No 170883565P1-01-008

Exhibit 9—Conviction certificate file No 170883565P1-01-003

Exhibit 10—Agreed statement of facts between her Majesty the Queen and Dwayne Evan Schnell Docket No 170883565p1

Exhibit 11—Provincial Court of Alberta letter providing Exhibit S1 (redacted agreed statement of facts), dated June 28, 2019

Exhibit 12—Provincial Court of Alberta letter granting permission for use of Exhibit S1, with conditions, dated October 25, 2019

Exhibit 13—Submission on penalty, describing Schnell's awareness of Blais's recommendation, signed by Schnell, dated November 18, 2019

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Schnell was a member of the Association during the period May 5, 2014 to August 31, 2017 (Exhibit 4).
2. While Schnell was a member of the Association, and employed as a teacher in an Alberta public school jurisdiction, on or about December 15, 2014 to February 22, 2017, he engaged in conduct for which he, on July 10, 2018, was convicted of an indictable offence. Specifically, Schnell was found to have possession of, and did make available, distribute, sell, import, export, or possess for the purpose of transmission, making available, distribution, sale or exportation, child pornography, contrary to section 163.1(3) of the *Criminal Code* of Canada (Exhibit 9).
3. While Schnell was a member of the Association, and employed as a teacher in an Alberta public school jurisdiction, on or about September 1, 2015 to June 30, 2016, he engaged in conduct for which he, on July 10, 2018, was convicted of an indictable offence, to wit (that he) did make, print, publish or possess for the purpose of publishing, child pornography, contrary to section 163.1(2) of the *Criminal Code* of Canada. (Exhibit 8).
4. While Schnell was a member of the Association, and employed as a teacher in an Alberta public school jurisdiction, on or about February 18, 2017, he engaged in conduct for which he, on July 10, 2018, was convicted of an indictable offence, to wit (that he), did knowingly publish, distribute, transmit, sell, make available or advertise an intimate image of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct, contrary to section 162.1(1) of the *Criminal Code* of Canada (Exhibit 7).
5. The agreed statement of facts from the court makes it clear that Schnell knowingly engaged in the behaviours described in the charges of unprofessional conduct. The evidence is voluminous, explicit, and involved young children (Exhibit 10).

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—guilty

Charge 3—guilty

REASONS FOR DECISION

1. Schnell was convicted of three indictable offences under the *Criminal Code* of Canada sections 162.1(1), 163.1(2), and 163.1(3) and is therefore guilty of unprofessional conduct under section 23(2)(a) of the *Teaching Profession Act* (TPA) (Exhibits 7, 8, and 9).
2. The TPA section 23(2)(a) stipulates that if a member has been convicted of an indictable offence, the conduct of the member upon which the conviction is based is deemed to constitute unprofessional conduct.
3. Schnell admitted he is guilty of the charges of unprofessional conduct (Exhibit 6).

SUBMISSION ON PENALTY

Blais recommended as penalty for each of the charges, a declaration of permanent ineligibility for membership in the Alberta Teachers' Association and a recommendation to the minister of education that Schnell be declared permanently ineligible for teaching certification.

PENALTY

The hearing committee imposed the following penalties on Schnell:

Charge 1—Declaration of permanent ineligibility for membership in the Alberta Teachers' Association and a recommendation to the minister of education of permanent ineligibility for teaching certification

Charge 2—Declaration of permanent ineligibility for membership in the Alberta Teachers' Association and a recommendation to the minister of education of permanent ineligibility for teaching certification

Charge 3—Declaration of permanent ineligibility for membership in the Alberta Teachers' Association and a recommendation to the minister of education of permanent ineligibility for teaching certification

REASONS FOR PENALTY

1. Schnell was convicted of three indictable offences under the *Criminal Code* of Canada (Exhibits 7, 8 and 9).
2. If a member is convicted of an indictable offence, then the member is considered to be guilty of unprofessional conduct. The circumstances of these offences are repugnant. In addition, the activity occurred over many years, included several incidents of downloading, viewing, creating, and sharing child pornography.
3. Due to the egregious nature of the offences, and due to a teacher's position of trust with students, and due to a teacher's duty to act only in a manner that safeguards the interests of children generally, the hearing committee ruled that Schnell can no longer be eligible to be a member of the Alberta Teachers' Association, nor should he be considered suitable for certification.
4. Schnell's creation, possession, and distribution of child pornography falls grossly below the standards expected of teachers and the profession.
5. Schnell's actions showed disregard for society's expectations of teachers. Society and the profession view such actions as repugnant and reprehensible.
6. The committee recommends Schnell be permanently ineligible for a teaching certificate rather than recommend suspension or cancellation of his certificate. The committee recommends this because when Schnell was teaching, he held interim certification.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, February 4, 2020.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST JAMES ROY SCOTT

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against James Roy Scott of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada commencing on Tuesday, May 16, 2017 at 0900.

PRELIMINARY MATTER

The committee heard an application from the presenting officer to order a publication ban on the use of names of the teachers identified as victims in the charges. There was no objection by Scott to this request. The committee granted the request for a publication ban.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. James Roy Scott is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association and in a position of authority, during the 2013/14 school year, abused his position, given the power differential, in a relationship with a subordinate, namely [Teacher A], thereby failing to maintain the honour and dignity of the profession, contrary to section 18 of the Code of Professional Conduct.
2. James Roy Scott is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association and in a position of authority, between 2012 and 2014, abused his position, given the power differential, in a relationship with a subordinate, namely [Teacher B], thereby failing to maintain the honour and dignity of the profession, contrary to section 18 of the Code of Professional Conduct.
3. James Roy Scott is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association and in a position of authority, in 2009, made a sexual advance to a colleague, [Teacher C], thereby failing to maintain the honour and dignity of the profession, contrary to section 18 of the Code of Professional Conduct.

The investigated member entered a plea of guilty to each of the charges.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

REASONS FOR DECISION

Charge 1

1. By his own admission, Scott abused his position as a school principal to pursue a personal relationship with Teacher A and exploited the power differential between principal and teacher. The profession expects that school administrators will abstain from exploiting the superordinate/subordinate relationships they hold with teachers.
2. Scott made unwelcome remarks, compromising invitations and requests to Teacher A which eventually poisoned the professional relationship. School principals are expected to set a professional example for their colleagues through appropriate relational behaviours and relational parameters. Scott failed to do so.
3. Following Teacher A's rejection of his inappropriate advances, Scott made comments to Teacher A which were belittling and confrontational or caused her to feel foolish; he admitted he was playing games with her. Scott's actions violated the expected boundaries of a professional relationship between school principal and teachers.
4. When Scott made jokes which contained **sexual** connotations, he used language in a way that did not uphold the honour and dignity of the profession.
5. Scott's actions caused Teacher A to feel extremely uncomfortable, caused her to believe that her job security had been jeopardized and destroyed her trust in Scott's ability to serve as her supervisor or as a referee for future job advancement. Through his actions, he did not uphold the honour and dignity of the profession because he compromised the expectations of a relationship between principal and teacher.

Charge 2

6. Through his repeated and unwelcome pursuit of an intimate relationship with Teacher B, Scott violated the boundaries expected in a professional relationship between school principal and teachers.
7. Scott used the power differential between Teacher B and himself to influence her career decisions. He discouraged her from accepting employment offers and instead, encouraged her to wait to obtain a position at his school. The profession expects that school

administrators will abstain from exploiting the superordinate/subordinate relationship they hold with teachers.

8. Scott used his position of power to make overly personal and disparaging comments about Teacher B's appearance and habits of dress, comments which transgressed the professional boundaries between school principals and teachers.
9. Scott engaged in inappropriate conversations, invitations and requests in an attempt to further the personal relationship with Teacher B. This eventually caused her to feel manipulated and emotionally and mentally abused. Through these actions, Scott failed to uphold the honour and dignity of the profession.
10. Scott's actions caused Teacher B to feel uncomfortable and unsafe around Scott, and damaged Teacher B's trust in Scott's ability to serve as a mentor or supervisor for her or other teachers. Through his actions, Scott failed to uphold the honour and dignity of the profession because he failed to act appropriately given the relational power dynamics between principal and teacher.

Charge 3

11. While in a position of authority at the school and while in a mentoring relationship with Teacher C, Scott proposed a **sexual** relationship to Teacher C. He failed to uphold the honour and dignity of the profession because he attempted to exploit a mentoring relationship with a colleague for personal gratification.
12. Scott's actions profoundly upset both Teacher C and her husband. The profession expects that school leaders will not act toward colleagues in a manner that causes personal or marital distress. In causing this harm, Scott failed to act in a manner that upheld the honour and dignity of the profession.
13. Scott's proposition became known to Teacher C, her husband and Teacher B. Scott's actions tainted the dignity and honourableness expected within a professional mentoring relationship, which are expectations that these individuals would hold of school leaders.

