

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 [Location Redacted] 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 [REDACTED];
2. [REDACTED] counsel to the hearing committee;
3. [REDACTED] as secretary;
4. [REDACTED] as recorder; and
5. [REDACTED] as presenting officer assisted by [REDACTED]

The investigated member, Edwin Arias, was not present; however, he was represented by [REDACTED].

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,

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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.

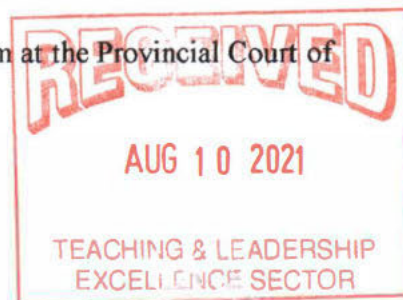
EXHIBITS FILED

- 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 [REDACTED], 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 [REDACTED], dated June 15, 2021 and June 16, 2021 respectively

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED

1. Arias was born [Date Redacted]. (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 [School Division Redacted] from May 1, 2003 to November 30, 2018. (Exhibit 5, Page 1)
4. At the time of the incidents, Arias was employed at [School Redacted] which is a large urban high school located in [City Redacted] [Demographics of school Redacted] (Exhibit 5, Page 1)
5. On May 31, 2017, Arias was suspended by Superintendent [Name Redacted] for having been criminally charged with engaging in criminal sexual offences against a former [Gender Redacted] 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)

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7. On September 24, 2018, Arias submitted a letter of resignation to the [School Division Redacted]. (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 redacted] 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 [REDACTED], 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 [REDACTED] and [REDACTED] why there was no financial penalty included in their joint submission on penalty. [REDACTED] deferred to the

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committee as to what they may believe is an appropriate penalty for the charge but informed that [REDACTED] would provide further insight.

[REDACTED] told the committee that since the end of Arias's incarceration, he has had limited earning capacity. He currently earns [Wage Redacted] per hour and has limited hours of work each week. Further to that, [REDACTED] said that one-third of Arias's income is paid towards child support for [personal information].

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. [REDACTED] 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

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teachers form 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 [REDACTED] comments regarding Arias's employment status and his inability to pay any monetary fine as [REDACTED] 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.

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

