

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 [Location Redacted] was duly investigated in accordance with the *Teaching Profession Act* (TP A). 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 [REDACTED]

[REDACTED]
[REDACTED]
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 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.

Report of the Hearing Committee of PCC re B Bain, page 2

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 [Location Redacted], in the Province of Alberta, Bain did for a sexual purpose touch a person under the [Age redacted] 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 [School Division Redacted] until January 31, 2016. (Exhibit 2)
3. During February 2008, Bain [DOB redacted]resided with a child [Age redacted] and [Name Redacted] (the common-law spouse of Bain) in the [Location Redacted], Alberta. (Exhibit 4, items 1 and 2)
4. During the month of February 2008, the child was [Age redacted]years old. (Exhibit 4, item 3)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Report of the Hearing Committee of PCC re B Bain, page 4

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 TPA.
3. By engaging in inappropriate actions of a sexual nature with a [Age redacted], 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 [Age redacted] 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 [Age redacted] 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.

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

