

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

IN THE MATTER OF AN APPEAL BY DAVID STAWN
OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL
CONDUCT COMMITTEE WITH RESPECT TO CHARGES
OF UNPROFESSIONAL CONDUCT AGAINST HIM

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APPENDIX 1—STAWN'S REQUESTS FOR ADJOURNMENT

I. PREAMBLE

The Professional Conduct Appeal Committee (PCAC) of the Alberta Teachers Association (Association) reports that the appeal by David Stawn (Stawn) of the decision of the hearing committee of the Professional Conduct Committee (PCC) with respect to charges of unprofessional conduct against him was heard in accordance with the *Teaching Profession Act, RSA 2000, c T-2* (TPA). The appeal hearing was convened by Zoom video conference on May 31, 2022 at 0900.

PCAC members present were [REDACTED] [REDACTED] was independent legal counsel to the PCAC, [REDACTED] was secretary and [REDACTED] was recorder. [REDACTED] acting on behalf of [REDACTED] represented Provincial Executive Council (PEC) for the first day. For all subsequent days of the hearing, [REDACTED] was the PEC representative.

The appellant, Stawn, was present and was not represented by legal counsel. When asked by the chair, Stawn acknowledged he understood that he had a right to engage legal counsel.

The chair confirmed that the Steps and Procedures of the Professional Conduct Appeal Committee for a virtual hearing would be followed.

The chair confirmed with each member of the PCAC that they have received a copy of the Notice of Appeal, the decision of the PCC and the record of the hearing.

II. COMPOSITION AND JURISDICTION

There were no objections to the composition of the PCAC or its jurisdiction to hear the matter.

III. ADJOURNMENT

A. FIRST ADJOURNMENT REQUEST

The secretary, [REDACTED], reported having received written adjournment requests from [REDACTED] dated May 5, 2023, and from Stawn, dated May 24, 2023. [REDACTED] submitted both requests to the chair.

Prior to hearing the requests for adjournment from the parties, the chair noted for the record that the PCAC would not be seized and there were no objections from either of the parties to this stipulation.

The requests for adjournment were heard in the order they were received.

Submission of [REDACTED]

1. [REDACTED] presenting on behalf of [REDACTED] explained that the request for adjournment was due to an [REDACTED]
2. [REDACTED] was requesting an adjournment of the May 31 date, but [REDACTED] could be prepared to proceed on the next scheduled date of June 6, 2022.
3. The written request from [REDACTED] was entered as Exhibit 2.

Submission of Stawn

1. Stawn said the materials from the record of PCC proceedings were voluminous and he needed more time to prepare his appeal.
2. Stawn said it took at least 70 days from the time he filed his appeal for the Association to prepare the record of the PCC proceedings. Stawn argued that if it took 70 days to create the record of proceedings, it was fair that he should have at least as long to prepare.
3. Stawn said he had been working steadily on his appeal but it was not yet complete.
4. Stawn, in his verbal submission, requested that the PCAC provide at least 70 days from the time he received the record of proceedings as an adjournment period.
5. Stawn noted that summer was not an ideal time to schedule an appeal hearing but that he could be available during some portions of the summer months though he was not certain he would have internet connectivity while he was away from home.
6. Stawn's letter requesting adjournment was entered as Exhibit 3.

Decision of the PCAC

The PCAC agreed to adjourn the hearing until the first available date after July 2, 2022.

Reasons for Decision

1. The PCAC, in its decision making, considered each request separately and then collectively.
2. This was the first request for adjournment made by [REDACTED] and the request was for May 31, 2022 and due to an [REDACTED] The PCAC reasoned the length of time requested was not excessive as [REDACTED] said [REDACTED] could commence the appeal hearing on the next scheduled date, June 6, 2022. Further, the PCAC noted [REDACTED] was not in attendance

and had arranged for a colleague to present the request. Therefore, the PCAC deemed the request for adjournment legitimate and reasonable.

3. This was the first request for adjournment made by Stawn. The PCAC determined that if it did not provide an adjournment, Stawn would be prejudiced in his ability to present his appeal. Given the volume of materials involved in the record of proceedings, the PCAC did not see Stawn's request as unreasonable. The PCAC was satisfied that Stawn was working to prepare his appeal and that the timeframe he identified was reasonable. Additionally, the PCAC noted [REDACTED] said Stawn should have adequate time to prepare, but that the adjournment should not be too lengthy in time.
4. Taken together, the requests for adjournment by [REDACTED] and Stawn were reasonable and given that Stawn's request spanned a greater period, the PCAC's decision reflects the longer timeframe.
5. The PCAC presented its verbal decision to the parties jointly and the chair asked if there were any concerns from the parties about the determination. There were none raised by the parties. The decision was confirmed.

B. SCHEDULE FOR RECONVENING OF APPEAL HEARING

Seven dates were scheduled for the reconvening of the appeal hearing: October 4, 5 and 6, 2022 and November 1, 2, 3 and 4, 2022. Written notice of the reconvening dates was sent to Stawn by registered mail and confirmation of receipt was obtained from Canada Post. (Exhibit 4) Stawn presented his case on October 4, 5 and 6, 2022, and November 1, 2022. Although the reconvening in November included four consecutive days, Stawn requested adjournment of November 2, 3 and 4, 2022 dates, saying he [REDACTED] and unable to proceed. He subsequently completed his submission on the next available date scheduled, March 2, 2023.

The details of the requests for adjournment and the PCAC's handling of those requests are provided in Appendix 1.

IV. PCC Hearing Summary

A. THE CHARGES

The charges against Stawn were as follows:

Charge 1—David Gordon Stawn is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between 2016 and 2018, yelled at or shouted at students to manage or respond to their behaviour

whereby his loud voice frightened students, thus failing to treat students with dignity and respect and be considerate of their circumstances.

Charge 2—David Gordon Stawn is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between 2016 and 2018, did not use Non-Violent Crisis Intervention (NVC) holds and carried Student A by [their] wrists, temporarily suspending [them] off the floor while transporting [them] to the office, thus failing to treat students with dignity and respect and be considerate of their circumstances.

Charge 3—David Gordon Stawn is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between 2016 and 2018, did not use Non-Violent Crisis Intervention (NVC) holds and carried Student B on two separate occasions by [their] wrists, temporarily suspending [them] off the floor while transporting [them] to the office, thus failing to treat students with dignity and respect and be considerate of their circumstances.

Charge 4—David Gordon Stawn is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between 2016 and 2018, engaged in physical contact with students when neither the child nor others were in immediate danger, thus failing to treat students with dignity and respect and be considerate of their circumstances.

Charge 5—David Gordon Stawn is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between 2016 and 2018, made critical comments about the professional competence or professional reputation of another teacher to administration, in a manner which was not consistent with professional responsibilities towards colleagues, thus failing to maintain the honour and dignity of the profession.

Charge 6—David Gordon Stawn is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between 2016 and 2018, engaged in actions toward colleagues in a manner which was not consistent with professional responsibilities towards colleagues, thus failing to maintain the honour and dignity of the profession.

B. DATES, VENUE AND NUMBER OF WITNESSES AT PCC HEARING

The PCC hearing occurred on

- a) Saturday, May 8, 2021, and Monday, May 10, 2021 through Thursday, May 13, 2021;
- b) Monday, July 5, 2021 through Thursday, July 8, 2021;
- c) Tuesday, September 7, 2021; and
- d) Monday, October 18, 2021.

The PCC hearing was held virtually over Zoom due to public health restrictions at that time.

Over the course of the PCC hearing, the PCC hearing committee listened to testimony from 27 witnesses; 19 witnesses were called by the presenting officer and 8 witnesses were called by Stawn and his counsel. The PCC hearing committee considered the credibility of each witness (Exhibit 1B pp 2421–2428).

