

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

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Roberto Cioffi of [Location Redacted] were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada commencing on Monday, November 18, 2013 at 0900.

Professional Conduct Committee members present as the hearing committee were [REDACTED]

[REDACTED] presented the case against the investigated member. The investigated member, Roberto Cioffi, was not present but was represented, via telephone, by [REDACTED]

CONSTITUTION/JURISDICTION

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

CHARGES AND PLEA

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

1. Roberto Cioffi is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of May 20, 2010 to August 31, 2010, engaged in an inappropriate electronic relationship with a former student and, in so doing, failed to treat the student with dignity and respect and to be considerate of [Gender Redacted] circumstances.
2. Roberto Cioffi is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of May 20, 2010 to August 31, 2010, failed to act in a manner which maintains the honour and dignity of the profession when he allowed and encouraged and participated in an inappropriate electronic relationship with a former student.

The investigated member entered a plea of guilty to each of the charges, by written submission (Exhibit 4).

WITNESSES

No witnesses were called.

EXHIBITS FILED

- Exhibit 1—Notice of Hearing and Canada Post confirmation of delivery on July 8, 2013
- Exhibit 2—Proof of Cioffi's membership in the Alberta Teachers' Association from August 1, 2000 to August 31, 2010
- Exhibit 3—Declaration of awareness of rights, signed by Cioffi, dated November 14, 2013
- Exhibit 4—Submission on plea, signed by Cioffi, dated November 14, 2013
- Exhibit 5—Agreed statement of facts, signed by Cioffi and [Name Redacted], dated November 14, 2013
- Exhibit 6—Joint submission on penalty, signed by Cioffi and [Name Redacted], dated November 14, 2013

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Cioffi was a member of the Alberta Teachers' Association during the period May 20, 2010 to August 31, 2010 (Exhibit 2).
2. Cioffi was employed as a teacher by {School Division Redacted} from August 1, 2001 to August 31, 2010 (Exhibits 2 and 5).
3. Cioffi resigned from the school district effective August 31, 2010 and is no longer employed as a teacher (Exhibit 5).
4. Cioffi was an [Subject Redacted] teacher at [School Redacted] and was Student A's [Subject Redacted] teacher for [Grade Redacted] (Exhibit 5).
5. Student A frequently talked with Cioffi, sharing information about art, music and ultimately their personal lives (Exhibit 5).
6. Student A admired Cioffi, trusted him as a counsellor and regarded him as a great supporter and friend (Exhibit 5).
7. Later, upon Cioffi's transfer to [School Redacted], Student A, then in [Grade Redacted] at [School Redacted], visited him at that school on a number of occasions. [Gender Redacted] sought his support due to personal circumstances in [Gender Redacted] life, including difficulties at home (eventually leading to [Gender Redacted] moving out of [Gender Redacted] parents' home), the use of drugs and an abusive [Gender Redacted] friend (Exhibit 5).

8. Cioffi gave Student A his personal e-mail address, on one occasion, when he was too busy to speak with [Gender Redacted]. In January 2010, Student A gave Cioffi [Gender Redacted] cell phone number and told him that if he "thinks it is too weird, or if it crosses the line," not to call or text (Exhibit 5).
9. In January and February 2010, Student A visited Cioffi at his school and he then gave [Gender Redacted] a ride to the [Location Redacted] station (Exhibit 5).
10. Cioffi and Student A sent messages to each other to find times when [Gender Redacted] could visit him at his school when he was not so busy. [Gender Redacted] went to his school countless times to visit (Exhibit 5).
11. Student A talked to Cioffi about [Gender Redacted] experiments with drugs and [Gender Redacted] sent e-mail to him while [Gender Redacted] was high on drugs (Exhibit 5).
12. Cioffi eventually sent a text message to Student A, making sure [Gender Redacted] was alright (Exhibit 5).
13. Student A wrote Cioffi a letter explaining how they should end "whatever it was that we were doing" because [Gender Redacted] had started to see him as more than a friend (Exhibit 5).
14. Cioffi told Student A that he felt the same way (Exhibit 5).
15. For the next few months the relationship evolved. They sent e-mails and text messages often, with Cioffi using his school e-mail, personal e-mail and his [School Redacted] e-mail addresses (Exhibit 5).
16. Cioffi resigned from [School Division Redacted], effective August 31, 2010, to pursue [Subject and School Redacted]
17. The electronic relationship with Student A continued after Cioffi's resignation (Exhibit 5).
18. In April 2011, Student A worked on an art project of an external/internal mask of [Gender Redacted] that triggered many upsetting and negative feelings. Student A told [Gender Redacted] art teacher, [Name Redacted], [Gender Redacted] needed to deal with some issues that had happened to [Gender Redacted] in [Gender Redacted] recent past (Exhibit 5).
19. Student A disclosed that one issue alluded to substance abuse and another to a situation where [Gender Redacted] felt betrayed (Exhibit 5).
20. [Name Redacted] reported that Student A said someone had been using [Gender Redacted] and [Gender Redacted] had initiated a breakup with him a while back but now that person had sent [Gender Redacted] an e-mail saying he was done with [Gender Redacted] (Exhibit 5).

