

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST LAZHAR ABIDA

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Lazhar Abida of [Location Redacted] 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, December 3, 2018 at 0900.

Professional Conduct Committee members present as the hearing committee were [REDACTED] presented the case against the investigated member. The investigated member, Lazhar Abida, 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 charge was read aloud by the secretary to the hearing committee:

1. Lazhar Abida 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 27, 2017, used physical force with a student, Student A, by butting his [Abida's] head against Student A's head, thus failing to treat the student with dignity and respect, contrary to 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—Declaration of awareness of rights, signed by Abida, dated October 29, 2018
- Exhibit 2—Notice of hearing and Canada Post confirmation of delivery, on November 8, 2018
- Exhibit 3—Submission on plea, signed by Abida and [REDACTED] dated October 29, 2018
- Exhibit 4—Agreed statement of facts, signed by Abida and [REDACTED] dated October 29, 2018
- Exhibit 5—Joint submission on penalty, signed by Abida and [REDACTED] dated October 29, 2018
- Exhibit 6—Doctor's note from [REDACTED] Medical Clinic, dated October 22, 2018
- Exhibit 7—Doctor's note from [REDACTED] Medical Clinic, dated, October 11, 2017
- Exhibit 8—ASEBP form, dated September 22, 2017
- Exhibit 9—ASEBP form, dated November 17, 2017

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Abida was an active member of the Alberta Teachers' Association (Association) from September 1, 2007 to November 30, 2017. (Exhibit 4)
2. Abida began working as a teacher for [School Division Redacted] in September 2009. (Exhibit 4)
3. Prior to 2009, he was employed by the [School Division Redacted]. (Exhibit 4)
4. Abida was a [subject redacted] teacher at the [School Redacted] in the 2017/18 school year. (Exhibit 4)
5. Abida resigned from [School Division Redacted] effective December 1, 2017. (Exhibit 4)
6. In the afternoon of September 27, 2017, Abida was covering a class for the regular teacher who was absent at the time. (Exhibit 4)
7. Upon entering the classroom, Abida observed Student A and a friend passing a ball back and forth. Abida directed Student A to stop fooling around with the ball. Student A continued to misbehave. (Exhibit 4)

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

8. Abida approached Student A and placed two hands on Student A's head and Abida slammed his forehead against Student A's forehead. (Exhibit 4)
9. As a result of Abida's head's contact with Student A's head, Student A fell out of the chair and hit [gender redacted] head on the floor. (Exhibit 4)
10. Student A got up and attempted to call [gender redacted] mom with [gender redacted] cellular phone. Abida yelled at Student A to give the phone to Abida. (Exhibit 4)
11. Student A refused to give Abida the phone because Abida had just hit [gender redacted]. (Exhibit 4)
12. Abida responded by telling Student A to "give me the damn phone." (Exhibit 4)
13. Student A gave the cellular telephone to Abida and Abida left the classroom to regain [gender redacted] composure. (Exhibit 4)
14. Student A went to the office and reported the incident to one of the vice-principals. (Exhibit 4)
15. The vice-principal asked if Student A was alright, to which Student A responded that [gender redacted] was not sure. The vice-principal advised Student A to wait in the office so that Student A could speak to the vice-principal in charge of the high school component of the school, [Name Redacted]. (Exhibit 4)
16. After speaking to Student A, [Name Redacted] called Abida to the office. (Exhibit 4)
17. [Name Redacted] asked Abida to demonstrate how Abida had made contact with Student A's head. Abida demonstrated as requested, but without the same force that he had used in the classroom. (Exhibit 4)
18. Abida apologized to Student A and left the office. (Exhibit 4)
19. Student A returned to the classroom to retrieve the cell phone and personal belongings and before going to the next class, called [gender redacted] mother. (Exhibit 4)
20. Student A's mother arrived at the school, spoke to the principal and vice-principal and took Student A home. (Exhibit 4)
21. That evening, Student A felt sick and was taken to the hospital. The attending physician in the hospital diagnosed Student A with a mild concussion and sent [gender redacted] home. (Exhibit 4)

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

22. Approximately one week later, Student A's parents reported the matter to the police. The police conducted an investigation but did not lay criminal charges against Abida. (Exhibit 4)
23. Student A's parents indicated to the Association's investigating officer that, in spite of the incident detailed within this document, they had viewed Abida as a good teacher. (Exhibit 4)
24. [School Division Redacted] placed Abida on unassigned duties after the September 27, 2017 incident and approximately one week later, Abida accessed medical leave which he remained on until the date of his resignation. Prior to Abida's resignation, a termination hearing had been scheduled. (Exhibit 4)
25. [Medical Information Redacted]

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

REASONS FOR DECISION

1. Without any lawful excuse, Abida used physical force with Student A by butting his head against Student A's head, thus failing to treat the student with dignity and respect, contrary to article 4 of the Code of Professional Conduct.
2. Abida used enough force to cause Student A to fall and hit [gender redacted] head on the floor.
3. Teachers are expected to provide an environment where students feel safe. Abida did not provide a safe environment thus failing to treat student s with dignity and respect.
4. Abida plead guilty to the charge.

SUBMISSION ON PENALTY

The committee received a written joint submission on penalty.

1. The presenting officer advised Abida that the recommended penalty will be: suspension of membership from the Alberta Teachers' Association for a period of one year and recommendation to the Minister of Education to suspend Abida's teaching certificate for a period of one year.
2. The presenting officer advised Abida that the hearing committee is not bound by the recommended penalty. The committee makes its own determination.

PENALTY

The committee imposed the following penalty on Abida:

Charge 1—A declaration of ineligibility for membership in the Alberta Teachers' Association for a period of one year and a recommendation to the minister of education to suspend Abida's teaching certificate for a period of one year.

REASONS FOR PENALTY

The Professional Conduct Committee considered the following factors in the matter of penalty:

1. All teachers have a responsibility to treat students with dignity and respect.
2. Any conduct of a teacher that, in the opinion of the hearing committee, is detrimental to the dignity of a student, is unprofessional.
3. Although Abida's conduct occurred in a classroom that was not his own, his misconduct was inexcusable regardless of circumstances.
4. Abida ought to have understood the expectations of a teacher to treat students with dignity and respect.
5. Teachers are expected to provide an environment where students feel safe. Abida failed to do so.
6. Abida's inappropriate behavior requires a significant penalty that demonstrates the Association's desire to deter unacceptable conduct and to ensure the safety of students.
7. Further, an appropriate penalty must demonstrate to members of the teaching profession, as well as to members of the public, that the teaching profession takes the regulation of its members' conduct seriously and that the profession will decisively respond to professional misconduct.

Report of the Hearing Committee of PCC re Abida, page 6

8. The committee considered the following mitigating factors but felt they were not sufficient to warrant a variance from the joint submission on penalty.
 - a) [Medical Information]
 - b) Abida had no known previous convictions for misconduct within the statutory regulations related to the teaching profession.
 - c) Abida had apologized to Student A for his actions.
 - d) Student A's parents indicated to the Association investigating officer that, in spite of the incident detailed within this document, they had viewed Abida as a good teacher.

Dated at the City of Edmonton in the Province of Alberta, January 9, 2019.