C. DECISIONS OF THE PCC HEARING COMMITTEE

The PCC hearing committee made the following determination for charges one through six based on witness testimony and evidence adduced:

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

The reasons for guilt or innocence are summarized as follows:

1. The PCC hearing committee found, based on witness testimony and the evidence adduced, that between 2016 and 2018, Stawn failed to treat students with dignity and respect and be considerate of their circumstances because he regularly yelled at or shouted at students to manage their behaviour even after the behaviour ceased to be an issue. Further, Stawn's repeated pattern of yelling at students caused them to cry, feel scared and feel nervous in his presence.
2. The PCC hearing committee found, based on witness testimony and the evidence adduced, that between 2016 and 2018, Stawn failed to treat students with respect and dignity and be considerate of their circumstances as he picked up Student A several times, including picking them up by the wrists and temporarily suspending them off the floor. This use of this type of hold is contrary to the holds prescribed by Non-Violent Crisis Intervention training, which Stawn had participated in even though his certification was not current at the time of the incidents with Student A.

3. The PCC hearing committee found, based on witness testimony and the evidence adduced, that between 2016 and 2018, Stawn failed to treat students with respect and dignity and be considerate of their circumstances as he picked up Student B up by the wrists and temporarily suspending them off the floor on two separate occasions. This use of this type of hold is contrary to the holds prescribed by Non-Violent Crisis Intervention training, which Stawn had participated in and referred to as his training though it was not current at the time of the incidents with Student B.
4. The PCC hearing committee found, based on witness testimony and the evidence adduced, that between 2016 and 2018, Stawn failed to treat students with respect and dignity and be considerate of their circumstances as he engaged in physical contact with students when neither the child nor others were in immediate danger. The PCC hearing committee also found that Stawn demonstrated a pattern of being relatively quick to grab or move students when other, less invasive approaches had not been attempted.
5. The PCC hearing committee found, based on witness testimony and the evidence adduced, that between 2016 and 2018, the conduct of Stawn towards his colleagues in terms of making critical comments about the professional competence or professional reputation of another teacher to administration did not rise to the level of professional misconduct.
6. The PCC hearing committee found, based on witness testimony and the evidence adduced, that between 2016 and 2018, Stawn engaged in actions towards colleagues in manner that did not demonstrate the consistent, honourable and respectful manner of interacting that all teachers and school staff should rightly expect from members of the teaching profession. Therefore, Stawn failed to maintain the honour and dignity of the teaching profession.

D. PENALTIES ORDERED

The PCC hearing committee imposed the following penalties on Stawn:

1. Stawn be prohibited from presenting at any professional development event in the future that is sanctioned, organized, or sponsored by the Alberta Teachers' Association.
2. For Charge 1—Letter of severe reprimand and a fine of \$1,500.
3. For Charge 2—Suspension of Stawn's membership in the Association for a period of one year, a recommendation to the minister of education to suspend Stawn's teaching certificate for one year and a fine of \$3,000.
4. For Charge 3—Suspension of Stawn's membership in the Association for a period of one year, a recommendation to the minister of education to suspend Stawn's teaching certificate for one year and fine of \$3,000.

5. For Charge 4—Suspension of Stawn's membership in the Association for a period of one year, a recommendation to the minister of education to suspend Stawn's teaching certificate for one year and a fine of \$6,000.
6. For Charge 6—A letter of severe reprimand and a fine of \$1,000.

Further, the PCC hearing committee specified the following conditions on the penalty imposed:

- The severe reprimands are to be issued in two letters.
- The suspension of membership in the Association shall be served consecutively, for a total of three years, effective immediately.
- The recommendation to the minister of education to suspend Stawn's teaching certificate be for a combined period of three years.
- One-third of the total fine shall be paid within 30 days of the receipt of the committee's written decision and the remaining balance shall be paid within 90 days of receipt of the written decision. Failure to pay the fine within this prescribed timeline will result in Stawn being ineligible for reinstatement as a member of the Association.

V. EXHIBITS

The following documents were entered as exhibits during the appeal:

Exhibit 1—Notice of Appeal Hearing and Canada Post confirmation of delivery to Stawn on April 8, 2022

Exhibit 1B—Record of proceedings of Stawn's PCC hearing

Exhibit 2—E-mail from [REDACTED] dated May 5, 2022, requesting adjournment of the May 31, 2023, date only

Exhibit 3—Letter from Stawn to [REDACTED] dated May 24, 2022, requesting adjournment for 60 days

Exhibit 4—Notice of reconvening the appeal hearing on October 4, 5 and 6, 2022 and if needed, on November 1, 2, 3 and 4, 2022 and Canada Post confirmation of delivery to Stawn on July 12, 2022

Exhibit 5—Four-page document, titled October 2022 Stawn-document-errata

Exhibit 6—Stawn's appeal document, dated October 2022

Exhibit 7—Stawn's amended appeal document, dated October 18, 2022

Exhibit 8—E-mail exchange between Stawn and [REDACTED] re adjournment [REDACTED] dated November 2, 2022

Exhibit 9—Stawn's amended appeal document pp 1–90, dated February 2023

Exhibit 10—Stawn's amended appeal document pp 90–95, dated February 2023

Exhibit 11—E-mail from Office of the Information and Privacy Officer to Stawn, dated February 14, 2023

Exhibit 12—[REDACTED] first binder of documents, tabs 1–80

Exhibit 13—[REDACTED] second binder of documents, tabs 81–100

VI. WITNESSES

1. Stawn did not call any witnesses.
2. [REDACTED] called 10 witnesses:



VII. RECONVENING PCAC APPEAL HEARING

On October 4, 2022, the PCAC reconvened to begin hearing submissions from Stawn and [REDACTED] regarding the merits of the appeal.

1. The chair confirmed the following:
 - a) The parties had no objections to the composition or jurisdiction of the PCAC. Stawn added he could not object because he did not know any of the members of the PCAC or their background.
 - b) Stawn was not represented by legal counsel and was aware of his right to have counsel.
 - c) The Steps and Procedures of the Professional Conduct Appeal Committee would be followed as written.
2. [REDACTED] explained with respect to Step 8, that if new evidence were to be brought by either party into the hearing, in accordance with section 53(1) of the *Teaching Profession Act*, it would have to meet all requirements of the Palmer test established by the Supreme Court of Canada in *R v Palmer* [1980] 1 SCR 759.

The four parts of the Palmer test are

- a) the evidence could not, by the exercise of due diligence, have been obtained for the PCC hearing;
- b) the evidence is relevant in that it bears upon a decisive or potentially decisive issue;
- c) the evidence is credible in the sense that it is reasonably capable of belief; and
- d) the evidence is such that, if believed, it could have affected the result at the PCC hearing.

A. SUBMISSION OF STAWN

1. Stawn said he had documents upon which he was basing his appeal and he wanted to have them accepted as exhibits. Stawn was instructed by the PCAC to make application for special leave to introduce new evidence for documents he wanted the PCAC to review in support of his appeal. Stawn said he had 12 documents for the PCAC to consider.
2. [REDACTED] had not seen the documents. Therefore, prior to proceeding any further, [REDACTED] was provided the opportunity to review the documents.
3. Subsequently, the PCAC heard arguments from the parties about whether to grant special leave to consider the admission of the documents as exhibits. The PCAC then caucused to consider whether the documents would be entered.
4. Following deliberations, the PCAC determined it would accept two of the additional documents as Exhibits 5 and 6. The remainder of the documents were rejected by the PCAC because they did not pass the Palmer test.

The reasoning of the PCAC was provided for each document as follows:

- a) Letter from [REDACTED] to David Stawn, dated February 11, 2020. This document was not accepted based on the Palmer test parts 1, 2 and 4.
- b) Work absence certificates signed by [REDACTED]
[REDACTED] This document was not accepted based on the Palmer test part 1.
- c) E-mail from [REDACTED] to David Stawn,, dated May 12, 2021. This document was not accepted based on the Palmer test parts 2 and 4.
- d) E-mail from [REDACTED] to David Stawn, dated June 24, 2020. This document was not accepted based on the Palmer test parts 1, 2 and 4.
- e) Letter from [REDACTED] to David Stawn with attachments, dated April 26, 2018. This document was not accepted based on the Palmer test parts 1, 2 and 4.
- f) E-mail from [REDACTED] to David Stawn, dated July 3, 2018. This document was not accepted based on the Palmer test parts 1, 2 and 4.
- g) Letter from [REDACTED] to David Stawn, dated January 5, 2021. This document was not accepted based on the Palmer test part 1.

