

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST ADAM WILLIAM URKOW

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Adam William Urkow of [REDACTED] were duly investigated in accordance with the *Teaching Profession Act* (TPA). The hearing was held online via video conference on Thursday, January 12, 2023, at 9:00 AM.

The participants were

1. Professional Conduct Committee members appointed as the hearing committee, Wade Westworth (chair), Marjorie Charles and Daniel Wyton;
2. counsel to the hearing committee, [REDACTED]
3. secretary to the hearing committee, [REDACTED]
4. administrative secretary to the hearing committee, [REDACTED] and
5. presenting officer, [REDACTED]

The investigated member, Adam Urkow, was not present and was not represented by counsel. In light of Urkow's non-attendance at the hearing, the hearing committee made note of section 40 of the TPA, which provides that:

40 A hearing committee, on proof of service in accordance with this Act of the notice of hearing on the investigated person, may:

- (a) proceed with the hearing in the absence of the investigated person, and
- (b) act and decide on the matter being heard in the same way as if the investigated person were in attendance.

The hearing committee reviewed the Affidavit of Service (Exhibit 1) and confirmed that on December 14, 2022, Urkow was personally served with the notice of hearing, which contained the date, time and location of the hearing as well as the reasonable particulars of the matter to be heard. Further, the notice of hearing was served on Urkow at least 15 days prior to the date set for hearing as required by section 31(3) of the TPA and personal service is one of the methods of service contemplated by section 64 of the TPA.

As such, the committee was satisfied that service of the notice of hearing was carried out in accordance with the TPA. The hearing committee therefore determined it would proceed with the hearing in the absence of Urkow.

Exhibit 2—Contract of employment signed by Urkow, dated [REDACTED]

- Exhibit 3—Letter from [REDACTED] to Urkow about [REDACTED] and procedures to follow for absences, dated March 13, 2020
- Exhibit 4—Letter of warning from [REDACTED] to Urkow about failure to follow procedures, dated April 8, 2020
- Exhibit 5—Letter regarding notice of professional performance evaluation from [REDACTED] to Urkow, dated April 29, 2020
- Exhibit 6—E-mail chain showing expectations for use of mark books and plan book templates, dated September 15, 2020
- Exhibit 7—E-mail chain showing failure to follow expectations, dated September 21, 2020
- Exhibit 8—Leave summary, undated
- Exhibit 9—E-mail chain showing inability to make contact, dated October 4, 2021
- Exhibit 10—Letter of reprimand and directives from [REDACTED] to Urkow for failure to follow procedures, dated October 8, 2021
- Exhibit 11—Confirmation of Urkow's Association membership, dated January 5, 2023

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED

Background

1. Urkow obtained a continuous teaching contract with [REDACTED] on [REDACTED] (Exhibit 2)
2. At the time of the events leading to the charges that are the subject of this hearing, Urkow was assigned as a teacher to [REDACTED] (witness testimony)
3. Urkow was a member of the Association from [REDACTED] (Exhibit 11)
4. [REDACTED] was the principal at [REDACTED] from [REDACTED] and was Urkow's supervisor the entire time that Urkow taught at [REDACTED] (witness testimony)

Charge 1

5. Urkow, a teacher on a continuing contract in the 2019/20 school year, had contractual requirements to follow policy and meet his obligations under statute, policy and the collective agreement. Urkow signed his contract of employment, and doing so bound him to these expectations. (Exhibit 2, witness testimony)
6. [REDACTED] testified that at the beginning of the school year, employee expectations, including how to report absences as well as other procedures, were outlined at a staff meeting. [REDACTED] stipulated that Urkow was present during these meetings. (witness testimony)

7. On [REDACTED] Urkow did not show up to work and this turned into an extended absence that was not supported with documentation. (Exhibit 10; witness testimony)
8. [REDACTED] indicated that during the 2019/20 school year, 30 guest teachers were brought in to cover Urkow's absences. [REDACTED] outlined the difficulty the unexplained absences caused, such as having to find guest teachers, finding internal coverage and providing coverage [REDACTED] characterized this as having a significant disruption on students and the school community. (witness testimony)
9. Urkow returned to work in [REDACTED] but left again in [REDACTED] without providing proper notice or documentation substantiating a leave. Urkow's guest teacher plans were not submitted or, if they were submitted, the lessons were incomplete. (witness testimony; Exhibits 4, 5 and 8)
10. In a letter of warning dated April 8, 2020, it was noted that from [REDACTED] through [REDACTED] Urkow failed to provide a [REDACTED] substantiating his absence and expectations for proceeding were outlined. This letter referenced a letter of counsel provided to Urkow a few months prior, which outlined Urkow's obligations regarding absences and referenced [REDACTED] administrative procedures for reporting an absence. (Exhibit 4)
11. In April 2020, Urkow was issued a notice of professional performance evaluation. The letter outlined the areas for evaluation, which were learning support plans, daily and unit plans, long range plans, assessment, communication and professionalism. The evaluation was scheduled to commence on August 27, 2020. (Exhibit 5)