PENALTY

The committee ordered a penalty of

1. a single letter of severe reprimand to address all three charges,
2. a declaration of ineligibility for membership in the Association for a period of two years and
3. a recommendation to the minister of education to suspend Scott's teaching certificate for a period of two years.

REASONS FOR PENALTY

1. Scott's manipulative behaviour constituted an egregious abuse of his authority, given the power differential between him and the teachers, and a harmful violation of relational boundaries that the profession expects between colleagues. This necessitates a significant penalty that both expresses the distaste the profession holds for this type of behaviour and protects the profession from future similar behaviour by Scott.
2. Scott's actions were repeated over a period of several years. Scott was an experienced teacher and school administrator with significant school leadership experience in several schools. This was not a youthful indiscretion, but an insidious and premeditated pattern of behaviour that warrants a very significant penalty.
3. Scott adopted a stance of covertness to avoid detection by the school staff. This indicated that he knew he was creating an untenable situation that caused harm to others. For this reason, a significant penalty is required to serve as both a specific and a general deterrent.
4. Scott's interference with the career aspirations and choices of Teacher A and Teacher B caused them to eventually feel they were in a precarious position as a result of his abuse of power. Teacher A and Teacher B also expressed that they felt emotionally and mentally abused, and experienced a loss of trust in their principal. Teacher C and her husband were also caused distress. The wide-ranging effects of Scott's deliberate choices require a significant penalty to address the harm to the profession and to the individuals.
5. The profession expects school leaders to act as role models for other staff and to act in a manner that is trustworthy and upholds the honour and dignity of the profession at all times. Scott's actions violated these expectations and besmirched the reputation of the profession among its own members. As a result, a significant penalty is in order to affirm the profession's expectations of its members.

Dated at the City of Edmonton in the Province of Alberta, Friday, June 16, 2017.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST ROBYN R SHEWCHUK

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Robyn R Shewchuk of Edmonton, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, December 11, 2003.

CHARGES AND PLEA

The following charge was read by the secretary to the hearing committee:

1. Robyn R Shewchuk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of The Alberta Teachers' Association, between the dates of November 1, 2001 and July 14, 2002, maintained an inappropriate relationship of a sexual nature with a student with whom she was in a position of trust and authority.

Defence counsel entered a plea of guilty on behalf of the investigated member.

DECISION OF THE HEARING COMMITTEE

The hearing committee accepted the plea of guilty submitted on R Shewchuk's behalf by her legal counsel.

PENALTY

The committee imposed the following penalty:

1. That R Shewchuk's membership in the Alberta Teachers' Association be cancelled
2. That a recommendation be made to the minister of learning that R Shewchuk's teaching certificate be cancelled

REASONS FOR PENALTY

1. R Shewchuk engaged in a seven-month sexual relationship with a male student, (age 15 at the onset of the relationship), a student in her Class subject redacted. thereby violating her position of trust and authority.
2. R Shewchuk engaged in a sexual relationship with a student. Society and the profession view these actions as reprehensible.
3. Society has a right to expect that teachers will act in an honorable and dignified manner. A sexual relationship betrays the trust relationship between teachers and society.
4. As a teacher, R Shewchuk was in a position of trust and authority over the victim. This breach resulted in the student not being treated with the necessary dignity and respect.
5. There was no evidence provided that R Shewchuk's long-standing psychological issues, for which she has been receiving therapy and medication, have been resolved.
6. The sexual relationship with the male student was not a one-time occurrence; the relationship was ongoing for a period of seven months.
7. R Shewchuk's actions brought shame and disgrace to the profession.
8. The youthful age (15 years) of the victim at the onset of the relationship exacerbates the severity of this breach of trust and authority. The responsibility for the relationship rested solely on R Shewchuk in her role as a teacher.
9. The penalty is consistent with precedent cases involving ongoing sexual relationships with students.

Dated at the City of Edmonton in the Province of Alberta, Thursday, December 11, 2003.

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE

IN THE MATTER OF AN APPEAL BY BEVERLY-ANN SNOWDEN
OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL
CONDUCT COMMITTEE WITH RESPECT TO CHARGES
OF UNPROFESSIONAL CONDUCT AGAINST HER

The Professional Conduct Appeal Committee reports that the appeal by Beverly-Ann Snowden of the decision of the hearing committee of the Professional Conduct Committee with respect to charges of unprofessional conduct against her was heard in accordance with the *Teaching Profession Act*. The appeal hearing was held at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, December 21, 2000 at 0900.

DECISION OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE REGARDING
GUILT OR INNOCENCE

Charge 1

The Professional Conduct Appeal Committee upholds B Snowden's appeal of charge 1.

Charge 2

The Professional Conduct Appeal Committee dismisses B Snowden's appeal of charge 2.

REASONS FOR DECISION

Charge 1

Evidence was not presented to indicate that B Snowden failed to treat Student name redacted. with dignity and respect and without consideration of his circumstances.

Charge 2

The honour and dignity of the profession is harmed when a teacher has a **sexual** relationship with a student.

DECISION OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE REGARDING
PENALTY

1. The Professional Conduct Appeal Committee varies the decision of the hearing committee of the Professional Conduct Committee. The penalty is that
 - a) B Snowden's eligibility for membership in The Alberta Teachers' Association be suspended for a period of six months, and
 - b) recommendation be made to the minister of learning that B Snowden's teaching certificate be suspended for period of six months. The committee recommends that the suspension of the certificate be effective from February 1, 2001 to July 31, 2001.

REASONS FOR DECISION

1. The Professional Conduct Appeal Committee reviewed the circumstances of this case and of precedent cases and determined that a six-month suspension of Association membership and a recommended six-month suspension of teaching certificate is an appropriate penalty.
2. A teacher should not engage in a **sexual** relationship with a student.
3. Both society and the teaching profession have the right to expect that a teacher acts in a manner that upholds the honour and dignity of the profession. By engaging in a **sexual** relationship with a student, B Snowden did not uphold the honor and dignity of the profession.
4. Conflicting testimony made it unclear as to who initiated the relationship.
5. The appeal committee recognizes that B Snowden no longer has her teaching position with Palliser Regional Division No 26.
6. The appeal committee recognizes that B Snowden sought counselling and does not appear to constitute a threat to students.

REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST RITCHIE SCOTT STAGG

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Ritchie Stagg of Airdrie, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, December 16, 1998.

Professional Conduct Committee members present as the hearing committee were: E M Willette-Larsen (chair), R J Ritz, D V MacDonald and E Miklos. R W Rand of Frohlich Rand Kiss was counsel to the hearing committee, D E Somshor-Walsh was secretary and L A Kaun was recorder. K M Kryzanowski presented the case against the investigated member.

The investigated member was not present and was not represented by counsel when the hearing was convened at 0900. A 30-minute recess was declared to allow the defendant more time to appear. When the hearing was reconvened, the defendant had not appeared and the hearing proceeded.

The committee was informed of a court order banning publication of the name of the student. The committee decided that the student would be referred to as Student A.

CONSTITUTION/JURISDICTION

There were no objections to either the constitution of the hearing panel or its jurisdiction to hear the case.

PLEA

The following charge was read by the secretary to the hearing committee:

Ritchie Scott Stagg is charged with unprofessional conduct contrary to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about May 12, 1998 plead guilty to an indictable offence under Section 153(1)(b) of the Criminal Code to wit: Between the 1st day of April, 1993 and the 19th day of April, 1995, both dates inclusive, at or near Calgary, Alberta, being in a position of trust or authority towards or in a relationship of dependence with (Student A), a young person, did for a sexual purpose unlawfully invite, counsel or incite (Student A), a young person, to touch, directly or indirectly, with

a part of the body or with an object, the body of Ritchie Scott Stagg, contrary to Section 153(1)(b) of the Criminal Code of Canada.

In the absence of the investigated member, the hearing panel directed a plea of “not guilty” to the charge.