- h) Handwritten comments, anonymous, dated December 15, 2017. This document was not accepted based on the Palmer test part 1.
 - i) E-mail from redacted name to [REDACTED] members, dated January 16, 2014. This document was not accepted based on the Palmer test parts 1 and 4.
 - j) Article from CBC, dated December 16, 2019. This document was not accepted based on the Palmer test parts 1, 2 and 4.
 - k) Employee 2018/19 Performance Agreement for David Stawn for the period September 1, 2018 to August 31, 2019. This document was not accepted based on the Palmer test parts 1 and 2.
- 5. Stawn argued the PCC findings concerning the charges should be overturned and the penalties imposed by the PCC hearing committee were not based on prior case law and were extreme when his teaching record in the past is considered.
 - 6. Stawn drew from his appeal documents, which were amended through the course of the appeal hearing. These documents are labeled as Exhibits 5, 6, 7, 9 and 10. As Exhibits 9 and 10 are the most up-to-date amended documents from Stawn, the PCAC relied heavily on them to discern Stawn's arguments for each point.
 - 7. Stawn elaborated on several grounds for his appeal, which can be categorized as
 - a) procedural unfairness,
 - b) bias and discrimination,
 - c) lack of acknowledgement of the context,
 - d) incomplete investigative techniques and coaching of witnesses by [REDACTED] and
 - e) the qualification of a witness as an expert.
 - 8. The arguments and exemplars from Stawn's presentation and documentation are summarized as follows.

Procedural Unfairness

Stawn argued the Association did not provide him with a copy of the PCC hearing transcript promptly after he launched his appeal. He alleged the Association manipulated the content of the recordings from the PCC hearing which is evident because the recordings and his notes from the PCC did not align. Further, Stawn accused the Association of delaying the appeal because the transcript was produced in house by employees of the Association. (Exhibit 9 point xiv)

Stawn asserted the PCC hearing decision has significant errors and the record of proceedings is incomplete. (Exhibit 9, Point vi)

Stawn argued that the election of [REDACTED] a member of the PCC hearing committee in his case, to PEC created unfairness to him as [REDACTED] continued to serve on the hearing committee following his election. This is particularly unfair in that PEC receives the PCC hearing committee's written decision. (Exhibit 9 point iv)

Stawn argued that the timing of sending the PCC decision to his legal counsel over the Christmas break was planned by the Association to interfere with his ability to appeal the decision. (Exhibit 9 point vii)

Stawn said his legal counsel objected 24 times throughout the course of his PCC hearing and there was only one objection that was upheld. (Exhibit 9 point xii)

While it was not clear whether Stawn was commenting on the PCC hearing committee's determination of guilt or the penalty phase, he argued that the PCC hearing committee took only 45 minutes to deliberate. Stawn argued this was not sufficient time for the committee to consider the arguments of the parties, particularly the case law provided by his legal counsel. (Exhibit 9 points xv and xvii)

Stawn argued that the Association's investigating officer failed to obtain records he felt were relevant to his case, [REDACTED] did not provide those documents to him and [REDACTED] failed to interview and/or call the persons as witnesses that he thought [REDACTED] should have included. (Exhibit 9 points xiv and xxvii)

Stawn argued that during the PCC hearing, his lawyer objected to the use of prior consistent statements, hearsay and contemporaneous notes but that the committee did not uphold his legal counsel's objections. (Exhibit 9 examples: points xx, xxvi, xxx and xvi)

Bias and Discrimination

Stawn argued the PCC hearing committee was biased against him which was evident because the PCC hearing decision emphasized the findings that concluded wrongdoing on his part but ignored the parts of the hearing proceedings that showed him in a positive light. He said that the PCC decision did not align with the record of proceedings as it was riddled with errors creating bias and prejudice against him. (Exhibit 9 point iv)

Stawn argued that he could not assess, in advance of the PCC hearing, whether members of the PCC hearing committee had a conflict of interest with him, nor could he assess whether they were biased with respect to adjudicating his case. (Exhibit 9 point viii)

Stawn argued that the absence of [REDACTED] showed the PCC hearing committee held unconscious bias against a witness he called to testify. It was not clear whether the witness was [REDACTED] though Stawn does write that the witness [REDACTED] (Exhibit 9 point x)

Stawn argued the demeanor of the presenting officer at the PCC hearing was unprofessional and [REDACTED] demonstrated bias toward him during the hearing. He said this conduct prejudiced the hearing committee against him. (Exhibit 9 point xiii)

Stawn argued that the length of time that elapsed in the investigation before the parents of students were contacted for interviews meant the Association created substantive bias against him. (Exhibit 9 point xxi)

Stawn argued that the professional conduct complaints he initiated against other Association members were disposed of using the Invitation process rather than hearings and this result was indicative of the Association's bias against him. (Exhibit 9 point xxxiii)

Stawn argued the chair of the PCC hearing committee demonstrated bias against him when the chair failed to sanction the presenting officer when [REDACTED] interrupted his counsel during witness questioning. (Exhibit 9 point 5)

Stawn argued there was bias shown against him by [REDACTED] because he is a male who taught [REDACTED] students. (Exhibit 9 point 7)

Stawn argued there was bias shown against him in that the PCC hearing committee ignored his character references, including two of his witnesses. (Exhibit 9 point 26)

Stawn argued that in addition to gender bias, he experienced discrimination on the basis of his [REDACTED] when the presenting officer provided case precedents in [REDACTED] submission on penalty that included cases involving inappropriate relationships with students. He argued [REDACTED] compares the transfer of students to sexual abuse cases (p 7 SAC) (pp 1578-1580 hearing record) implying the damaging stereotype of males working in [REDACTED] as sex offenders. This evokes a blatant context of discrimination." (Exhibit 9 points xvi and 8)

Lack of acknowledgement of the school context

Stawn argued that the PCC hearing committee failed to consider the context of [REDACTED] the school where he taught, and this created bias against him. Stawn said there were other staff who had long standing relationships with the principal and that he was treated as an outsider in the school. Further, Stawn asserted the PCC hearing committee

showed bias toward the principal and the other school staff who spoke out against him. (Exhibit 9 point xxi)

Stawn argued that the context of [REDACTED] presented at the PCC hearing was not the 2016–18 context, but rather the 2021 context. (Exhibit 9 point 14)

Incomplete investigative techniques and coaching of witnesses by the presenting officer

Stawn argued that both Student A and Student B were coached by [REDACTED] prior to the PCC hearing. (Exhibit 9 points 24 and 25).

Stawn argued that [REDACTED] failed to obtain complete notes and/or records of student behaviour over the course of a year, as he requested and consequently, the investigation was incomplete. (Exhibit 9 points 3 and 24)

Stawn argued that there were at least 13 people whom the investigating officer did not interview even though their names were brought up during the PCC hearing. Stawn alleged this meant there were unfair procedural and substantive issues created by the investigating officer because [REDACTED] did not conduct interviews with the 13 people. (Exhibit 9, Point 1)

Qualification of a witness as an expert

Stawn argued that [REDACTED] should not have been qualified as an expert witness, restating the arguments his legal counsel made during the original PCC hearing. (Exhibit 9 point xxvi)

Stawn argued that [REDACTED]'s testimony should have been discounted because [REDACTED] did not observe his work as a teacher, nor did [REDACTED] acknowledge his explanation as a witness in the hearing. (Exhibit 9 point 13; Charge 2 page 93)

Stawn argued that because [REDACTED] and [REDACTED] (chair of the PCC hearing committee) worked for the same employer board, reasonable apprehension of bias ought to have been determined, restating the arguments his legal counsel made during the original PCC hearing. Further, he argued either [REDACTED] or [REDACTED] ought to have stepped down from their hearing roles. (Exhibit 9 point 6)

B. SUBMISSION OF [REDACTED]

[REDACTED] called ten witnesses as part of [REDACTED] submissions heard on April 4 and 5, 2023. In addition, [REDACTED] provided a binder with 26 tabs containing reference documents for [REDACTED] witnesses who were called to respond to Stawn's arguments. The PCAC accepted the binder as Exhibit 12, [REDACTED] first binder of documents. Although the documents meet the requirements of the Palmer test, the PCAC did not give significant weight to the documents in Exhibit 12.