21. Student A told [Name Redacted] the person was Cioffi, [Gender Redacted] former [Subject Redacted] teacher, and said [Gender Redacted] wanted to share what was going on with someone because "[Gender Redacted] could not stand it anymore" and "wanted help" (Exhibit 5).
22. Notes of this discussion were made by the art teacher and shared with the principal of [School Redacted], [Name Redacted], on or about April 8, 2011 (Exhibit 5).
23. On April 11, 2011, a meeting of Student A, [Gender Redacted] mother, the school counsellor and Principal [Name Redacted] was held at the school (Exhibit 5).
24. Student A's mother expressed anger towards Cioffi and stated at the end of the meeting that [Gender Redacted] was prepared to go to the police to file a complaint by the end of the week. According to Student A's father, the mother did so; however, the Association is unaware of any police investigation and Cioffi has never been contacted by the police (Exhibit 5).
25. Notes taken by Principal [Name Redacted] during the meeting were included in the school district's investigation binder (Exhibit 5).
26. [Name Redacted], Superintendent of Human Resources, [School Division Redacted], made a complaint, on May 4, 2011, to the Association, alleging that Cioffi significantly crossed the teacher-student boundary with a [Gender Redacted] student of the school district (Exhibit 5).
27. The Association's investigation was significantly delayed because [Name redacted] requested more time to ensure that Student A and [Gender Redacted] mother would cooperate with the Association's investigation process. The investigation went ahead when, by October 6, 2011, Student A and [Gender Redacted] mother did not respond to [Name Redacted] request regarding the Association's investigation (Exhibit 5).
28. . . During her investigation, [Name Redacted] received a binder of information from the school district that contained copies of e-mail messages between Student A and Cioffi (Exhibit 5).
29. Included in the binder is a copy of an e-mail message dated August 21, 2010 from Cioffi to Student A. The following excerpts are taken from the e-mail message (Exhibit 5):

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
30. During the Association's investigation, Cioffi admitted that he overstepped his boundaries with how he communicated with Student A (Exhibit 5).

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—guilty

REASONS FOR DECISION

Charge One

1. Cioffi demonstrated a lack of sound judgment when he engaged a [Gender Redacted] student in an inappropriate electronic relationship. The communication went beyond what is acceptable in terms of teacher-student conversation. Communication from a teacher to a student should be confined to matters pertinent to the role of a teacher. Cioffi's behaviour falls outside the behaviour expected of a teacher.
2. There is clear evidence that Student A suffered personal anguish and misery due to this relationship.
3. By engaging in this unprofessional electronic relationship, Cioffi failed to treat Student A with dignity and respect and to be considerate of [Gender Redacted] circumstances.

Charge Two

1. Regardless of the time of day or medium of communication, teachers are expected to act in a manner that upholds the honour and dignity of the profession.
2. A teacher's quality of professional service is adversely affected when the teacher uses technology to engage in inappropriate electronic communication.
3. Cioffi admitted that he crossed a professional boundary in his relationship with Student A and therefore failed to act in a manner which maintains the honour and dignity of the profession.

PENALTY

The hearing committee received a joint submission recommending a three-year suspension of Cioffi's eligibility for membership in the Association and a recommendation to the minister of education to suspend his teaching certificate for three years.

The hearing committee is aware that the legal authorities require the committee to defer to the penalty presented in a joint submission, unless it is "unfit, unreasonable, or contrary to the public interest."

The hearing committee considered the joint submission carefully and identified concerns with the penalty being proposed. The hearing committee was concerned that the penalty was significantly outside of the range of "reasonable" penalties, given the nature of the conduct at issue. The specific allegations were aimed at the inappropriate electronic communications between Cioffi and Student A. There were no allegations relating to inappropriate physical contact between Cioffi and Student A. After reviewing the precedent cases submitted by [Names Redacted], the hearing committee was concerned the penalty was inconsistent with prior decisions where the allegations related solely to inappropriate electronic communications, as opposed to allegations concerning an inappropriate sexual relationship.

Both [Names Redacted] were given an opportunity to speak to the hearing committee's concerns that the recommended penalty was too harsh and the hearing was adjourned to allow the parties to consider their positions.

When the hearing re-convened, [Name Redacted] indicated that [Gender Redacted] had conducted another review of the precedent cases, and had spoken to [Name Redacted]. Both parties agreed that a more appropriate sanction would be a declaration of ineligibility of membership for one year, and recommendation to the minister of education for a one-year suspension of Cioffi's teaching certificate.

After considering the position of the parties, the hearing committee imposed the following penalties on Cioffi:

1. Declaration of ineligibility for membership in the Alberta Teachers' Association for one year
2. Recommendation to the minister of education for a one-year suspension of his teaching certificate

REASONS FOR PENALTY

1. Cioffi's behaviour had a damaging effect on Student A and evidence was presented that the student's emotional well-being was compromised.
2. Student A was vulnerable and impressionable and through his electronic communication with [gender redacted], Cioffi failed to be considerate of [Gender Redacted] circumstances.

3. The responsibility to establish and maintain professional boundaries with Student A rested entirely with Cioffi.
4. Cioffi accepted that his behaviour exceeded the boundaries of appropriate professional interaction between teachers and students.
5. Cioffi was cooperative throughout the investigation, which was delayed significantly through no fault of his own. The allegations and the investigation have weighed heavily upon him and his family since he was first made aware of them more than two and a half years ago.
6. Cioffi's former principal confirmed that Cioffi was skilled in his work as a teacher and very good at establishing positive and appropriate relationships with his students.
7. After reviewing 16 precedent cases, the hearing committee determined that the penalty is fitting, reasonable and reflects only the evidence that was presented and sanctions Cioffi for the specific conduct that was the actual subject of the charges
8. The precedent cases, and the specific conduct in this case, did not warrant cancellation, since Cioffi was neither charged nor convicted of having inappropriate physical or sexual contact with Student A. However, the conduct was still a boundary violation and was serious enough to warrant a one-year suspension.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, November 19, 2013.

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