WITNESSES

No witnesses were called.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. R S Stagg was a member of The Alberta Teachers’ Association from September 1, 1992 to August 31, 1997. (Exhibit 3)
2. R S Stagg was employed as a teacher by Rockyview School Division No 41 (September 26, 1977 to July 13, 1998) which included the time period of the offence. (Exhibit 2)
3. On May 12, 1998, R S Stagg plead guilty to and was convicted of an indictable offence under Part XIX of the *Criminal Code*. (Exhibit 4)
4. R S Stagg was a member of The Alberta Teachers’ Association within the meaning of section 23(4) of the *Teaching Profession Act*.
5. There was a student-teacher relationship between Student A and R S Stagg which existed between September 1991 and June 1995. (Exhibit 5)
6. In the spring of 1993, a relationship that was sexual in nature commenced between R S Stagg and Student A. (Exhibit 5)
7. This sexual relationship continued and progressed to include sexual intercourse. (Exhibit 5)
8. R S Stagg and Student A became more open in their public affection for one another. (Exhibit 5)

9. Acts of sexual intercourse were a constant component of R S Stagg's and Student A's relationship. (Exhibit 5)

10. At the age of 19, in approximately June 1996, Student A terminated the relationship. (Exhibit 5)

11. Student A attended therapy sessions, between December 1996 and June 1997, for depression and guilty feelings about this relationship. (Exhibit 5)

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty.

REASONS FOR DECISION

1. R S Stagg was convicted May 12, 1998 of an indictable offence under the *Criminal Code* and therefore, is guilty of unprofessional conduct under section 22(2)(a) of the *Teaching Profession Act*.

PENALTY

The hearing panel of the Professional Conduct Committee imposes the following penalty on R S Stagg
—cancellation of R S Stagg's membership in The Alberta Teachers' Association and
—a recommendation to the minister of education that R S Stagg's teaching certificate be canceled.

REASONS FOR PENALTY

1. R S Stagg was convicted of one indictable offence under the *Criminal Code* and is guilty of unprofessional conduct under section 22(2)(a) of the *Teaching Profession Act*.

2. R S Stagg acted in a manner that was detrimental to the best interests of a student.

3. Society has the right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. R S Stagg betrayed that trust.

4. A teacher should not engage in sexual relationships with students. Society views such actions

Report of Hearing Committee of PCC
R Stagg, p 4

as repugnant and reprehensible.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, December 16, 1998.

THE ALBERTA TEACHERS= ASSOCIATION

REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST CHRISTINE STURGEON

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Christine Sturgeon of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, January 25, 2007.

Professional Conduct Committee members present as the hearing committee were Ben Beil (chair), Dorothy Dyer and George Epp. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Ernest Clintberg was secretary assisted by Sandra Marcellus and Koni Macdonald was recorder. Brenda Haubrich presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the committee.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Christine Sturgeon is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during 2005, failed to treat students with honour and dignity by engaging in conversation and activities that failed to maintain proper pupil/teacher boundaries.
2. Christine Sturgeon is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during 2005, failed to treat students with honour and dignity by engaging in or condoning activities of an illegal nature on the part of herself and students.
3. Christine Sturgeon is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during 2005, failed to treat colleagues with honour and dignity by engaging in inappropriate conversation with or about school administration.

4. Christine Sturgeon is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, during 2005, failed to maintain the honour and dignity of the profession by discussing an inappropriate teacher/student activity with a member of the public.

The investigated member entered a plea of guilty to each of the charges, by way of written submission.

WITNESSES

No witnesses were called.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Sturgeon was a member of the Alberta Teachers' Association from September 1, 2002 to February 28, 2006 inclusive (Exhibit 2).
2. Sturgeon was a high school teacher at School name redacted. School in Calgary School District from September 1, 2002 to February 15, 2006. Sturgeon began a medical leave from her assignment on November 18 2005 (Exhibit 4). At the time of the hearing, Sturgeon was on leave from Calgary School District No 19 (Exhibit 8).
3. Sturgeon obtained a court-ordered guardianship of one of her Grade 12 students, Student A, who was 17 years old at the time. He began to live in her house with his parents' knowledge and financial support. Sturgeon offered him his own bedroom; however, he preferred the arrangement of having his bed in a common area specifically in the dining room area (Exhibit 4).
4. Sturgeon put her arms around Student A while both were in a semi-reclining position on his bed. She embraced him in a manner that she used with her own two children. When Student A stated that he felt uncomfortable with this behaviour, she desisted. Sturgeon gave Student A back rubs while his shirt was off, but otherwise both parties were fully clothed at all times when contact was made (Exhibit 4).
5. Sturgeon engaged in a contest with Student A in a bar in which he selected a female that both or them would pursue to see which of them would be able to win her attention. Sturgeon "won" the contest by kissing the female patron (Exhibit 4).

Report of the Hearing Committee of PCC
Sturgeon, page 3

6. In the school setting, Sturgeon engaged in inappropriate banter about sexual matters with students. Sturgeon agreed to a \$20 bet with two students that a third student was not sexually active. Parents of the student communicated with school administration over the incident (Exhibit 4).
7. Sturgeon spoke to students about her adolescent rape, her teen pregnancy and her struggles to become a teacher despite her beginnings (Exhibit 4).
8. Sturgeon, on her own admission, chose to reach out to students in her own way without due regard to professional constraints. Sturgeon felt that the traditional teacher role constraints left at-risk students abandoned in many cases and that more was required to reach out to them (Exhibit 4).
9. While Student A lived with Sturgeon, she allowed him and other underage youth to drink in her home (Exhibit 4).
10. Student A drove Sturgeon's car without a license on numerous occasions and was not prevented from doing so by Sturgeon (Exhibit 4).
11. Sturgeon was present when Student A used marijuana in the yard of her home.
12. Sturgeon had a personal supply of cocaine for her use. She believed that Student A stole her cocaine (Exhibit 4).
13. While Student A was 17 years old, he accompanied Sturgeon to a bar where she purchased an alcoholic drink for him. He used false identification when checked by an employee of the establishment (Exhibit 4).
14. Student A asked Sturgeon to assist two of his friends. She agreed. Sturgeon knowingly misrepresented stolen property by stating to a pawnshop owner that the items were her own. The youths were attempting to pawn items which one of the youths had stolen from his parents. On that occasion police laid a criminal charge against Sturgeon, which was later dropped. Charges proceeded against the youths (Exhibit 4).
15. Sturgeon spoke to an assistant principal in an angry and threatening manner as a result of his decision to release a suspended student unaccompanied into the community while the student was intoxicated and angry. She stated that she would speak to central office and seek to have his job taken away. Administration asked her to go home. Sturgeon loudly said to a colleague, within hearing of students, "I'm being sent home and I don't know for how long." A parent questioned the principal about Sturgeon's leaving school and wanted to start a petition to save Sturgeon (Exhibit 4).

16. Sturgeon believed that she was acting in the best interests of her students (Exhibit 4).
17. Sturgeon takes full responsibility for her actions and acknowledges their inappropriateness (Exhibit 4).
18. Sturgeon is undergoing treatment for addictions (Exhibit 6).
19. Sturgeon was forthright and cooperative in her interviews with the investigating officer (Exhibit 4)

DECISION OF THE HEARING COMMITTEE

The hearing committee found Sturgeon guilty of Charges 1, 2 and 3. Further, the committee found Sturgeon not guilty of Charge 4, striking the guilty plea as it was not supported by the evidence adduced.

REASONS FOR DECISION

Charge 1

1. Society has the right to expect that teachers will form only appropriate relationships that preserve the dignity and respect of students.
2. Sturgeon failed to maintain proper pupil–teacher boundaries when she embraced and gave backrubs to Student A, socialized with underage students in a bar, had inappropriate conversations with students regarding her troubled past and bet on the sexual experiences of students.
3. Sturgeon was aware that she was overstepping professional boundaries and chose to reach out to students in her own way without due regard to professional constraints.

Charge 2

1. Society expects teachers to abide by the law and model that to students.
2. Sturgeon aided, abetted and condoned students' illegal and fraudulent behaviour. These behaviours included: (a) buying alcohol for underage students, (b) supporting a student's false identification in a bar, (c) misrepresenting stolen merchandise as her own, (d) accepting student drug use on her property and (e) allowing an unlicensed student to drive her car.
3. Sturgeon engaged in illegal activities such as cocaine use.

Charge 3

1. The profession expects that teachers will handle their differences in a professional manner.
2. Sturgeon failed to treat colleagues with honour and dignity by engaging in inappropriate conversations with or about school administrators. She threatened school administration and expressed her discontent to a colleague in a loud manner that brought attention from students.