The witness testimony is summarized below along with assessments of credibility based on the following seven factors:

1. Appearance and demeanor
2. Ability to perceive
3. Ability to recall
4. Motivation
5. Probability or plausibility
6. Internal consistency
7. External consistency

Alberta Teachers' Association

1. [REDACTED] provided an overview of the discipline processes followed by the Association, as required by the TPA.
2. [REDACTED] explained the process for handling complaints when they are received by the Association. First, an investigator is appointed after consultation regarding staff workload is conducted with coordinators and associate coordinators. Once the consultation is complete, a letter appointing the investigator is sent to the complainant and the investigated member.
3. [REDACTED] testified that investigators do not provide favors for [REDACTED] through their appointment. The appointment of investigators is a regular function of the work done by Association staff.
4. [REDACTED] said when the investigation is complete, the investigator writes a report of findings and recommendations about next steps and submits it to [REDACTED]. As the [REDACTED] considers the recommendations and decides whether to order a hearing.
5. [REDACTED] gave a brief overview of how PCC hearing committees are appointed. The PCC is a pool of potential hearing committee members and members are drawn from there to create each hearing committee.
6. [REDACTED] said PEC does not grant appeals; its role is to receive a PCC hearing committee's decision and either accept it or appeal the decision. In the event there is a conflict for any of the PEC members receiving a report, that member recuses themselves.
7. *Personal Information Protection Act* (PIPA) requests go to [REDACTED] and [REDACTED] noted an investigator's notes are not released in response to any PIPA request.
8. [REDACTED] also received conduct complaints regarding [REDACTED] and [REDACTED]. [REDACTED] noted that following an investigation, it was determined that the Association did

not have jurisdiction over [REDACTED] and [REDACTED] because they were not active members of the Association.

Credibility—[REDACTED] was highly credible. [REDACTED] was calm, confident and [REDACTED] testimony was internally and externally consistent. The PCAC considered [REDACTED] s testimony and preferred it to Stawn's claims where inconsistencies occurred.

Alberta Teachers Association

1. [REDACTED] testified [REDACTED] was the [REDACTED] which is now renamed as [REDACTED]. Further, [REDACTED] testified that [REDACTED] held extensive experience investigating conduct complaints for both Alberta Education Teacher Regulation Branch and the Association.
2. As part of [REDACTED] role, [REDACTED] processed requests for investigation and noted there were approximately 12 to 20 investigators working on Association investigations at any given time.
3. [REDACTED] testified that transcripts and records of proceedings are not required to be searchable documents.
4. [REDACTED] testified that the transmission of record of proceedings and/or PCC decisions was a requirement of the TPA. [REDACTED] also testified that timing of transmission of the decision of Stawn's PCC hearing being around Christmas time was a coincidence. In this case, the issuance of the PCC decision coincided with Christmas and the 60-day timeline for issuance of the decision required by the TPA.
5. [REDACTED] clarified that a written transcript is not produced until an appeal is launched. Further, [REDACTED] said there is no reason for the staff who produce the transcripts to edit the recording or the written transcription. Ultimately, [REDACTED] noted "that sort of allegation frustrates me to think that some line staff in house, they are professionals trained in their jobs, would risk their professional reputations and commit fraud." [REDACTED] testified that while Stawn believes this is his right to question the veracity of the transcript, it is troubling for [REDACTED] that someone would believe that about the Association's process.
6. [REDACTED] confirmed [REDACTED] was a part of the PIPA requests that were made by Stawn.

Credibility—[REDACTED] was highly credible. [REDACTED] was calm, confident and [REDACTED] testimony was internally and externally consistent. The PCAC considered testimony and preferred it to Stawn's claims where inconsistencies occurred.

Alberta Teachers' Association

1. [REDACTED] is [REDACTED] a role [REDACTED] has held for [REDACTED]. As part of [REDACTED] work, [REDACTED] serves as the [REDACTED] of a group of [REDACTED] who serve as [REDACTED] for PCC and PCAC hearings. Part of [REDACTED] duties as [REDACTED] include assigning executive staff as secretaries to individual hearings.
2. [REDACTED]'s testimony included information about the composition of PCC hearing committees and the PCAC, the process for arranging for hearings and the generation and transmission of committee decisions, including vetting through legal counsel.
3. [REDACTED] explained the factors used by PCC hearing committees to determine witness credibility.
4. [REDACTED] explained what happens to produce a transcript when an appeal of a PCC decision is received. [REDACTED] testified that appeals can be made by either PEC or the investigated member.
5. [REDACTED] was questioned about the manner in which recordings of proceedings are saved, whether they are in five-minute chunks or full day recordings. [REDACTED] said [REDACTED] was not sure about how recordings are filed.
6. [REDACTED] testified that as [REDACTED] is not a decision maker. As such, whether [REDACTED] had training in bias and diversity would not be relevant to [REDACTED] role as [REDACTED]. Further, [REDACTED] said if there is bias in a hearing, it would be addressed during the hearing phase and/or caught when the hearing decision is vetted by legal counsel.
7. When asked about the chair of the PCC hearing committee in this case, [REDACTED] testified the chair is one of the most experienced in the PCC pool.

Credibility—[REDACTED] was credible and was knowledgeable about the processes for hearings at both the PCC and PCAC level. Where [REDACTED] did not know something, [REDACTED] freely admitted to it. The PCAC considered [REDACTED]'s testimony and preferred it to Stawn's claims where inconsistencies occurred.

Alberta Teachers' Association

1. [REDACTED] testified [REDACTED] is [REDACTED] to hearing committees, a role [REDACTED] has held since [REDACTED].
2. [REDACTED] explained in detail the processes required for holding a hearing: booking the room, sending out correspondence and recording the proceedings were a few of the steps referenced.

3. [REDACTED] explained the process for transcribing a recording into a written record. When asked about tampering with the recording, [REDACTED] stated "No I did not." [REDACTED] further testified, "I take offence to this. It's part of the job. I don't know him. I'm really offended by this."
4. [REDACTED] testified that Stawn was never barred from access to the PCC hearing recordings, but given COVID measures were still in effect, he did have to make an appointment to come in to listen to those recordings prior to the PCAC appeal hearing. [REDACTED] noted that Stawn attended Barnett House and listened to the PCC hearing recordings for less than a half day prior to the PCAC appeal hearing.
5. [REDACTED] explained the TPA does not provide for the generation of a transcript, merely access to the record of proceedings, which could be interpreted to mean the recording of the PCC hearing.
6. [REDACTED] noted that the For the Record (FTR) recording of a hearing can be opened as a full day file or in smaller increments such as five-minute blocks. Ultimately, these recordings are all from the same file generated by FTR.

Credibility—[REDACTED] was credible, very knowledgeable, answered questions in a fulsome way. [REDACTED] was confident and stood up for [REDACTED] in a professional fashion when [REDACTED] was accused of tampering with the record. The PCAC considered [REDACTED]'s testimony and preferred it to Stawn's claims where inconsistencies occurred.

Alberta Teachers' Association

1. [REDACTED] testified [REDACTED] is currently [REDACTED] with the Association, though [REDACTED] also held the role of [REDACTED] [REDACTED] has been with the Association since [REDACTED]
2. [REDACTED] explained that when making recommendations for assignment of investigating officers, [REDACTED] first reviewed the [REDACTED] file of the investigated member and the complainant to ensure there was no previous contact between either of those parties with the staff officer to be assigned. [REDACTED] indicated the recommendation of an investigator to the [REDACTED] could be done verbally (in an ad hoc fashion) or over e-mail.
3. [REDACTED] testified that [REDACTED] had done investigations in the past, including working with child informants and witnesses. [REDACTED] noted the timing of interviewing children would be dependent on the context and whether a hearing is ordered. In addition, [REDACTED] testified that working with children requires consideration of their age, the events in question and the timing within the investigative and hearing processes. Finally, [REDACTED] said that when the child is a minor, parents are present for the interview.

4. [REDACTED] testified the investigator can use their discretion when deciding who to interview in the course of their investigation. It is not always necessary to interview every witness suggested by an investigated member or a complainant.
5. [REDACTED] testified that investigation notes were not part of what the Association would disclose in the event of any PIPA request.
6. When asked about the assignment of [REDACTED] to serve as investigator in the Stawn case, [REDACTED] said there was no evidence of a pre-existing relationship, the school district, [REDACTED] employed over [REDACTED] teachers and [REDACTED] secondment to [REDACTED] had ended in [REDACTED] some time before the complaint in this case was received.