Charge 2

12. During the 2020/21 school year, Urkow was absent for a significant portion of the year. The documentation indicated there were two long-term leaves, [REDACTED] the other an unpaid leave [REDACTED] (witness testimony, Exhibits 8 and 10)
13. In an e-mail dated [REDACTED] Urkow wrote to his principal indicating he would be away. Urkow provided an apology for the late notice and stated that he was attempting to secure a guest teacher for the day. [REDACTED] noted that the late notice of absence and "half hearted" (ie, inconsistent and last minute) attempts to secure a guest teacher were typical of Urkow's behaviour. (witness testimony; Exhibit 7)

Charge 3

14. On [REDACTED] Urkow failed to report to work and did not apply for a leave of absence. [REDACTED] testified that both [REDACTED] and the school secretary tried to reach out to Urkow via e-mail, telephone and text messages to find out why Urkow was not reporting to work. [REDACTED] manager of employee health and leaves, contacted Urkow's [REDACTED] to

ask [REDACTED] to perform a welfare check on Urkow. Further, the division health and wellness team through human resources also tried to reach Urkow to find out where he was. (witness testimony)

15. [REDACTED] heard back from Urkow's [REDACTED] on [REDACTED] Urkow's [REDACTED] indicated that Urkow conveyed to [REDACTED] that he was disappointed with the district's communication plan. In addition, [REDACTED] indicated that [REDACTED] would let Urkow know he should reach out to HR. (Exhibit 9)
16. Urkow did not return to work during the 2021/22 school year. Further, Urkow did not provide notice of his resignation; rather, he abandoned his job. (Exhibit 10)
17. [REDACTED] area director, issued a letter of reprimand dated October 8, 2021, that outlined six areas of serious concern regarding Urkow's performance as an employee. The areas addressed were Urkow's failure to
 - o enter absences properly, if at all, in the [REDACTED] reporting system for teachers,
 - o provide medical documentation to support absences,
 - o report absences to his principal,
 - o respond to requests for clarification regarding absences from health and leaves staff, and
 - o act as a proper role model for other employees to emulate.

The letter of reprimand stipulated that, due to the negative impact on students as well as the issues identified above,

- Urkow was being placed on unassigned duties until absences [REDACTED] were clarified through an independent [REDACTED] report;
 - Urkow was to contact [REDACTED] director of employee and family assistance program, to obtain [REDACTED] regarding his absences and any work related issues being experienced; and
 - should he return to work, Urkow would be placed on an attendance management program. (Exhibit 10)
18. [REDACTED] testified that Urkow did not comply with the letter of reprimand and did not return to work. [REDACTED] was unable to communicate directly with Urkow at this point and Urkow did not attend any further meetings with personnel at [REDACTED] (witness testimony)

Credibility of witness

[REDACTED] was witness to the events outlined in the charges and was well qualified to provide testimony. The hearing committee found [REDACTED] to be a credible witness.

DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

Charge 2—not guilty

Charge 3—guilty

REASONS FOR DECISION

Charge 1

1. Urkow was provided with appropriate direction regarding [REDACTED] expectations for reporting absences, preparing for a substitute teacher and securing coverage via several letters, conversations and e-mails during the 2019/20 school year.
2. Despite repeated direction regarding processes for absences, Urkow failed to comply with the expectations outlined by [REDACTED] and in Urkow's contract of employment. The committee is satisfied that this conduct is contrary to article 9 of the Code of Professional Conduct (the "Code"), which requires teachers to fulfil contractual obligations to the employer until released by mutual consent or according to law.
3. Further, as noted in the April 8, 2020, letter of warning, Urkow's conduct in failing to complete [REDACTED] to substantiate his absence also breached clause 10.4.1. of the collective agreement and, in turn, article 11 of the Code, which requires teachers to adhere to agreements negotiated on the teacher's behalf by the Association.
4. The evidence showed that Urkow was provided with several opportunities to correct his behaviour when reporting his absences, preparing for a substitute teacher and securing substitute coverage.
5. The hearing committee found that on the balance of probabilities, the repeated behaviour noted in the various exhibits and witness testimony is accepted as credible evidence supporting the determination of guilt on Charge 1.