PENALTY

The hearing committee imposes the following penalties concurrently on all three charges:

1. That a recommendation be made to the Minister of Education that Christine Sturgeon's teaching certificate be suspended for one year
2. That Christine Sturgeon's membership in the Alberta Teachers' Association be suspended for one year

REASONS FOR PENALTY

1. Sturgeon betrayed the public trust in the teaching profession.
2. Sturgeon engaged in, promoted and allowed illegal behaviour.
3. Sturgeon placed students' wellbeing at risk.
4. Sturgeon openly defied professional boundaries and constraints of the profession and the law.
5. Sturgeon had a troubled youth which enabled her to have empathy with her students but clouded her professional judgement.
6. Sturgeon took full responsibility for her actions and acknowledges their inappropriateness. Furthermore, it appears she is taking steps to deal with her own addiction issues.

Report of the Hearing Committee of PCC
Sturgeon, page 6

7. Sturgeon was forthright and cooperative with the investigating officer.
8. Sturgeon did not act out of malice or for any obvious personal gain.

Dated at the City of Edmonton in the Province of Alberta, Thursday, January 25, 2007.

THE ALBERTA TEACHERS' ASSOCIATION

DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST BRUCE DOUGLAS TAYLOR

The hearing committee of the Professional Conduct Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Bruce Douglas Taylor of Carlsland and Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, April 29, 2003 at 0900.

Ernie C Clintberg presented the case against the investigated member. The investigated member was not present and was not represented by counsel.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Bruce Douglas Taylor is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he did, while a member of The Alberta Teachers' Association; in or near the City of Calgary, Alberta; between the months of February 1999 and June 1999; engage in a relationship of a romantic and sexual nature with a 17-year-old boy, a student in his care at School name redacted School; thereby failing to act in a manner which maintains the honor and dignity of the profession.
2. Bruce Douglas Taylor is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he did, while a member of The Alberta Teachers' Association; in or near Location of event redacted. Location of event redacted. between the months of February 1999 and June 1999; Event type redacted. Event type redacted. authorized by the Calgary Board of Education; engage in a relationship of a romantic and sexual nature with a 17-year-old boy, a student in his care at School name redacted High School; thereby failing to act in a manner which maintains the honor and dignity of the profession.

3. Bruce Douglas Taylor is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he did, while a member of The Alberta Teachers' Association; in or near the City of Calgary, Alberta and/or ^{Location of event redacted.} ^{Location of event redacted.} between the months of February 1999 and June 1999; engage in a relationship of a romantic and sexual nature with a 17-year-old boy, a student in his care at ^{School name redacted.} School; thereby failing to treat a pupil with dignity and respect and in a manner that was considerate of his circumstances.

The investigated member was not present; therefore, a plea of not guilty to each of the charges was entered on his behalf.

DECISION OF THE HEARING COMMITTEE

The hearing committee considered the three charges before it and ruled as follows:

1. Charge 1 – Guilty
2. Charge 2 – Guilty
3. Charge 3 – Guilty

REASONS FOR DECISION

1. Charge 1 – By engaging in an inappropriate romantic and sexual relationship with a 16-year-old student, B Taylor failed to maintain the honor and dignity of the profession. Resulting newspaper coverage that detailed the incident also brought dishonor to the profession.
2. Charge 2 – Students, while on school sponsored trips, are especially vulnerable and reliant on the integrity and judgment of their teacher supervisors. Teachers in these circumstances assume a much greater responsibility for their charges. By engaging in an inappropriate romantic and sexual relationship with a 16-year-old student, B Taylor failed to maintain the honor and dignity of the profession.
3. Charge 3 – B Taylor initiated and engaged in an inappropriate romantic and sexual relationship with a 16-year-old student. B Taylor did not treat the student with dignity and respect, and violated his position of trust as a teacher.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalty on B Taylor:

1. On Charges 1, 2 and 3, B Taylor is declared ineligible for membership in the Alberta Teachers' Association.
2. On Charges 1, 2 and 3, a recommendation will be made to the minister of learning that B Taylor's teaching certificate be rescinded permanently.
3. On Charge 1, a fine of \$1000.00
4. On Charge 2, a fine of \$1000.00
5. On Charge 3, a fine of \$3000.00

REASONS FOR PENALTY

1. Teachers must not engage in sexual activity with students. Society views such actions as repugnant and reprehensible. B Taylor's actions demonstrated disregard for society's expectations of its teachers.
2. Society has a right to expect that teachers will act in a manner which establishes and maintains a trust relationship between teachers and students. B Taylor violated this trust relationship.
3. The incident received media coverage which brought dishonor and disrepute to the profession and contributed to the distrust of teachers.
4. The penalty imposed is consistent with previous cases of a similar nature, where there is evidence of an inappropriate sexual relationship between a teacher and a student.
5. B Taylor expressed, in writing, his distrust and disdain for the disciplinary processes carried out by the Calgary Board of Education and the Alberta Teachers' Association. Furthermore, his written correspondence showed a lack of understanding of the real wrongdoings alleged. (Exhibit P)
6. The teaching profession expects teachers to treat students with dignity and respect and will not tolerate behavior which exploits and abuses students.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, April 30, 2003.

THE ALBERTA TEACHERS= ASSOCIATION

DECISION AND REASONS FROM THE REPORT OF THE
HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST TEACHER X

**NOTE: THERE IS A PUBLICATION BAN ORDERED BY THE PROVINCIAL COURT
OF ALBERTA ON THE NAME OF THE ACCUSED AND THE VICTIM**

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Teacher X of Taber, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, September 30, 2004.

The committee ordered that the hearing be held in camera and further, noted the order of the Provincial Court of Alberta, banning the publication of the names of both the victim and the teacher, and complied accordingly.

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

1. Teacher X is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about May 27, 2004, was convicted of an indictable offence under Part XIX of the Criminal Code of Canada to wit: Between the 1st day of September, 2002, and the 25th day of December, 2002, both dates inclusive, at or near Taber, Alberta, being in a position of trust or authority towards or in a relationship of dependency with Student Z, a young person, did for a sexual purpose unlawfully touch, directly or indirectly, with a part of the body or with an object, a part of the body of Student Z, contrary to section 153(1)(a) of the Criminal Code of Canada.
2. Teacher X is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2002/03 school year failed to treat Student Z with the dignity and respect due a student by having a sexual relationship with her.
3. Teacher X is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the 2002/03 school year acted in a manner which failed to maintain the honour and dignity of the teaching profession by having an inappropriate sexual relationship with a student.

The investigated member entered a plea of guilty to each of the charges by way of written submission (Exhibit 6).

DECISION OF THE HEARING COMMITTEE

1. The hearing committee accepted the pleas of guilty on all three charges.

REASONS FOR DECISION

1. The hearing committee found sufficient evidence to confirm guilt on all three charges

PENALTY

The hearing committee imposed the following penalties:

1. Teacher X is declared ineligible for membership in the Alberta Teachers' Association, and
2. A recommendation will be made to the minister of learning that Teacher X's teaching certificate be cancelled.

REASONS FOR PENALTY

1. Teacher X was convicted of an indictable offence (Exhibit 5).
2. Teacher X pled guilty to both criminal charges and all charges pursuant to the *Teaching Profession Act* (Exhibit 5 and 6).
3. Teacher X was in a position of trust and authority over Student Z throughout the sexual relationship and, as such, failed to treat Student Z with dignity and respect and was not considerate of Student Z's circumstances.
4. Society expects that teachers will act in a manner that establishes and maintains a trust relationship between teachers and students.
5. A teacher should not be engaged in sexual activity with students. Society and the profession view these actions as repugnant, despicable and reprehensible.
6. Teacher X's profession, and the sexual nature of the offence, were highlighted in several newspapers, thereby causing dishonour to the teaching profession (Exhibit 8).

Report of the Hearing Committee of PCC
Teacher X, page 3

7. While it was noted that Teacher X was forthright and cooperative in his interviews with the investigating officer and provided the investigating officer with all documents requested and answered all questions asked of him, the severity of his breach of trust mandates a loss of his teaching privileges.
8. Teacher X plead guilty to the charges, both in court and to the hearing committee, thereby not increasing stress and suffering for Student Z.

Dated at the City of Edmonton in the Province of Alberta, Thursday, September 30, 2004.

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST WAYNE THAI

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Wayne Thai of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, July 7, 2011 at 0900.

The presenting officer requested that the hearing be closed to the public other than the student's parents. This was for the protection and comfort of the student who would be testifying. The hearing committee considered section 33(b) of the *Teaching Profession Act* and granted the request.

PLEA

The following charges were read by the secretary to the hearing committee:

1. Wayne Thai is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period September 2009 to January 2010, engaged in conversations of a personal and counselling nature, with a student, that exceeded appropriate teacher–student boundaries, thus failing to maintain the honour and dignity of the profession.
2. Wayne Thai is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period September 2009 to January 2010, purchased gifts and food for a student and attended a movie with her, thus failing to treat the student, (“Student A”*), with dignity and respect and consideration for her circumstances.
3. Wayne Thai is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period September 2009 to January 2010, hugged and touched a student in a manner that exceeded appropriate teacher–student boundaries, thus failing to treat the student, (“Student A”*), with dignity and respect and consideration for her circumstances.