Credibility—[REDACTED] was highly credible, very knowledgeable, calm and confident. [REDACTED] testimony was internally and externally consistent. The PCAC considered [REDACTED] testimony and preferred it to Stawn's claims where inconsistencies occurred.

- [REDACTED]
1. [REDACTED] testified that [REDACTED] was qualified as an expert witness by the PCC hearing committee. [REDACTED] testified [REDACTED] had dedicated [REDACTED] career to promoting inclusive education, including the provision of professional development to groups of teachers around the province.
 2. [REDACTED] testified that because of [REDACTED] serving as an expert witness in the PCC hearing of this case, [REDACTED] became the subject of a *Freedom of Information and Protection of Privacy Act* (FOIP) request to [REDACTED] employer. [REDACTED] said the FOIP request was initiated by Stawn and [REDACTED] complied with the request as required by [REDACTED] employer.
 3. [REDACTED] testified that following the PCC proceedings, [REDACTED] was the subject of a professional conduct complaint launched by Stawn. [REDACTED] said when [REDACTED] received the letter from the Association advising [REDACTED] of the complaint, "I was very angry and devastated that my professionalism was being questioned" (Exhibit 12 tab 10).

Credibility—[REDACTED] was a somewhat credible witness; [REDACTED] appeared to be confused at times, referring to [REDACTED] notes and had to be asked to put them away. The PCAC gave little weight to the testimony of this witness.

- [REDACTED]
1. [REDACTED] testified [REDACTED] has been in [REDACTED] role with [REDACTED] years.
 2. [REDACTED] explained the process followed when a FOIP request is received by [REDACTED] said these were the processes followed when [REDACTED] received the FOIP request about [REDACTED] and [REDACTED] from Stawn. [REDACTED] testified that there were no records found that were responsive to the request.

Credibility—[REDACTED] was credible and explained the FOIP process with great clarity. The PCAC placed significant weight on [REDACTED] testimony, preferring it to Stawn's claims where inconsistencies occurred.

- [REDACTED]
1. [REDACTED] testified that [REDACTED] has been the FOIP coordinator since [REDACTED] and that [REDACTED] was [REDACTED] for [REDACTED] work in assisting other school jurisdictions to set up their FOIP processes.
 2. [REDACTED] testified that in a typical year, [REDACTED] received approximately 12 to 15 requests though the highest number of requests in one year was 25. [REDACTED] said it was unusual to receive more than one or two requests from an individual.
 3. [REDACTED] said that since 2018, Stawn had made 15 FOIP requests involving 19 different staff and departments, including [REDACTED] own.
 4. [REDACTED] testified that because of one of Stawn's FOIP requests, [REDACTED] went to [REDACTED] to help staff understand what they would need to do to fulfill the request. [REDACTED] reported that staff were upset, nervous, crying and concerned about the process at the meeting [REDACTED] attended.
 5. [REDACTED] testified that following his FOIP requests to [REDACTED] Stawn requested three Office of the Information and Privacy Commissioner of Alberta (OIPC) reviews and one OIPC Inquiry because he was dissatisfied with [REDACTED]'s release of the documents as per his FOIP requests.
 6. [REDACTED] testified that in [REDACTED] years as the FOIP coordinator, [REDACTED] has only made one request under section 55 of the FOIP act to have someone declared as a vexatious applicant and [REDACTED] did so about Stawn. [REDACTED] further noted the OIPC declared Stawn a vexatious applicant in April 2022. According to [REDACTED] this meant Stawn could no longer file FOIP requests to [REDACTED] following the ruling from OIPC in April 2022.

7. [REDACTED] said that section 55 of FOIP was rarely exercised by the OIPC, estimating that approximately 15 people province-wide had been found vexatious since the legislation for FOIP had been enacted approximately 25 years ago.
8. When asked about whether [REDACTED] should follow the Association's code of conduct, [REDACTED] replied that [REDACTED] is not a teacher and therefore, not subject to the code.
9. [REDACTED] also testified that investigation notes arising from employee investigations by [REDACTED] are not subject to release under FOIP.

Credibility—[REDACTED] was very credible as [REDACTED] was forthright, informative, confident and balanced in [REDACTED] assessment of FOIP processes. The PCAC considered [REDACTED] testimony and preferred it to Stawn's testimony where inconsistencies occurred.

Parent A

Stawn raised concerns about this witness, saying he had only received notice of [REDACTED] attendance and will-say statement the day prior to this witness testifying. The PCAC recessed and decided to allow the testimony as it was a response to [REDACTED]'s testimony and not new evidence. The PCAC advised it would weigh the testimony as it sees fit.

1. Parent A testified that [REDACTED] was not coached on what to say prior to providing testimony at the PCC hearing.
2. Parent A testified that [REDACTED] was concerned about testifying at Stawn's PCC hearing because [REDACTED] was afraid that Mr Stawn would not have food to put on the table." Further, [REDACTED] stated [REDACTED] was afraid of Stawn.

Credibility—Parent A has strong recall of details, [REDACTED] testimony was consistent, but [REDACTED] was also nervous and near tears, reporting that it was hard to revisit this situation. The PCAC found this witness was somewhat credible but [REDACTED] testimony was not given great weight by the PCAC.

Alberta Teachers' Association

1. [REDACTED] testified [REDACTED] is the [REDACTED] for the Association and has been in this role since [REDACTED]
2. [REDACTED] provided information about the processes for FOIP and PIPA and the differences between how the two laws are applied in organizations.
3. [REDACTED] testified there are discretionary exceptions to the release of information under both PIPA and FOIP. As such, the Association can decide whether it wants to release certain

kinds of information. In addition, [REDACTED] testified there are mandatory exceptions under PIPA that involve third party information.

4. [REDACTED] testified there were seven PIPA (formal and informal) requests from Stawn spanning the years 2018–2020 and that the formal requests have been moved forward for review by the OIPC.

Credibility—[REDACTED] was very knowledgeable about information and privacy legislation and was very comfortable providing information in front of the committee. [REDACTED] answers were consistent throughout. [REDACTED] was a highly credible witness and the PCAC considered [REDACTED] testimony and preferred it to Stawn's testimony where inconsistencies occurred.

Part way through [REDACTED]'s testimony, the PCAC closed the session so that the specifics of the review by the OIPC could be disclosed without prejudicing the case currently in front of the privacy commissioner. The session was subsequently reopened.

C. CLOSING ARGUMENTS

The parties were offered the opportunity to summarize and make closing statements to conclude the hearing portion of the appeal hearing.

Stawn's Closing Arguments

1. Stawn thanked the PCAC for its patience, noting he was self represented in this proceeding. He said that the PCC hearing had caused him to incur an enormous financial burden and as such, he could not hire legal counsel for the PCAC hearing.
2. Stawn leveled several accusations against the Association, its representatives and his colleagues, reiterating that he had been unfairly treated and that various parties had colluded against him with respect to the investigation and PCC hearing.
3. Stawn argued the charges should be overturned and the penalties levied against him were not consistent with existing case law.
4. Stawn argued that [REDACTED]'s investigative methods were biased and incomplete. He further asserted that [REDACTED] would not allow him to complete his appeal and that [REDACTED] conduct toward him was aggressive, hostile and unprofessional.
5. Stawn argued that his good professional standing, academic achievements and experience over the course of his teaching career were not properly recognized by the PCC hearing committee nor were the challenging circumstances he taught within at [REDACTED]
[REDACTED]

6. Stawn argued that the penalties levied against him by the PCC hearing committee were too harsh and inconsistent with the case law.
7. Stawn reiterated his arguments regarding procedural and substantive issues but expanded his critique to the procedures set forth during the PCAC hearing. He argued that he had not been given access to fair processes during the PCAC hearing, saying "it felt like the ground was often shifting here at the appeal hearing."
8. Stawn objected to [REDACTED]'s characterization of him being a vexatious litigant, pointing out that his dealings with Association staff had been cooperative to date.

