

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

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST ROBERT M FINDLAY

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Robert M Findlay 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 on April 29-30 and May 20, 2004.

Professional Conduct Committee members present as the hearing committee were

[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted], presented the case against the investigated member, R Findlay.

R Findlay was present on April 29 and 30 but was not present when the hearing was reconvened on May 20. He was not represented by counsel and represented himself with [Name Redacted], acting as his assistant.

At the conclusion of the first two days of the hearing, R Findlay stated that it was his wish not to appear on the next hearing date which was being scheduled to hear closing arguments and complete the hearing process. The committee, in order to provide R Findlay with the opportunity to appear, scheduled the third day of the hearing with R Findlay's input and followed with written confirmation to R Findlay of the date the hearing would reconvene. Through the secretary, the committee, both orally and in writing, advised R Findlay of the willingness of the committee to have him participate via speaker phone if he was unable to attend in person. R Findlay chose not to make oral closing argument stating that "the hearing committee should proceed in (with) a ruling that would provide closure." On the third day of the hearing, a telephone call was made by the secretary on behalf of the hearing committee to R Findlay's residence to confirm that he would not be making oral closing argument. R Findlay was not present at his residence.

CONSTITUTION/JURISDICTION

There were no objections to the composition or the jurisdiction of the committee by either the investigated member or the prosecuting officer.

CHARGES AND PLEA

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

1. Robert Findlay is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about September 1999 to June 2001, acted in a manner that showed disrespect and intolerance for the ethnic and cultural background of students in his care.
2. Robert Findlay is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about September 1999 to June 2001, intimidated students in his care by bullying them verbally and threatening them with corporal punishment.
3. Robert Findlay is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of The Alberta Teachers' Association, on or about September 1999 to June 2001, acted in a manner unbecoming to a teacher by speaking, on more than one occasion, derogatorily about [Name Redacted].

The investigated member entered a plea of not guilty to each of the charges.

WITNESSES

The prosecution called [6 Names Redacted], all of whom testified in person, and [Name Redacted] who provided testimony via speaker phone because she was not able to travel to the hearing due to a medical condition. There were no objections to this procedure by either [REDACTED]

The defence called [2 Names Redacted], both of whom testified in person, and [2 Names Redacted] who did not appear as summoned. Despite the non-attendance of [2 Names redacted], R Findlay indicated that he wanted to proceed to complete the hearing. R Findlay did not testify on his own behalf.

OBJECTIONS RAISED

R Findlay objected to [REDACTED] request that a student's journal be entered as an exhibit. It was argued that the proposed exhibit was hearsay as the writer of the journal was not present and the veracity of the information could not be tested through cross-examination. The objection was upheld.

██████████ objected to R Findlay's request to enter as an exhibit a document that related to the actions of witness [Name Redacted] in [gender redacted] role as a teacher assistant. ██████████ argued that the document was neither a sworn statement nor was it relevant. The objection was upheld.

██████████ objected to R Findlay's written request to enter the following documents as exhibits:

1. A letter from R Findlay to [Name Redacted] dated 2000 04 19
2. A letter from R Findlay to [Name Redacted] dated 2004 03 30
3. Unsworn witness statement from [Name Redacted] dated 2002 08 19
4. Unsworn witness statement from [Name Redacted] dated 2002 07 19

The stated objection was that the individuals were not present, thereby not providing the opportunity for cross-examination, and that the documents were not relevant. While [Name Redacted] and [Name Redacted] were present earlier in the proceedings, they were not present on the date the documents were presented. The objection was upheld.