*Name of student removed for purposes of this report only

On behalf of Thai, the hearing committee directed a plea of not guilty to each of the charges.

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—guilty

Charge 3—guilty

REASONS FOR DECISION

Charge 1

1. The Facebook messages clearly demonstrate that Thai initiated and attempted to further conversations using language, tone and slang indicative of a more casual, personal relationship.
2. These conversations crossed the acceptable teacher–student boundaries. Thai did not live up to the standard expected of a teacher. This was obvious to Student A, her family, her friends, CBE staff, and the outside investigator, thus bringing the profession into disrepute.
3. While counselling students is not unprofessional in all circumstances, Thai used his position as a teacher to provide counselling to a vulnerable 14-year-old girl which was personally motivated, not in her best interests, and was potentially dangerous. When teachers abuse their position, they bring dishonour to the profession.

Charges 2 and 3

1. Thai, by his own admission purchased meals and gifts for Student A and attended a movie with her. By his own admission, he hugged and touched Student A on several occasions when they were alone.
2. Moreover, Student A testified that Thai often exceeded appropriate teacher–student boundaries when he put his hand on her leg and repeatedly grabbed her hands and her hair. He also hugged her and asked her for hugs. Student A also testified that he purchased jewellery and other gifts for her that were not welcomed.
3. The Facebook messages demonstrate a level of intimacy and use of language that were far beyond an appropriate teacher–student relationship. Thai initiated, encouraged, and even demanded communication with Student A. These demands accelerated and became more urgent over a short period of time and especially when Student A attempted to break off the communication.
4. Thai did not treat Student A with dignity and respect during these communications and he was certainly not considerate of her circumstances.

5. Thai violated the trust of a 14-year-old student he knew to be vulnerable through both his actions and his words.
6. The hearing committee identified Thai's behaviour as grooming, which the hearing committee understood to reflect a course of conduct designed to promote an increasingly personal relationship with ultimate sexual objectives.
7. Students expect school to be a safe environment and expect that teachers will maintain a professional distance and not exploit the teacher-student relationship for their own gratification.
8. Society expects teachers to act in a manner that establishes and maintains a trust relationship between teachers and students and act in the best interests of the students at all times. Thai betrayed that trust.

PENALTY

The committee imposed the following penalty on all three charges:

1. Thai is declared ineligible for membership in the Alberta Teachers' Association for a period of five years.
2. A recommendation will be made to the minister of education that Thai's teaching certificate be suspended for a period of five years.

REASONS FOR PENALTY

1. In a relationship between a teacher and a student, the parties are not on equal terms. The responsibility for maintaining proper boundaries falls solely on the teacher.
2. The hearing committee recognizes the validity of the student's complaint and the courage it took for her to come forward. The Association must take appropriate punitive action against teachers who hurt students.
3. Thai, while admitting the inappropriate nature of some of his actions, did not demonstrate remorse or understanding of the harm he caused to Student A, her family, and the profession. The hearing committee therefore believes that Thai continues to pose a danger to students.
4. Over the course of several weeks, Thai's behaviour with Student A was consistent with that of those who exploit children by attempting to foster a sense of emotional dependency. Just because Thai was not successful in establishing a sexual relationship with Student A, his grooming behaviour is no less despicable.

Dated at the City of Edmonton in the Province of Alberta, Thursday, July 7, 2011.

THE ALBERTA TEACHERS' ASSOCIATION

DECISION AND REASONS FROM THE REPORT OF THE
HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST TRACY TOLMAN

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Tracy Tolman of Pincher Creek, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, July 6, 2006.

The hearing committee was advised by Tolman that he was aware of these proceedings and agreed that the hearing should move ahead. Tolman indicated his willingness to proceed with the hearing as specified in the section 31(3) of the *Teaching Profession Act (TPA)* in relation to the charge. In this situation, the hearing committee determined that section 31(4) of the *TPA*, supported by section 23(2) of the *TPA*, overrides the need to adhere to the requirement of giving the member 15 days notice of hearing relative to the charge.

When a member has been accused and convicted of an indictable offence, the interests of the public are best served by holding a hearing forthwith, as directed by section 31(4) of the *TPA*.

CHARGES AND PLEA

The following charge was read by the secretary to the hearing committee:

1. Tracy Tolman is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, committed six counts of sexual assault between the dates of January 1, 1998 and December 17, 2004 inclusive.

The investigated member entered a plea of guilty to the charge.

DECISION OF THE HEARING COMMITTEE

The hearing committee accepted Tolman's plea of guilty to the charge.

REASONS FOR DECISION

1. Tolman was convicted of an indictable offence.
2. Tolman admitted committing six sexual assaults.

PENALTY

The hearing committee imposed the following penalty:

1. Tolman is ineligible for membership in The Alberta Teachers' Association.
2. A recommendation will be made to the Minister of Education to permanently cancel Tolman's teaching certificate.

REASONS FOR PENALTY

1. Tolman was convicted in Provincial Court of an indictable offence of sexual assault and admitted before this committee that he had committed six sexual assaults.
2. Society expects teachers to be trustworthy in their relationships with young persons.
3. Tolman was forthright and cooperative while attending the hearing and took responsibility for his actions.
4. Tolman made a public apology for his actions and the effect they had on family, the community and the profession.
5. Tolman, upon his criminal conviction, was sentenced to 30 months incarceration, ordered to provide a DNA sample and ordered to comply with the *Sex Offender Information Registration Act* for a period of 20 years. Further he is prohibited from attending any place where persons under the age of 14 might be in attendance.
6. Tolman has voluntarily enrolled in the Phoenix Program, an 18-month mental health program, where he is learning skills for the transition back to the community.
7. Under all the circumstances above, the hearing committee is of the view that any further punishment by way of fine is unnecessary.

Dated at the City of Edmonton in the Province of Alberta, Thursday, July 6, 2006.

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST JENNIFER MARIE TRANTER (MASON)

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Jennifer Marie Tranter (Mason) of Calgary, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, December 18, 2014 at 0900.

Professional Conduct Committee members present as the hearing committee were Wendy Maltais (chair), Tanya Thiessen and George Epp. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, assisted by Catherine Scott, student at law; Gaylene Schreiber was secretary, assisted by Chris Gibbon; and Leslie Kaun was recorder. Ian Stewardson presented the case against the investigated member. The investigated member, Jennifer Tranter (Mason), was not present and was not represented.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or the jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Jennifer Marie Tranter (Mason) is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, between the 23rd day of July 2013, and the 13th day of November 2013, both dates inclusive, engaged in conduct for which she, on July 15, 2014, was convicted of an indictable offence, to wit: Between the 23rd day of July 2013 and the 13th day of November 2013, both dates inclusive at or near Calgary, Alberta, being in a position of trust or authority towards or in a relationship of dependency with Student A, a young person, did for a sexual purpose unlawfully touch directly or indirectly with a part of the body or with an object a part of the body of Student A, contrary to section 153(1)(A) of the Criminal Code of Canada.
2. Jennifer Marie Tranter (Mason) is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about the 1st day of August 2012 and the 10th day of May 2014 failed to treat students with dignity and respect and failed to be considerate of their circumstances by having an inappropriate relationship with a student.

3. Jennifer Marie Tranter (Mason) is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about the 1st of August, 2012 to the 10th day of May, 2014, failed to act in a manner which maintains the honour and dignity of the profession by her inappropriate relationship with a student which called into public question the dignity of the teaching profession.

The investigated member entered a plea of guilty to each of the charges, by written submission.

WITNESSES

There were no witnesses called.