[REDACTED]'s Closing Arguments

1. [REDACTED] argued the standard of review for this appeal was one of reasonableness based on existing case law.
2. In assessing whether the decision of the hearing committee was reasonable, [REDACTED] argued that Stawn did not provide evidence to support his assertion that bias was created against him. The mere fact that witness testimony and the decision of the hearing committee was not favorable to Stawn does not equate to bias.
3. [REDACTED] argued that the objections of Stawn's counsel being overruled by the hearing committee does not constitute procedural unfairness to Stawn. His counsel had the right to object and to state the reasons for their objection. Based on this and the reasons provided by the presenting officer, the PCC hearing committee then decided on the case. This does not constitute an error by the PCC hearing committee in its decision making.
4. [REDACTED] argued that the issue of witness testimony, the documents it was based upon and hearsay evidence is appropriate in administrative tribunals such as the PCC hearing committee. The PCC hearing committee used the factors for assessment of witness credibility to determine the weight it placed on each witness's testimony.
5. [REDACTED] argued the PCC hearing committee provided "a detailed and clear analysis of how competing information was weighed, and what information was ultimately relied upon with respect to each charge."
6. [REDACTED] argued that there is nothing in the case law or statutes to support Stawn's contentions that he should have access to written transcripts and a searchable record of proceedings.
7. [REDACTED] argued that it is not the Association's role to provide Stawn direction with respect to how to craft an appeal of the PCC hearing committee's decision.

8. [REDACTED] argued that the Association issued the PCC hearing committee's decision in accordance with the requirements of the TPA and while this coincided with the Christmas break, it was not intentionally timed this way.
9. [REDACTED] rebutted Stawn's assertion that the conduct of the officers of the Association, including PCC hearing committee members, was inappropriate and biased. [REDACTED] pointed out these accusations were not founded in evidence and therefore it was not relevant to this PCAC appeal process. This appeal is about the PCC hearing committee's decision and whether it was reasonable.
10. [REDACTED] argued that it is not the job of the investigating or presenting officer to present Stawn's case for him. If Stawn felt documents were missing, he had the option of subpoenaing the documents himself from the school division.
11. The length of time it took for the PCC hearing committee to reach a decision regarding penalty does not invalidate the decision of the PCC hearing committee. The PCC hearing committee was in session over 11 full days with 27 witnesses called. Further the case law does not support Stawn's contention the committee erred by arriving at the penalty quickly.
12. [REDACTED] argued that the PCC hearing committee "explicitly acknowledged there was evidence which suggested a degree of animosity between Stawn and the other staff" at [REDACTED] and therefore, the PCC hearing committee considered the context of the school in its decision making.
13. [REDACTED] argued that the investigated member is not able to direct the investigation of conduct complaints against them; that is the role of the investigating officer. Investigating officers conduct complete and thorough investigations and are not bound to an exhaustive list of interviewees.
14. [REDACTED] argued that the reasons provided by the PCC hearing committee for its findings were captured in the 126 page report that summarized and synthesized 11 days of hearing and the testimony of 27 witnesses. The decision was justified, transparent and intelligible and Stawn has not provided arguments to disprove this.
15. [REDACTED] argued that no breach of procedural fairness occurred when the hearing committee accepted hearsay evidence.
16. [REDACTED] argued that costs should be awarded to the Association for the appeal hearing. [REDACTED] argued, using the case law, that the range of costs an administrative tribunal could award vary as much as 80 per cent of the internal costs of the appeal. [REDACTED] reasoned that Stawn will be unsuccessful in every ground of appeal and urged the appeal committee to apply the *Jinnah v Alberta Dental Association and College* (Jinnah) factors (the unprofessional

conduct is serious, the offences are serial, failure to cooperate and engaging in hearing misconduct) and find that Stawn should pay 10 per cent of the costs or \$17,121 less the \$1,000 appeal fee.

17. [REDACTED] also requested that the PCAC, in considering [REDACTED]'s evidence and request to have Stawn declared a vexatious litigant under section 55 of FOIP, revise the penalty for Charge 6 from \$1,000 to \$3,000.

D. STANDARD OF REVIEW

The PCAC applied a standard of review of reasonableness to the PCC hearing committee's decision regarding the allegations and the penalties imposed on Stawn. 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, 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 PCAC 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.

E. OBSERVATIONS OF THE PCAC

1. Stawn was an unrepresented appellant and at times appeared to not have clear understanding of the appeal process, how new evidence could be admitted in an appeal on the record or how grounds for appeal are usually presented. He admitted several times that he did not understand many of the procedural and legal principles involved with conducting an appeal hearing. Stawn also indicated that he expected the Association to provide assistance for his appeal preparation. This demonstrated a fundamental misunderstanding of the roles of various actors in the PCAC process and that, since this was his appeal, Stawn had the independent obligation to advance his case and appeal grounds.
2. In the interests of procedural fairness, the committee outlined the Palmer test, the process to be followed for launching objections and tried to make the processes for the appeal known. Further, Stawn was provided with an opportunity to amend his appeal document to reach the appropriate requirements for the appeal.
3. Stawn was afforded ample opportunity to present his case and was granted extremely generous leeway as a self-represented individual; this included the length of his verbal submissions and his failure to respect the PCAC's numerous interim decisions concerning his repeated similar objections.

4. Both Stawn and [REDACTED] were provided opportunity to present their cases in a fulsome manner.

F. DECISION OF THE PCAC

1. Applying the standard of review of reasonableness, the PCAC found the PCC hearing committee's guilty findings on Charges 1, 2, 3, 4 and 6 reasonable. Further, the PCAC found the PCC hearing committee's not guilty finding on Charge 5 reasonable. Consequently, the appeal is denied.
2. Based on the standard of review of reasonableness, the PCAC varied the PCC hearing committee's fine levied for Charge 4 by reducing it from \$6,000 to \$3,000. Therefore, the following will apply:

For Charge 4

- a) a declaration of ineligibility for membership in the Association for a period of one year,
 - b) a recommendation to the minister of education to suspend Stawn's teaching certificate for one year and
 - c) a fine of \$3,000.
3. Applying the standard of review of reasonableness, the PCAC found all other penalties and orders imposed by the hearing committee to be reasonable. Therefore, the PCAC confirms the following penalty orders:
 - a) Stawn is prohibited from presenting at any professional development event in the future that is sanctioned, organized, or sponsored by the Alberta Teachers' Association.
 - b) For Charge 1—a letter of severe reprimand and a fine of \$1,500.
 - c) For Charge 2—a declaration of ineligibility for membership in the Association for a period of one year, a recommendation to the minister of education to suspend Stawn's teaching certificate for one year and a fine of \$3,000.
 - d) For Charge 3—a declaration of ineligibility for membership in the Association for a period of one year, a recommendation to the minister of education to suspend Stawn's teaching certificate for one year and a fine of \$3,000.
 - e) For Charge 6—a letter of severe reprimand and a fine of \$1,000.

4. The PCAC upheld the PCC hearing committee's decision that the fines, now totalling \$11,500, are payable as follows:
 - a) One third, \$3,833, must be paid to the Association within 30 days of Stawn's receipt of the PCAC written decision.
 - b) The balance, \$7,667, must be paid to the Association within 90 days of Stawn's receipt of the PCACs written decision.
 - c) Failure to pay the fines in full, within the prescribed time will result in enforcement action.
5. The PCAC upheld the PCC hearing committee's specified conditions on the penalty imposed:
 - a) The severe reprimands are to be issued in two letters.
 - b) The declaration of ineligibility for membership in the Association shall be consecutive, for a total of three years, effective immediately.
 - c) The recommendation to the minister of education to suspend Stawn's teaching certificate for a combined period of three years.

G. REASONS FOR DECISION

The PCAC confirms that it has reviewed and considered each of the issues and arguments raised by both parties.

On the findings of guilt by the PCC hearing committee

1. Upon having reviewed the decision of the PCC hearing committee, the record of proceedings and the additional Exhibits marked 1 through 13 in these proceedings, the PCAC found the PCC hearing committee's decision on guilt to be reasonable. The PCAC found the PCC hearing committee's decision for the findings of guilt to be justifiable, transparent and intelligible. The PCAC found no errors in logic or reasoning by the PCC hearing committee in its decision. The PCAC determined that the PCC hearing committee had not erred in its review of the evidence before it.
2. The PCAC determined that the PCC hearing committee's process was fair. There were no objections to the composition of the hearing committee or its ability to hear the case. Further, the hearing committee followed the Steps and Procedures of the Hearing Committee of the Professional Conduct Committee as confirmed with all participants at the

commencement of the PCC hearing. The PCAC found that due process was afforded to Stawn throughout the PCC hearing particularly bearing in mind that he was represented by competent and experienced legal counsel.