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. R Findlay was employed as a teacher with [School Division Redacted] from 1972 through December 3, 2001. (Exhibit 3)
2. R Findlay was a member of The Alberta Teachers' Association at the time of the offences. (Exhibit 4)
3. R Findlay was a teacher at [School Redacted], from 1998 through December 2001. (Exhibit 3)
4. A calendar, kept by R Findlay, spanning two school years but including only 10 months within the period of September 1999 to May 2001, reflected notations about the strap being administered to students. In some instances, the notations included reasons for the strappings. Approximately 48 instances were recorded on the calendar pages. Reasons cited included students not working, running around, throwing gum, not attending school, throwing paper airplanes, not listening and fooling around. (Exhibit 6)
5. [6 Names Redacted] testified that R Findlay's behaviour toward students was verbally abusive, derogatory, ridiculing and intolerant of their ethnic and religious background.
6. [Name Redacted] testified that R Findlay
 - a) belittled and ridiculed students through name calling and threatening behaviour;
 - b) called students, "idiots", "morons", "snot-picker" and "stupid";

- c) often yelled at students, raising his voice in an intimidating tone;
 - d) through the tone of his voice and the words used, tried to scare and demean students;
 - e) frequently imitated the [REDACTED] accent while wearing a [REDACTED] hat;
 - f) often stated that he was thankful that he was not born a [REDACTED];
 - g) often punished students for misbehaving by having them place their noses on a wall or window for extended periods of time; and
 - h) often threatened the use of the strap.
7. [Name Redacted] testified that R Findlay
- a) made belittling comments about the lack of intelligence of [REDACTED] and derogatory comments about their culture;
 - b) commented to students that they “smelled like the barn”;
 - c) made insulting and sarcastic comments to students, citing the example of criticizing a child’s haircut by asking if his mother placed a bowl on his head;
 - d) through his comments, caused students to be embarrassed as evidenced by them turning red in the face;
 - e) told [REDACTED] that if [REDACTED] placed a head scarf on [REDACTED] head (like that worn by [REDACTED] [REDACTED] IQ would drop; and
 - f) told [REDACTED] that the [REDACTED] students would never equal their peers, “that they are not going anywhere.”

Further, [REDACTED] testified that, in [REDACTED] role as principal of colony schools for [School Division Redacted], she directed R Findlay to stop strapping students and to seek alternate methods of discipline. Upon a return visit to the school, [Name Redacted] noted that the strap was on top of R Findlay’s desk and that he quickly placed it in his desk when he noted [REDACTED] arrival.

8. [Name Redacted] testified that R Findlay
- a) would mock [REDACTED] students after hearing them say their prayers by asking them, “Was that Chinese . . . are you done chanting yet?”;
 - b) spoke with staff members about inbreeding among [REDACTED] which caused a lower level of intelligence;
 - c) told [REDACTED] that “the [REDACTED] could be a marching band as they already had the uniforms”;
 - d) on more than one occasion, dropped to his knees and said, “Thank God, I wasn’t born a [REDACTED]”; and
 - e) frequently yelled at students. One comment [REDACTED] recalls him yelling was, “You’re going to get it.”
9. [Name Redacted] testified that R Findlay
- a) told students when speaking [REDACTED] to “quit the [REDACTED]”;
 - b) forced students to stand in deep snow for a lengthy period of time in cold weather to search for a missing nut from a classroom bell;

- c) would put on a [REDACTED] and, while mimicking the [REDACTED] would state that this made his IQ go down;
- d) yelled at students frequently;
- e) referred to students as "idiots", "stupid", "morons" and "boars"; and
- f) would frequently slap the strap on the desk or carry it in his pocket to threaten the children. (Exhibit 15)

10. [Name Redacted] testified that R Findlay

- a) threatened to strap students for no reason;
- b) referred to students as "stupid", "morons", "idiots" and "brainless";
- c) made fun of the [REDACTED] culture, religion, clothing, language and food;
- d) had students hold pieces of paper against the window with their noses and then asked teacher aides to view them from outside to "see how silly they looked";

[REDACTED] testified that [REDACTED] heard, on many occasions, verbal threats (yelling) and the sound of the strap being used on other students. (Exhibit 16)

11. [Name Redacted] stated that

- a) R Findlay referred to one student as "[REDACTED] the nose-picker"; and
- b) she heard, from the classroom next door, R Findlay hitting students' desks with the strap.