EXHIBITS FILED

- Exhibit 1—Notice of hearing and Canada Post confirmation of delivery, dated December 5, 2014
- Exhibit 2—Declaration of Identity, signed by Jennifer Marie Tranter (Mason), dated December 8, 2014
- Exhibit 3—Proof of Tranter's membership in the Association from June 1, 2006 to October 31, 2014
- Exhibit 4—Declaration of awareness of rights, signed by Tranter, dated December 4, 2014
- Exhibit 5—Submission on plea, signed by Tranter, dated December 4, 2014
- Exhibit 6—Certificate of conviction of an indictable offence on July 15, 2014
- Exhibit 7—Certificate of conviction of a summary offence on September 12, 2014
- Exhibit 8—Agreed statement of facts, signed by Tranter on December 4, 2014 and by Stewardson on December 12, 2014
- Exhibit 9—Joint submission on penalty, signed by Tranter on December 4, 2014 and by Stewardson on December 12, 2014
- Exhibit 10—Precedents from Indictable Offences and the Discipline Committee

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Tranter was a member of the Alberta Teachers' Association from June 1, 2006 to October 31, 2014, inclusive (Exhibit 3).
2. Tranter was employed by Calgary Roman Catholic Separate School District No 1 at the time of the actions giving rise to the charges (Exhibit 8).
3. Tranter was convicted of an indictable offence, to wit: being in a position of trust or authority towards or in a relationship of dependency with Student A, a young person, did for a sexual purpose unlawfully touch directly or indirectly with a part of the body or with an object a

part of the body of Student A, contrary to section 153(1)(A) of the Criminal Code of Canada (Exhibit 6).

4. Tranter was also convicted of a summary offence, to wit: did fail to comply with an order under section 145(3) of the Criminal Code of Canada, which required her to have no communication, directly or indirectly, with Student A without lawful excuse (Exhibit 7).
5. Tranter's date of birth is November 10, 1983 (Exhibit 2).
6. Student A's date of birth is Student date of birth redacted. (Exhibit 8).
7. During the 2011/12 school year, Tranter was Student A's Gr: Grade redacted teacher (Exhibit 8).
8. During the 2011/12 school year, Tranter and Student A often e-mailed each other (Exhibit 8).
9. Beginning February 2012, Tranter befriended Student A related to his participation in school sports. During that time Tranter insinuated herself into Student A's family, befriending Student A's mother and brother, by offering to drive the boys to sports and taking Student A's mother out for drinks and dinner (Exhibit 8).
10. During Tranter's honeymoon in the summer of 2012, she e-mailed Student A romantic statements (Exhibit 8).
11. In August 2012, Tranter and Student A met in a public park and kissed (Exhibit 8).
12. In August 2012, Tranter set up a separate Facebook account to hide her relationship from her husband and began regular Skype, e-mail and Facebook communication with Student A (Exhibit 8).
13. Several photos of Student A and Tranter were found on Tranter's computer. One photo shows Tranter and Student A kissing in the back of her car, and another shows Student A kissing Tranter (Exhibit 8).
14. In September 2012, Student A moved to a different school to begin G Grade redacted Tranter took Student A and his brother shopping for school clothes (Exhibit 8).
15. Prior to March 13, 2013, Student A purchased gifts for Tranter. They exchanged e-mail messages where Tranter referenced the gifts and her intimate feelings for Student A (Exhibit 8).
16. Tranter also maintained the relationship with Student A's brother through regular texting of a personal nature (Exhibit 8).

17. Student A turned 16 on Student date of birth redacted. On that day, Tranter sent Student A an e-mail wishing him happy birthday. She signed it, "I am yours forever, you own my heart and you rule my world. You are my King, my best friend, my lover, my person. I love you more than you will ever understand. Happy birthday my sweet baby! ...I love you squish XO... All my love. Your Fluff." (Exhibit 8).
18. Student A and Tranter had sexual intercourse on a frequent and regular basis after Student A turned 16, in hotel rooms, in the back of Tranter's car and at Tranter's residence. They also had dinner together and shared alcohol. However, both kept the full nature of their relationship hidden from friends and family at that time (Exhibit 8).
19. Tranter and Student A would often drive to a residential neighbourhood to have intercourse in her car. They were observed by concerned citizens who eventually contacted the police (Exhibit 8).
20. On November 13, 2013, Police Sergeant Elmer attended regarding a complaint that was made by concerned citizens who had observed the couple several times in Tranter's car. Upon noting the age difference, Elmer asked how old they were. Tranter replied she was Student A's teacher, and was assisting him with the break-up of a personal relationship. Elmer spoke to Student A and he too lied to the police and said there had been no sexual contact. Based on this event, the police commenced an investigation (Exhibit 8).
21. Tranter's phone and laptop were seized by the police. Tranter's phone included a website search history regarding sexual offences, teacher-student relationships and legislation in both Canada and Britain, where Tranter has dual citizenship (Exhibit 8).
22. On Tranter's laptop was a letter from her husband, expressing concern about their marriage and caution about the inappropriate, close relationship with Student A. In the letter, Tranter's husband noted that he heard Tranter flirting during her phone calls each evening with Student A (Exhibit 8).
23. Tranter was suspended from her teaching job soon after the criminal charges were laid.
24. Tranter spoke to several of her friends about her relationship with Student A, telling each of her friends that she had an "inappropriate relationship with a former student." She was quite forthright when telling her friends about her sexual relationship with Student A (Exhibit 8).
25. Student A has expressed that he does not feel victimized by Tranter, that he would go to jail for her, that his relationship went well beyond a sexual one and that he loved her and wanted to marry her (Exhibit 8).
26. Tranter acknowledged in the signed agreed statement of facts that she had a sexual relationship with Student A and that she was criminally charged and convicted as noted in the charges above (Exhibit 8).

27. Tranter acknowledged that she created situations which led to considerable stress on Student A throughout the process of the investigation and prosecution and resulting media coverage (Exhibit 8).
28. The events described above took place in Calgary, Alberta (Exhibit 8).

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—guilty

Charge 3—guilty

REASONS FOR DECISION

Charge 1

1. Tranter was convicted of an indictable offence. Under section 23(2) (a) of the *Teaching Profession Act*, if a member has been convicted of an indictable offence, the conduct of the member on which the conviction is based is deemed to be unprofessional conduct.

Charge 2

1. Tranter gained and earned the trust of Student A's family in order to maintain an inappropriate relationship with Student A and took advantage of opportunities to be in the company of Student A. Tranter failed to treat Student A with dignity and respect and was inconsiderate of Student A's circumstances when she intentionally positioned herself as a trusted friend of the family.
2. By participating in the inappropriate activities surrounding the relationship, Tranter failed to recognize that Student A was vulnerable and impressionable. She took advantage of his youth and level of maturity and his lack of ability to make decisions regarding the relationship, thus failing to treat Student A with dignity and respect and failing to be considerate of Student A's circumstances.
3. Tranter's actions led to a criminal investigation, prosecution and substantial media coverage, resulting in considerable stress on Student A throughout the process.
4. Tranter allowed the escalation of the relationship to the point of sexual activity without regard for the effect it could have on Student A. Evidence shows that Student A was significantly affected by their relationship. His stated willingness to go to jail on her behalf, and his intentions for the future, demonstrate that the trajectory of his life has been altered.

Report of the Hearing Committee of PCC re J Tranter, page 6

Tranter's actions had a potentially deleterious effect on Student A, thus she failed to treat Student A with dignity and respect and failed to be considerate of Student A's circumstances.

Charge 3

1. Tranter's actions became known to members of the public, including concerned citizens, the police and Tranter's friends. Her actions reflected poorly on the profession, brought disrepute and disgrace upon herself as a teacher, and thus called into question the dignity of the teaching profession.
2. Tranter harmed the general reputation and dignity of the profession by being convicted of an indictable criminal offence. The public expects that teachers will not engage in criminal behaviour.
3. Tranter further compounded the harm to the profession by breaking Canadian law when failing to follow a court-ordered condition of bail.
4. Tranter's actions created a negative public image of teachers in the Province of Alberta. This was a story that was covered extensively by the media. Through her actions and the resulting media coverage, Tranter harmed the integrity and dignity of the profession.

PENALTY

To address all the charges collectively, the hearing committee imposes the following penalty on Tranter:

1. Declaration of ineligibility for membership in the Alberta Teachers' Association
2. Recommendation to the minister of education to cancel her teaching certificate

REASONS FOR PENALTY

1. Tranter was convicted of an indictable offence related to touching a young person for a sexual purpose, and also of a summary offence for breaching a condition of recognizance. These facts merit a strong and lasting sanction.
2. Society views sexual relationships between students and teachers as repugnant and reprehensible. The hearing committee determined that the egregious level of wrongdoing in this case merits the most significant of sanctions.
3. Tranter's behaviour demonstrates that she is unfit to teach and should never again be part of the teaching profession.

Report of the Hearing Committee of PCC re J Tranter, page 7

4. The hearing committee considered the joint submission on penalty to be appropriate. The committee considered similar precedent cases and found the recommended penalty to be consistent with other similar cases.
5. The committee did not order a fine in addition to the sanction noting, in part, that it is possible Tranter would be unable to pay the fine, particularly given her loss of livelihood.

Dated at the City of Edmonton in the Province of Alberta, Friday, January 23, 2015

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST AMY BELINDA WAGNER

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Amy Belinda Wagner of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Wednesday, June 8, 2011.