3. The PCAC reviewed the evidence that was before the PCC hearing committee and concluded that there was more than ample evidence on which the hearing committee could find that the charges were proven.
4. The PCAC found, based on Stawn's submissions, that he was essentially asking the PCAC to retry the case and to reweigh and reassess the evidence. Under the appropriate standard of review for an appeal tribunal, this is not the role of the PCAC.
5. The PCAC noted the PCC hearing committee heard evidence from 27 witnesses over 11 days of proceedings from May 2021 to October 2021. After hearing from all witnesses, the PCC hearing committee examined, in detail, the credibility of each witness and made a series of findings with respect to whether they were a credible, somewhat credible or not credible witness (Exhibit 1B pages 2421–8). 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
6. Having heard Stawn's submissions, reviewing the record of proceedings and the exhibits marked in the appeal, the PCAC was not convinced that there were any errors of any significance that improperly affected the analysis and findings by the PCC hearing committee. There was no substantive evidence that the PCC hearing committee's determinations with respect to credibility of witnesses were unreasonable or that the 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, pp 2421–2428). Stawn provided no credible or compelling evidence of witnesses being coached in their testimony nor any direct evidence of deliberate untruths. Stawn's submissions in that regard were speculation without any evidentiary basis. Further, the testimony provided by [REDACTED] witnesses during the PCAC hearing refuted the notion that witnesses were coached and the PCAC accepted this testimony as being somewhat credible. The PCAC considered the alleged errors in witness testimony raised by Stawn but found that if there were any errors, they were not substantive and could be explained by the passage of time.

7. The PCAC found the PCC hearing committee to be very diligent in its review of the evidence adduced.
8. The PCAC also found that in its written decision the PCC hearing committee clearly delineated testimony and exhibits for each charge, illustrating how it reached its decisions. In other words, for each of the charges before the hearing committee, the PCAC found that the 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.
9. The PCAC considered the relative weight of the documents submitted when rendering its decision considering the PCAC granting special leave for new evidence on request of the parties and made the following findings:
 - a) The PCAC accepted Stawn's documents (Exhibits 5-7, 9 and 10) as a road map of his arguments and grounds for appeal and relied heavily upon the documents as a reference but determined that they did not provide any significant evidentiary value. Exhibit 11, an e-mail that was provided by Stawn regarding correspondence with the OIPC, was not given any weight by the PCAC for the purposes of this appeal. The contents of that letter were not relevant to the issues before the PCAC.
 - b) The PCAC reviewed [REDACTED]'s documents. Exhibits 12 and 13 were useful in terms of corroborating the witness testimony provided during the PCAC, but the PCAC did not place much weight on these documents, nor did it put much weight on the witness testimony in terms of assessing whether the decision of the PCC hearing committee was reasonable.
10. Stawn did not present any clear or compelling evidence that proved bias was shown by the PCC hearing committee in its analysis. Testimony was weighed fairly, credibility was assessed accordingly and the reasoning of the PCC hearing committee's decision was sound, transparent and justifiable.
11. The PCAC found there was no negative intent or actual tampering by the Association in terms of the production of the record of proceedings or the timing of the delivery of the PCC hearing committee's decision to Stawn's counsel. Stawn's submissions in that regard raised serious allegations of improper and deliberate malfeasance by Association personnel. However, Stawn provided absolutely no credible or substantive evidence to support those very serious allegations.
12. There was no clear or compelling evidence or testimony that proved the investigating officer did not do a fulsome investigation, ignored evidence, or did anything inappropriate or unfair to Stawn.

13. The PCAC rejected Stawn's arguments regarding
 - a) the PCC hearing transcript not being provided to him promptly;
 - b) the PCC hearing record being incomplete;
 - c) that [REDACTED]'s participation on the PCC hearing committee was unfair;
 - d) the number of upheld objections by his legal counsel at the PCC hearing;
 - e) the PCC hearing committee taking 45 minutes to deliberate; and
 - f) his lawyer's objections regarding prior consistent statements, hearsay and contemporaneous notes.

Stawn provided no clear or compelling evidence to support those allegations and they were not substantiated.

14. The PCAC also rejected Stawn's arguments regarding bias by the PCC hearing committee. Discipline hearings under the TPA are, by their very nature, "adversarial proceedings" and can result in favorable and unfavorable interim decisions and outcomes from the perspective of the investigated member. Stawn's concerns about the alleged bias of the PCC hearing committee were not grounded in the record of proceedings of the PCC hearing and he failed to demonstrate any bias on the part of the PCC hearing committee. Disagreeing with the PCC hearing committee's decisions does not, in and of itself, establish bias by the PCC hearing committee.
15. Stawn's argument relating the absence of [REDACTED] the PCC hearing had no relevance to that hearing or the decisions of the PCC hearing committee.
16. Stawn's allegation that the length of time that elapsed in the investigation before parents of students were contacted for interviews created bias against him was entirely unfounded and without any validity. Similarly, the use of the Invitation process to address other conduct complaints Stawn initiated concerning Association members was irrelevant to the PCC proceedings and proceeded independent of the PCC hearing.
17. The PCAC found no evidence or merit to Stawn's arguments that there was bias shown against him by [REDACTED] simply because he is male or that there was some type of discrimination based on [REDACTED]. There simply was no clear or compelling evidence to support those assertions and similar arguments made by Stawn.
18. The PCAC also found no merit to Stawn's arguments concerning the lack of acknowledgement of the school context, incomplete investigative techniques and the qualification of witness [REDACTED] as an expert. Again, these arguments were based only on speculation by Stawn and he did not present any substantive evidence to support them.

Review of the Penalties Imposed

For clarity, the PCAC determined that the reasonableness standard (and the deference that it requires) applied to the PCAC's consideration of the penalty orders made by the PCC hearing committee.

1. In imposing the penalties, the PCC hearing committee considered the Jaswal factors listed in Exhibit 1B, page 2454:
 - a) Nature and gravity of the charges (including the frequency and severity of the conduct)
 - b) Age and experience of the teacher
 - c) Previous character of the teacher and previous convictions of unprofessional conduct
 - d) The age and condition of individuals affected by the conduct
 - e) The member has already suffered serious consequences as a result of the allegations
 - f) The impact on the individuals affected by the unprofessional conduct
 - g) Presence or absence of mitigating or aggravating circumstances
 - h) The need to promote deterrence to protect the public
 - i) The need to maintain the public's confidence in the profession
 - j) The degree to which the conduct would fall outside the range of permitted conduct
 - k) The range of penalties in similar cases

The PCAC determined that the PCC hearing committee considered all relevant factors when imposing the penalties.

2. The PCAC considered the penalties for each charge in relation to the Jaswal factors and reasons outlined in the PCC decision. The PCAC noted there was no disaggregation of the reasons for penalty by charge and in that regard, a change to the fine for Charge 4 was contemplated.
3. The PCAC noted that Charges 1 and 6 dealt with the treatment of students and colleagues (non-physical contact). Charge 1 dealt with Stawn's verbal treatment of young students and Charge 6 dealt with Stawn's treatment of his colleagues. While Stawn's conduct was damaging to both the staff and students, the emotional impact on tender-aged children would be considerably more egregious and therefore, a higher fine was justified for Charge 1 as compared to Charge 6. The PCC hearing committee imposed letters of severe reprimand for both charges and these were reasonable in light of the Jaswal factors outlined in the PCC hearing committee's decision.
4. The PCAC considered the fines issued for Charges 2, 3 and 4. The PCAC noted that the conduct in question for these charges revolved around Stawn's physical treatment of students in specific incidences with Student A and Student B as well as a general pattern of behaviour of handling students physically in an inappropriate fashion. The PCAC could not identify a line of analysis from the PCC decision that distinguished the reason for the higher

fine imposed in Charge 4. Therefore, the PCAC orders an adjustment to the fine in Charge 4 to \$3,000 so the fines for all the charges are the same.