DECISION OF THE HEARING COMMITTEE

Charge 1— guilty

Charge 2— guilty

Charge 3— guilty

REASONS FOR DECISION

In relation to Charge 1

1. R Findlay, while a member of the Alberta Teachers' Association, acted in a manner that showed disrespect and intolerance for the ethnic and cultural background of students by
 - a) making belittling comments relating to [REDACTED] having a low intellectual quotient (IQ);
 - b) mocking the practices, prayers, clothing and speech patterns of the [REDACTED] culture; and
 - c) asking students not to speak [REDACTED] by stating, "Quit the [REDACTED]".

In relation to Charge 2

1. R Findlay intimidated and bullied students in his care. Supporting evidence included R Findlay
 - a) calling students names such as “idiots”, “morons”, “stupid”, “█████ the snot picker”;
 - b) regularly yelling at students;
 - c) having students place their noses on walls or windows for extended periods of time. On some occasions, he humiliated students by having others view their noses against the window from the other side.
 - d) forcing students to stand in deep snow for a lengthy period of time in cold weather to search for a missing nut from a classroom bell.

2. R Findlay threatened students by
 - a) persistently threatening physical punishment,
 - b) hitting the desk with the strap, and
 - c) frequently using the strap for trivial reason(s).

In relation to Charge 3

1. R Findlay acted in a manner unbecoming to a teacher by speaking derogatorily about the ██████ people. Examples include
 - a) stating, in the presence of other staff members, on many occasions, “Thank God I wasn’t born a ██████”;
 - b) stating, on several occasions, that his IQ dropped when he put on his ██████ hat;
 - c) stating that a [gender redacted] staff member experienced a drop in [gender redacted] IQ when [gender redacted] put a head scarf on [gender redacted] head; and
 - d) making comments that because ██████ they are less intelligent than other groups of people.

R Findlay did not present closing argument but it was clear from his opening statement and from his written material that he was of the view that he should not be convicted of the charges because he felt that the ██████ community expected him to frequently impose corporal punishment. The hearing committee notes that Charges 1 and 3 have nothing to do with corporal punishment. Further, corporal punishment is only one aspect of Charge 2 which refers to “intimidated students in his care by bullying them verbally and threatening them with corporal punishment”. As noted above, the hearing committee finds that R Findlay did intimidate, bully and threaten the students. The hearing committee’s concerns with R Findlay’s conduct go far beyond the frequency of corporal punishment.

PENALTY

The hearing committee imposes the following penalty with respect to the three charges:

1. Suspension of R Findlay's membership in the Alberta Teachers' Association for the period May 20 to 31, 2004 and a declaration that he is ineligible for membership from June 1, 2004 to June 30, 2005, inclusive
2. Recommendation to the minister of learning that R Findlay's teaching certificate be suspended for the period May 20, 2004 to June 30, 2005, inclusive
3. Letter of severe reprimand
4. Fine of \$1,000

REASONS FOR PENALTY

1. R Findlay acted in an unprofessional manner that showed disrespect and intolerance for the ethnic and cultural background of students in his care.
2. R Findlay acted in a manner unbecoming to a teacher by speaking derogatorily about the [REDACTED] people on more than one occasion.
3. Teachers must treat students with dignity and respect and be considerate of their culture and circumstances. R Findlay, through his actions and comments, failed to do so.
4. R Findlay intimidated students in his care by bullying them verbally and threatening them with corporal punishment.
5. R Findlay accepted no responsibility for his actions, nor did he express regret or remorse for his actions.
6. By his actions, R Findlay failed to act in a manner that maintained the honour and dignity of the profession.
7. The public and the profession set high standards for teacher behaviour. A paramount concern is that schools and classrooms be a safe environment. Students should feel secure and not threatened, especially by the actions of their teacher. R Findlay failed, by his actions, to fulfill these expectations.

Report of the Hearing Committee of PCC
R M Findlay, page 8

8. The severity of the penalty reflects the repugnance of the profession and the public with respect to R Findlay's attitude and actions toward a specific culture.

Dated at the City of Edmonton in the Province of Alberta, Wednesday, June 2, 2004.

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