Professional Conduct Committee members present as the hearing committee were Ruth Kuik (chair), Lyne Bacon and George Epp. Richard Rand of Rand Kiss Turner was counsel to the hearing committee, Michael Kischuk was secretary and Leslie Kaun, assisted by Susan Wilson, was recorder. Brian Andrais presented the case against the investigated member. The investigated member was present and was represented by Simon Renouf of Simon Renouf Professional Corporation.

CONSTITUTION/JURISDICTION

There were no objections to the composition or jurisdiction of the hearing committee.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Amy Belinda Wagner is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about July 2008 to March 2009, exceeded appropriate teacher-student boundaries, thus failing to treat a student with dignity and respect and consideration for her circumstances.
2. Amy Belinda Wagner is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about July 2008 to March 2009, exceeded appropriate teacher-student boundaries, thus failing to act in a manner that maintained the honour and dignity of the profession.

3. Amy Belinda Wagner is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that she, while a member of the Alberta Teachers' Association, on or about July 2008 to March 2009, engaged in activities that adversely affected the quality of her professional service.

The investigated member entered a plea of guilty to each of the charges by written submission.

WITNESSES

Wagner provided sworn testimony during the penalty phase of the hearing.

EXHIBITS FILED

- Exhibit 1—Notice of hearing and Canada Post confirmation of delivery on May 4, 2011
- Exhibit 2—Proof of Wagner's membership in the Association from September 1, 2001 to March 3, 2009
- Exhibit 3—Declaration of awareness of rights, signed by Wagner, dated June 6, 2011
- Exhibit 4—Submission on plea, signed by Wagner, dated June 6, 2011
- Exhibit 5—Agreed statement of facts, signed by Wagner and Andrais, dated June 6, 2011
- Exhibit 6—List of precedent cases cited by Andrais
- Exhibit 7—Summary of precedent cases cited by Renouf

EVIDENCE ADDUCED INDICATED THAT:

1. In a joint submission, the parties agreed to amend the date in each of the charges from July 2008 to March 2008. The period in question for the events was revised from "July 2008 to March 2009" to "March 2008 to March 2009". (Exhibit 3)
2. Wagner was a teacher employed by Edmonton Public School District 7 from September 1, 2001 to March 4, 2009. She was a member of the Alberta Teachers' Association during the entire time of her employment with Edmonton Public. (Exhibits 4 and 5)
3. Wagner started her teaching career at the age of 21. (Joint response to questioning)
4. Wagner instructed mathematics at School name redacted School and coached Sport redacted. Sport redacted. and Sport redacted. teams. (Exhibit 5)
5. Wagner was a Christian youth counselor at a church camp during the summer of 2008. (Exhibit 5)

6. Wagner met Student A in November 2007 when Student A tried out for the school Sport redacted. team. Student A was in G Grade redacted. at that time. (Exhibit 5)
7. Wagner's relationship with Student A started out as a student and coach. As time went on, Wagner saw herself as Student A's mentor. (Exhibit 5)
8. Student A had a negative past that included cutting, attempted suicide and depression. (Exhibit 5)
9. In March 2008, Wagner approached Student A's parents and asked if Student A could attend church with her. Wagner asked Student A's parents if they had any questions about the church. (Exhibit 5)
10. Student A began to attend church with Wagner. The two had regular conversations about religion and Christianity. (Exhibit 5)
11. In the summer of 2008, Student A went, for a week, to a Christian youth camp at Sylvan Lake where Wagner was a counselor. Student A was a camper in Wagner's dorm with 14 other campers and another counselor. Student A, who had been suffering from depression, was discontinuing her antidepressants. Student A and Wagner talked a lot during the camp. One evening, Student A and Wagner lay on a bed together and hugged for about thirty minutes. Student A and Wagner did not spend the night in the same bed. (Exhibit 5)
12. Outside of camp, Wagner and Student A would meet and go for coffee. During three or four of these meetings they also went for a walk. Student A continued to see Wagner at church. (Exhibit 5)
13. During the 2008/09 school year, Wagner and Student A continued to have frequent conversations. Most of the conversations took place in Wagner's classroom; however, Wagner also saw Student A outside of school. They would meet after church and when Wagner tutored Student A in math. They occasionally met on a Friday or Saturday to go for a drive. Often, when they were alone, they prayed together. (Exhibit 5)
14. While Student A's parents were on a cruise, they permitted Wagner to stay at their house to look after Student A. During this time, Wagner and Student A would sometimes share a bed so that Student A would feel safe. They laid together and hugged a lot. They remained clothed during these times. Wagner did not, at any time, touch Student A in a sexual manner and never invited Student A to touch her inappropriately. On one occasion, Student A attempted to initiate sexual contact which Wagner firmly rejected. (Exhibit 5)
15. Student A felt she had a special relationship with Wagner and that the friendship was accepted by other teachers. Student A believed that Wagner did not treat all students the same and that their relationship was special because of the church camp experience. (Exhibit 5)

16. Student A felt that Wagner wanted to help her and show her that she was important. Wagner felt motherly towards Student A and they got to know each other very well. They spent time together every Sunday. During the week, Student A would occasionally talk with Wagner in her classroom for one to two hours. Once a month, Wagner would meet Student A outside of church on a Sunday. (Exhibit 5)
17. In December 2008, the senior girls' Sport redacted. team took a trip to Event location redacted. Student A was a member of that team and Wagner was a supervisor. There were twelve girls on the team. Student A was always a member of Wagner's group. They were alone together at night on two occasions. One of those nights, Wagner and Student A were out until about 1:15 AM. They were also alone for shopping. There was no curfew on the trip and most times they were all in bed by about midnight. (Exhibit 5)
18. Wagner recounted that at one point during the trip, while in her hotel room, Student A attempted to touch Wagner's vagina and breasts. Wagner was wearing clothing at the time and she told Student A to stop. Another coach was present but seemed unaware of what had occurred. (Exhibit 5)
19. Following the Event location redacted. trip, there was a lot of talk about Student A and Wagner being lesbians. Student A recounted talking a lot with Wagner about their feelings for each other and because they did not want to ruin their friendship, they worked hard to keep it just a friendship. (Exhibit 5)
20. Wagner never intended the relationship to be more than friendship. During the trip, they spent time together, in part because Student A's mother had asked Wagner to look after her. Student A's mother had also asked Wagner to pay for Student A's purchases using Wagner's credit card. Student A's parents reimbursed Wagner for the purchases. (Exhibit 5 and joint response to questioning)
21. During the trip, a colleague who was also a coach, spoke to Wagner about the amount of time she was spending with Student A. Wagner's response was that she would speak with the department head upon her return. (Exhibit 5)
22. Upon returning to Edmonton, Wagner spoke with her department head. During this conversation, Wagner admitted that she was too close to Student A but did not know how to end the relationship without harming Student A. The department head warned her to be careful. (Exhibit 5)
23. On the return flight from Event location redacted. Wagner and Student A were not assigned seats together. Student A was upset with the arrangement. During the flight, Wagner and Student A moved to sit together in two seats at the back of the plane. Wagner had her arm around Student A and vice versa. At times, Student A had her head in Wagner's lap. (Exhibit 5)

24. Another coach on the trip, Abby Eliasson, wrote “I find the girls know a little too much detail about her (Wagner’s) personal life. From, who she is dating to what her personal beliefs about certain aspects of life. There is really no need for the girls to know this about her, as she is a teacher not a friend.” (Exhibit 5)
25. A sample was provided of e-mails that were exchanged between Wagner and Student A on December 12, 2008. The e-mails contained inappropriate language about bodily functions and demonstrated the inappropriate relationship between Student A and Wagner. While Wagner could not control e-mails initiated by Student A, she did not terminate the exchange and in fact, responded in a fashion that encouraged the dialogue, for example:

Wagner to Student A – you are so cute and yes I trust you ...
Wagner to Student A – I do trust you, it’s just the pfft pfft that threw me off, are you serious? I tell you EVERYTHING and why don’t you just go poop? You better go before you come here again stinker. (Exhibit 5)
26. During the fall of 2008, Wagner and Student A started to address each other as “mommy” and “baby”. (Exhibit 5)
27. During the Association’s investigation, Wagner admitted that she was too close to Student A but that she did not know how to end it because she was afraid that Student A might harm herself. She felt trapped in the situation even though she knew she had crossed the professional line. (Exhibit 5)
28. Wagner was forthright and cooperative with the investigating officer. (Exhibit 5)
29. Wagner provided testimony during the penalty phase of the proceeding that indicated
 - a) she had been teaching for seven and a half years when the relationship with Student A occurred;
 - b) she had an unblemished record of performance but acknowledged that two years prior to the relationship with Student A, there had been a concern raised about professional boundaries with students;
 - c) she found working with students who “needed to be believed in” particularly rewarding; and
 - d) she has now developed friendships with peers her own age and has a support system that will prevent her from developing inappropriate relationships with students in the future.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

REASONS FOR DECISION

Charge 1

1. Wagner admitted that she had crossed a professional boundary in her relationship with Student A.
2. Teachers are in a position of trust and authority and as such, must be respectful of students' circumstances and maintain appropriate boundaries in their relationships with students. By her actions, Wagner failed to maintain a proper boundary.
3. Wagner understood Student A's circumstances but failed to act in a professional manner by engaging in the inappropriate relationship with her, failing to terminate the relationship and failing to refer Student A to the appropriate professionals who could provide the support she needed
4. Wagner repeatedly allowed inappropriate physical contact with Student A, thus failing to maintain appropriate boundaries and failing to treat Student A with dignity and respect.