Charge 2

6. The hearing committee found there was a lack of concrete evidence supporting a determination of guilt based on the balance of probabilities. While the committee is satisfied that Urkow was absent for the majority of the school year, the charge, as worded, requires that the committee also be satisfied that Urkow failed to appear for work when expected and failed to arrange a substitute teacher.
7. Urkow's absences appear to have been coded by the employer as [REDACTED] and unpaid leave. The circumstances surrounding those leaves are unclear and there is no specific

evidence indicating Urkow failed to appear for work when expected and/or failed to arrange a substitute teacher during the 2020/21 school year.

8. However, there is evidence in Exhibit 7 that Urkow reached out to [REDACTED] by e-mail on September 21, 2020, expressly advising [REDACTED] that Urkow needed to [REDACTED] and that he was making efforts to find a teacher to replace him in the classroom. While these efforts may have been described by [REDACTED] as "half-hearted," they cannot be characterized as a failure to appear for work when expected (Urkow notified [REDACTED] not to expect him at school that day) or a failure to arrange a substitute teacher (he was making efforts to engage a replacement teacher). Beyond this one exchange at the outset of Urkow's period of [REDACTED] [REDACTED] there is no other evidence that addresses whether or not Urkow failed to attend for work when expected or failed to arrange a substitute teacher.
9. Accordingly, the committee finds that Charge 2 is not made out.

Charge 3

10. Urkow failed to appear for work, did not communicate with his employer and abandoned his role as a teacher on September 21, 2021. Evidence showed that staff of [REDACTED] went to extraordinary lengths to contact Urkow, including reaching out to his [REDACTED] with a plan to have [REDACTED] do a wellness check if [REDACTED] was unable to confirm he was safe.
11. It was determined that Urkow was safe, but he failed to abide by his professional and contractual obligations as outlined in his continuing contract of employment. Urkow was bound to follow district policy and meet his obligations under statute, policy and the collective agreement. The committee finds that he failed to meet these obligations and, in particular, Urkow contravened articles 9 and 10 of the Code, which respectively require teachers to fulfill contractual obligations to the employer until released by mutual consent or according to law and to provide as much notice as possible of a decision to terminate employment.
12. The hearing committee found that, on the balance of probabilities, the evidence supports the determination of guilt on charge three.

SUBMISSION ON PENALTY

1. [REDACTED] stated that being a teacher is a great honour. The esteem comes because teachers are held to high standards of conduct and performance by the public and by the Supreme Court of Canada. As such, teachers earn this esteem every day. Urkow did not earn this standing. Urkow walked away from his responsibilities, did not resign his position and therefore was no longer acting as a teacher.

2. [REDACTED] requested the hearing committee treat the charges as a whole and that the hearing committee declare Urkow ineligible for ATA membership and recommend cancellation of his certificate to the minister of education.
3. This case distinguishes itself by Urkow's treatment of his colleagues, his employer, his students and his professional association.
4. The recommended penalty is appropriate, and the member chose this as a result of his behaviour. It is a natural consequence.
5. [REDACTED] did not provide any precedent cases to the committee for consideration during the penalty phase.

PENALTY

The hearing committee ordered the following penalty:

Urkow is declared ineligible for membership in the Alberta Teachers' Association effective immediately and that a recommendation be made to the minister of education that his certificate be cancelled.

REASONS FOR PENALTY

1. While the hearing committee is cognizant that the penalty being ordered represents the harshest sanction available to a hearing committee, one that is reserved for unprofessional conduct on the most serious end of the spectrum, the committee is satisfied that the penalty ordered is appropriate in this case.
2. Teachers are expected to act professionally and adhere to their contractual obligations. Urkow failed to fulfill his contractual responsibilities and failed to notify his employer that he planned to terminate his employment, thus damaging the profession and dishonouring his colleagues.
3. Further, Urkow's unprofessional conduct harmed students and disrupted the normal functioning of the school community. The school division expended significant time and resources to address and remediate Urkow's unprofessional conduct over at least three school years.
4. The committee is satisfied that the repeated and sustained nature of Urkow's conduct, the serious degree of disruption he caused to students and the school community and his complete disregard for and lack of engagement with (particularly during the 2021/22 school

year) the efforts of those who were attempting to contact him and ascertain his whereabouts and wellness justify the serious penalty imposed.

5. Though Urkow [REDACTED] he signed a continuous contract of employment, an indicator of professional competence, and he ought to have known better than to repeat his unprofessional behaviour.
6. This penalty reminds teachers that if they wish to access leave or resign their contract, proper processes must be followed. Contractual and Code obligations are serious matters and the penalty imposed will serve as a strong deterrent to members and assist in ensuring that contractual obligations to employers and school communities are not brazenly flouted in the manner that Urkow demonstrated in this case.

Dated at the City of Edmonton in the Province of Alberta, March 3, 2023.

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

[REDACTED]

[REDACTED]

[REDACTED]