

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

IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST KELLY HOGAN

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Kelly Hogan of [Location Redacted] was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Monday, June 6, 2011 at 0900.

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

[REDACTED] presented the case against the investigated member. The investigated member was not present and was not represented.

CONSTITUTION/JURISDICTION

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

CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. Kelly Hogan is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between October 21, 2009 and March 31, 2010, kissed a student once on the lips and once on the back of the neck, thus failing to treat the student with dignity and respect.

The investigated member entered a plea of guilty to the charge, by written submission.

WITNESSES

There were no witnesses called and an agreed statement of facts was entered.

EXHIBITS

- Exhibit 1 Declaration of awareness of rights, signed by Hogan, dated April 3, 2011
- Exhibit 2 Notice of hearing and Canada Post confirmation of delivery on May 2, 2011
- Exhibit 3 Proof of Hogan's membership in the Association, from September 1, 2001 to September 30, 2010
- Exhibit 4 Submission on plea, signed by Hogan, dated May 9, 2011
- Exhibit 5 Orders Restricting Access or Publication, by Provincial Court
- Exhibit 6 Agreed statement of facts (including conviction certificate, agreed statement of facts that was submitted in court and sentence report), signed by Hogan and [REDACTED] dated April 1, 2011
- Exhibit 7 Submission on penalty, signed by Hogan, indicating only his awareness of [REDACTED] recommendation, dated April 1, 2011
- Exhibit 8 List of precedent cases
- Exhibit 9 Transcript of proceeding in Provincial Court
- Exhibit 10 Letter from Hogan, with three attached documents, relating to penalty, dated April 11, 2011

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Hogan was born [Date Redacted] (Exhibit 6).
2. He began working as a teacher for [School Division Redacted] in 2001 (Exhibit 6).
3. Hogan was a member of the Association from September 1, 2001 to September 30, 2010 (Exhibit 3).
4. Student A was a student of Hogan's at [School Redacted] in [Location Redacted] and was a member of the [Sport Redacted] team which Hogan coached (Exhibit 6).
5. On two occasions between October 2009 and March 2010, Hogan kissed Student A, once on the lips and once on the back of the neck. Both kisses occurred in the school, the first in the weight room and the second in the art room. After each of these instances, Hogan expressed, to the student, his apology, remorse for his actions and fear of repercussions with respect to his career and family (Exhibit 6).
6. In March 2010, the school administration informed Hogan of an investigation into his alleged inappropriate behavior. Hogan resigned April 1, 2010.

7. From April to June 2010, [Location Redacted] RCMP, with assistance from Calgary Police Service, conducted a thorough investigation that included 15 interviews with 13 different individuals, 10 of whom were students at the high school. The RCMP also issued a press release to media indicating that "RCMP are searching for other victims after charging a former [Location Redacted] teacher with sexual assault." No new information or alleged victim(s) came forward after this public outreach (Exhibit 6).
8. On January 26, 2011, Hogan plead guilty to the [REDACTED] (Exhibit 6).
9. The court sentenced Hogan to the minimum sentence of 14 days in jail, to be served intermittently, on weekends, and one year of probation. Hogan was ordered to submit a DNA sample but the court decided not to order that he be registered as a sex offender (Exhibit 9).
10. During the trial Hogan submitted a [REDACTED] assessment indicating [REDACTED], healthy individual who is not a risk to reoffend (Exhibit 9).
11. In his reasons for sentencing, the judge made reference to Hogan's acceptance of responsibility and his sincere and meaningful apology in open court. Reference letters from community members, including two family physicians, written with full knowledge of the matter before the court, contained testimony about Hogan's normally upright character and that the behavior bringing him before the court was uncharacteristic (Exhibit 9).
12. In a victim impact statement, Student A described being angry and having unpleasant memories of high school. [Gender Redacted] reported that the stress caused [Gender Redacted] to be depressed and physically sick at times (Exhibit 9).

DECISION OF THE HEARING COMMITTEE

The hearing committee found Hogan guilty of the charge.

REASONS FOR DECISION

1. By Hogan's own admission, he kissed Student A, on two occasions, with sexual intent, thus failing to treat Student A with dignity and respect.
2. Students should be confident that the school is a safe environment and sexual advances from those in authority are unacceptable.

3. Society trusts teachers, who are in relationships of authority with students, to treat those students with dignity and respect, to be considerate of their circumstances and to model ethical, appropriate behaviour. Hogan betrayed that trust.

PENALTY

The hearing committee imposed the following penalty:

1. Hogan is declared ineligible for membership in the Association for six months, effective immediately.
2. A recommendation will be made to the minister of education that Hogan's teaching certificate be suspended for six months.

REASONS FOR PENALTY

1. By Hogan's own admission, he failed to treat Student A with dignity and respect, thereby causing the student considerable trauma.
2. After the first incident, Hogan apologized to Student A and expressed remorse. He then kissed Student A again, six months later, and again apologized and expressed remorse.
3. After each occasion, Hogan expressed to Student A his fear of losing his family and his job as a result of his inappropriate behaviour. Such comment could have influenced the student to remain silent.
4. Student A demonstrated considerable courage in pursuing this matter, especially because it occurred in the context of a small rural community. Students must be confident that the Association will deal fairly with their legitimate concerns.
5. A rigorous penalty is required to demonstrate to students, parents, teachers and the public that this type of behaviour will not be tolerated.
6. Hogan's conduct, and the subsequent investigation, trial and resulting publicity, brought disrepute and dishonour to the profession.
7. Hogan was cooperative and forthcoming in both the criminal and the professional investigations, pleading guilty and thereby sparing the student from the emotional trauma of testifying.
8. The committee concurred with the trial judge that Hogan's conduct, while reprehensible, is on the less egregious end of the spectrum of like offences.

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9. There is evidence that Hogan is unlikely to reoffend and that some rehabilitation has begun.
10. Hogan and his family have suffered significant financial, social and psychological consequences.

Dated at the City of Edmonton in the Province of Alberta, Monday, June 6, 2011.

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