5. Given the nature and gravity of Charges 2, 3 and 4, as well as the clear need to promote deterrence of this sort of conduct, the declaration of Stawn's ineligibility for Association membership and the recommendation to the minister of education to suspend Stawn's certificate for three consecutive years are appropriate.

On the issue of costs

1. In assessing whether a costs order concerning this appeal should be made by the PCAC against Stawn, the PCAC considered the Jinnah factors, specifically, the four compelling reasons outlined by the courts for awarding costs by a professional regulator:
 - a) Serious unprofessional misconduct
 - b) Serial offenders
 - c) Fail to cooperate with an investigation
 - d) Engage in hearing misconduct

The PCAC chose not to impose a costs order against Stawn in this case because Stawn's conduct did not meet the four criteria.

2. The PCAC concluded that while Stawn was disorganized and apparently confused at times during the appeal, his conduct during the appeal hearing did not rise to the level of the factors outlined in Jinnah. The PCAC allowed significant leeway, but also placed expectations on Stawn to ensure the appeal was carried out in an orderly fashion. These expectations were regularly not met.

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3. The PCAC also concluded that even if the facts in this matter potentially warranted this, it had no authority to declare that Stawn was a vexatious litigant. The PCAC's powers and authority in this type of appeal are described in and limited by the TPA. The TPA does not grant the PCAC the authority to find that Stawn was a vexatious litigant.

Dated at the City of Edmonton in the Province of Alberta Tuesday, January 9, 2024.

THE PROFESSIONAL CONDUCT APPEAL COMMITTEE
OF THE ALBERTA TEACHERS' ASSOCIATION



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APPENDIX 1—STAWN'S REQUESTS FOR ADJOURNMENT

A. REQUEST FOR ADJOURNMENT RECEIVED NOVEMBER 2, 2022

1. The Professional Conduct Appeal Committee (PCAC) considered an e-mail request from Stawn, sent to [REDACTED] at 7:53 AM on November 2, 2022, to adjourn the November 2, 2022 hearing date. The request did not specify how long the adjournment was sought for nor whether it related to the November 3 and 4, 2022 hearing dates. However, it did indicate that Stawn [REDACTED] [REDACTED] Stawn also wrote that he was not sure he would be [REDACTED] to continue with the hearing by Friday, November 4, 2022. All the e-mails were collectively entered as Exhibit 8.
2. In an e-mail dated November 2, 2022 at 8:18 AM, the secretary to the PCAC responded to Stawn that it was important that his request be formalized and considered by the PCAC. Further, the secretary advised Stawn that he should appear before the PCAC to make his request. On November 2, 2022, the secretary made four attempts to reach Stawn by calling his cell phone and leaving voicemail messages. These calls were made at 8:37 AM, 8:53 AM, 9:50 AM and 11:08 AM. In addition, the secretary sent an e-mail at 9:48 AM asking Stawn to join the hearing via Zoom.
3. During the hearing on November 2, 2022, Stawn was logged into the Zoom meeting but did not have his camera or microphone on. Stawn was asked to verify his presence by turning on his camera and/or microphone—he was e-mailed several times and was called via telephone. Throughout the proceedings, Stawn was logged onto Zoom but his microphone and video were turned off for the duration of proceedings. At no point did Stawn verify his presence.
4. In the absence of a presentation from Stawn, the PCAC sought advice from [REDACTED] who advised that given the number of attempts made to contact Stawn, it was reasonable to proceed to consider the request for adjournment on the basis of the e-mail exchange (Exhibit 8).

Submission from [REDACTED]

1. [REDACTED] pointed out that Stawn had reported he [REDACTED] since the hearing began. [REDACTED] stated [REDACTED] was not opposed to an adjournment for November 2, 2022, but [REDACTED] took the position that Stawn should be prepared to present his case on Thursday, November 3, 2022, and Friday, November 4, 2022, unless he could produce [REDACTED] stating he was [REDACTED] [REDACTED] noted that further delays would create disruption for [REDACTED] witnesses who had already been rescheduled throughout the hearing to date.

[REDACTED]'s Advice

1. [REDACTED] advised the PCAC that requests for adjournment should be considered by weighing the following factors:
 - a) Is this the first adjournment request?
 - b) Is the reason for the request for adjournment compelling?
 - c) Will either party be unfairly prejudiced by an adjournment?
 - d) Will procedural fairness be achieved if the request were denied or upheld?
2. [REDACTED] also advised the PCAC to consider during its deliberations, what orders might result and next steps for the hearing.

Decision of the Professional Conduct Appeal Committee

1. The PCAC granted the adjournment request [REDACTED] for Wednesday, November 2, 2022.
2. After deliberating privately, the PCAC verbally ordered that all parties were expected to be ready to proceed at 9:00 AM on Thursday, November 3, 2022 and continuing Friday, November 4, 2022. Stawn was reminded that on Tuesday, November 1, 2022, the PCAC had ordered that he would have two days to finish presenting his case. Given this expectation and with consideration of the adjournment, the days allocated for Stawn to finish his presentation would be shuffled from Wednesday–Thursday to Thursday–Friday, November 3–4, 2022.
3. In the event Stawn were to request a further adjournment for November 3 and/or 4, 2022, Stawn would be required to provide [REDACTED] to the secretary within a week of the request or by November 10, 2022, whichever was earlier. With [REDACTED] Stawn's two-day presentation would commence on day one of the next hearing date and [REDACTED] would start on day three. In the event no [REDACTED] were to be provided, Stawn's two days to present would not be further shuffled and Stawn's submissions would be considered complete and [REDACTED] would start on day one of the next scheduled date.

Reasons for Decision

1. In the interests of ensuring fair opportunity for Stawn to present his case, the PCAC agreed to adjourn on November 2, 2023 due to [REDACTED]
2. Reasonable efforts were made to contact Stawn and eventually he affirmed he [REDACTED]
3. Considering this was Stawn's second request for adjournment and it was only for one day, it was appropriate to grant an adjournment for that day.
4. The PCAC was hopeful that this would help Stawn be more prepared.

B. REQUEST FOR ADJOURNMENT RECEIVED NOVEMBER 3, 2022

1. On November 3, 2022, Stawn appeared before the PCAC via Zoom to request an adjournment for November 3–4, 2022. Stawn said that he [REDACTED] As such, Stawn stated he was unable to present on November 3–4, 2022. Further, Stawn said he planned to provide [REDACTED] in accordance with the direction provided by the PCAC on November 2, 2022.

Submission from [REDACTED]

1. In reply, [REDACTED] pointed out this was Stawn's third request for adjournment and that if the PCAC granted this request, [REDACTED] requested no further adjournments be allowed.

██████████'s Advice

1. ██████████ said that the courts from time to time will order that an adjournment may be granted on a peremptory basis. In other words, in some circumstances it is not unreasonable for a decision-maker to order that no further adjournments will be granted.

Decision of the Professional Conduct Appeal Committee

1. The PCAC, following a private caucus, read the following decision into the record.
 - a) If ██████████ has been provided to the secretary to the PCAC by Thursday, November 10, 2022, then Stawn's presentation can proceed at the next opportunity we meet. Stawn will have two days to complete his presentation. On the third day of hearing, ██████████ will begin to present ██████████ case.
 - b) If no ██████████ is provided by Thursday, November 10, 2022, Stawn will be deemed to have forfeited his two days to present his case. In that situation, ██████████ will present ██████████ case on the first day of the next scheduled dates.
 - c) The expectation is that all parties will be ready to present at our next hearing date.
 - d) The PCAC directed that any further requests for adjournment by Stawn will not be considered except in the case of emergency. In that case, the PCAC will retain discretion to proceed in Stawn's absence.

Reasons for Decision

1. Given this was Stawn's third request for adjournment, it was reasonable to require ██████████ documentation supporting the request.
2. As Stawn had been provided with three days in October (October 4, 5, 6) and four days in November (November 1, 2, 3, 4) to present his case, the PCAC felt it was reasonable to place limitations on the remaining time Stawn would have available to present. The PCAC took the view that Stawn had been provided with reasonable opportunity to present his case, but there were limits to how much time should be allowed for this exercise.