Charge 2

1. Wagner admitted that she had crossed a professional boundary in her relationship with Student A, thus failing to act in a manner that upheld the honour and dignity of the profession.
2. Wagner's inappropriate relationship with Student A was apparent to others, including colleagues and students, and this knowledge undermined the honour and dignity of the profession.

Charge 3

1. Wagner admitted that she had crossed a professional boundary in her relationship with Student A, thus adversely affecting the quality of her professional service.

2. Teachers are expected to maintain proper relationships with students in order to be objective and to treat all students equally. Further, they must be seen to be maintaining objectivity. By maintaining her relationship with Student A, Wagner compromised her ability to be objective and carry out her duties as a teacher.
3. By providing students with intimate details of her life, Wagner allowed students to view her as a friend rather than a teacher, thus compromising her professional integrity.

PENALTY

The presenting officer recommended that the hearing committee consider a penalty of a one-year suspension of membership in the Alberta Teachers' Association. The defence counsel recommended that the hearing committee consider a range of penalties which did not include a suspension of membership.

The hearing committee declares Wagner ineligible for membership in the Alberta Teachers' Association for a period of one year, effective immediately.

REASONS FOR PENALTY

1. Wagner maintained a protracted relationship with a student that exceeded appropriate professional boundaries. Wagner had sufficient experience as a teacher to understand that the relationship was inappropriate and did not act to terminate the relationship.
2. Wagner was aware that the student had mental health issues which made her vulnerable. Wagner failed to seek appropriate assistance for the student and, instead, exploited the student's vulnerability for her own purposes.
3. While the relationship never included sexual intimacy, there were attempts by the student to create intimacy and even then Wagner did not terminate the relationship or seek intervention from other adults or colleagues. Wagner continued to place herself in situations that created additional opportunities to foster the relationship.
4. Wagner escalated the relationship with the student in a manner that reinforced the inappropriateness, as evidenced in an e-mail exchange that used familial, immature and unprofessional language.
5. Wagner permitted a continuing inappropriate relationship that came to the knowledge of others and thus impacted negatively on the reputations of the student, Wagner and the teaching profession.

Report of the Hearing Committee of PCC re A Wagner, page 8

- 6. In a relationship between a student and a teacher, the parties are not on equal terms. The responsibility for maintaining proper boundaries rests solely with the teacher.**

Dated at the City of Edmonton in the Province of Alberta, June 9, 2011

THE ALBERTA TEACHERS' ASSOCIATION
DECISION AND REASONS FROM THE
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST PIOTR MARIUSZ ZALOBA

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Piotr Mariusz Zaloba of Edmonton, Alberta were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Friday, April 22, 2016.

CHARGES AND PLEA

The following charges were read aloud by the secretary to the hearing committee:

1. Piotr Mariusz Zaloba is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between January 3, 2013 and March 10, 2013, engaged in conduct for which he, on May 29, 2015, was convicted of three indictable offences, to wit:
 - a) did, for a sexual purpose, unlawfully touch, directly or indirectly, with a part of the body or with an object, a part of the body a person under the age of sixteen years, contrary to section 151 of the *Criminal Code of Canada*;
 - b) did, by means of telecommunication, communicate with a person who was, or who the accused believed was, under the age of 18 years, for the purpose of facilitating the commission of an offence under subsection 163.1, with respect to that person, contrary to section 172.1(1)(A) of the *Criminal Code of Canada*;
 - c) did, by means of telecommunication, communicate with a person who was, or who the accused believed was, under the age of 16 years, for the purpose of facilitating the commission of an offence under section 151 or 152, 173(2) or section 271, with respect to that person, contrary to section 172.1(1)(B) of the *Criminal Code of Canada*;
2. Piotr Mariusz Zaloba is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between February 1, 2013 and March 8, 2013, engaged in conduct for which he, on May 29, 2015, was convicted of seven indictable offences, to wit:
 - a) did, for a sexual purpose, unlawfully touch, directly or indirectly, with a part of the body or with an object, a part of the body of a person under the age of sixteen years, contrary to section 151 of the *Criminal Code of Canada*;

- b) did, for a sexual purpose, unlawfully invite, counsel or incite a person under the age of sixteen years to touch, directly or indirectly, with a part of the body or with an object, the body of the same person, contrary to section 152 of the *Criminal Code of Canada*;
- c) did, by means of telecommunication, communicate with a person who was, or who the accused believed was, under the age of 18 years, for the purpose of facilitating the commission of an offence under section 163.1, or 4 with respect to that person, contrary to section 172.1(1)(A) of the *Criminal Code of Canada*;
- d) did, by means of telecommunication, communicate with a person who was, or who the accused believed was, under the age of 16 years, for the purpose of facilitating the commission of an offence under section 151 or 152, or section 271, or 173(2) with respect to that person, contrary to section 172.1(1)(B) of the *Criminal Code of Canada*;
- e) did make, print, publish or possess of [Name redacted.] for the purpose of publishing, child pornography, contrary to section 163.1(2) of the *Criminal Code of Canada*;
- f) did transmit, make available or distribute child pornography of [Name redacted.], contrary to section 163.1(3) of the *Criminal Code of Canada*;
- g) did possess child pornography of [Name redacted.], contrary to section 163.1(4) of the *Criminal Code of Canada*.

In the absence of Zaloba, the chair directed a plea of not guilty to the charges.

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—guilty

REASONS FOR DECISION

1. Zaloba was convicted of ten indictable offences under sections 151, 152, 163.1(2), 163.1(3), 163.1(4), 172.1(1)(A), and 172.1(1)(B), of the *Criminal Code of Canada* and, therefore, pursuant to section 23(2) of the *Teaching Profession Act*, is deemed to have engaged in unprofessional conduct.
2. Zaloba was convicted of ten indictable offences. He did not adhere to the Code of Professional Conduct, and thus failed to maintain the honour and dignity of the profession.

3. The public has a right to expect that children will be protected from sexual predators. By his conduct, Zaloba proved to be a sexual predator and jeopardized the public's trust in the profession and failed to uphold the honour and dignity of the profession.

PENALTY

The hearing committee of the Professional Conduct Committee imposes the following penalty on Zaloba:

1. A declaration of ineligibility for membership in the Alberta Teachers' Association effective immediately
2. A recommendation to the minister of education to permanently cancel his teaching certificate

REASONS FOR PENALTY

1. Zaloba was convicted of ten indictable offences. By engaging in highly inappropriate sexual communication and activities with students, including the making and distributing of child pornography, he acted in a manner which did not maintain the honour and dignity of the profession.
2. Zaloba violated the trust and authority that was vested in him as a teacher by grooming young girls for the purpose of his sexual gratification. The Code of Professional Conduct requires, and society expects, that teachers will treat pupils with dignity and respect and be considerate of their circumstances. Zaloba did not uphold this provision of the code and took advantage of two children, one of whom was particularly vulnerable and looked to him for guidance. Zaloba's actions were repugnant and reprehensible and put children at serious risk.
3. Due to the grievous nature of the indictable offences in question and due to the teacher's position of trust in relation to pupils and due to a teacher's duty to only act in a manner that safeguards the interests of children generally, the committee ruled that Zaloba can no longer be a member of the Association, nor should he be considered suitable for certification as a teacher.
4. Zaloba's arrests and subsequent convictions were widely reported in the local media and discussed in the community, all of which reflected poorly on the profession.
5. In his texts and communications to each of the two students, Zaloba acknowledged the illegality of his actions. Clearly, he was fully aware of the criminal nature of his actions.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, May 31, 2016.