

THE ALBERTA TEACHERS' ASSOCIATION
DECISION OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST ALYSSA BARBARA TUNGUL

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Alyssa Barbara Tungul of [REDACTED], was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held via video conference commencing at 9:00 AM on Wednesday, September 7, 2022.

The participants were:

1. Professional Conduct Committee members appointed as the hearing committee:
[REDACTED] (chair), [REDACTED];
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], with assisting presenting officer, [REDACTED].

The investigated member, Alyssa Tungul, was not present and was not represented by counsel.

The hearing was open to the public and observers were present. Observers were instructed that the administrative secretary was recording the hearing for the purpose of making an official record and that no other recording was permitted.

COMPOSITION/JURISDICTION

There were no objections to the composition of the hearing committee or its jurisdiction to hear the case. [REDACTED] confirmed there were no issues to be raised regarding the steps and procedures to be followed by the hearing committee.

CHARGES AND PLEA

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

1. Alyssa Barbara Tungul is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that Tungul, while a member of the Alberta Teachers' Association,

between June 1, 2016, and November 30, 2016, engaged in conduct for which Tungul, on July 15, 2021, was convicted of an indictable offence, to wit:

[Tungul], between the 1st day of June 2016, and the 30th day of November 2016, both dates inclusive, at or near [REDACTED], did, for a sexual purpose, unlawfully touch, directly or indirectly, with a part of the body or with an object, the body of a student, a person under the age of [REDACTED] years, contrary to section 151 of the *Criminal Code* of Canada.

The investigated member entered a plea of guilty to the charge in a written Acknowledgement of Unprofessional Conduct.

As the related criminal matter was under a publication ban, the “person under the age of [REDACTED] years” identified in Charge 1 was not referred to by name and is referenced only as Student A.

WITNESSES

No witnesses were called.

EXHIBITS FILED

Exhibit 1—Declaration of access to legal counsel, signed by Tungul, dated September 4, 2022

Exhibit 2—Notice of hearing with Canada Post confirmation of receipt on July 25, 2022

Exhibit 3—Submission on plea, signed by Tungul, dated September 4, 2022

Exhibit 4—Confirmation of membership, signed by [REDACTED], dated August 5, 2022

Exhibit 5—Agreed statement of facts with appendices, signed by Tungul and [REDACTED] on September 4, 2022, and September 6, 2022, respectively

Exhibit 6—Direct indictment, dated January 12, 2020, filed January 14, 2020

Exhibit 7—Joint submission on penalty, signed by Tungul and [REDACTED] on September 4, 2022, and September 6, 2022, respectively

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED

1. Tungul was born [REDACTED]. (Exhibit 7)
2. Tungul was a member of the Association from September 1, 2012, to May 31, 2021. (Exhibit 5)
3. Tungul worked as a teacher for a period of approximately seven years. Tungul’s teaching career began with the [REDACTED] in September

2012. Tungul taught at [REDACTED] from December 2012 until October 2017. She moved to [REDACTED] in October 2017. (Exhibit 7)

4. Tungul was suspended from her teaching position by [REDACTED], then superintendent of [REDACTED], on May 14, 2019. Tungul was suspended with immediate effect. (Exhibit 5)
5. Alyssa Tungul was charged with three separate offences under the *Criminal Code*. On April 12, 2020, the crown proceeded by direct indictment of three charges against Tungul. (Exhibit 5)
6. A trial occurred April 12–17, 2021 and continued on May 31, 2021. (Exhibit 5)
7. Tungul resigned from the [REDACTED] in in 2021. (Exhibit 7)
8. On July 15, 2021, the judge overseeing the trial, Justice [REDACTED] provided the reasons for [REDACTED] decision (Appendix 2 of Exhibit 5). At paragraph 115 of [REDACTED] reasons, [REDACTED] wrote,

I conclude that Crown has proven the essential elements of the offence of sexual assault and sexual interference beyond a reasonable doubt. [Tungul] touched [Student A] for a sexual purpose in her car on one occasion by [REDACTED] [Student A].
9. At paragraph 116, [REDACTED] wrote, “I find [Tungul] guilty of the charges of sexual assault and sexual interference.”
10. On December 16, 2021, [REDACTED] announced sentencing and provided [REDACTED] reasons for penalty (Appendix 3 of Exhibit 5). At paragraph 1, [REDACTED] wrote,

This is my sentencing decision following a trial where I convicted Ms. Tungul of one count of sexual assault contrary to section 271 of the *Criminal Code* and one count of sexual interference contrary to section 151 of the *Criminal Code*. The Crown stayed the conviction of sexual assault.

11. Tungul was convicted of an indictable offence under section 151 (sexual interference) of the *Criminal Code*. On December 16, 2021, Tungul was sentenced to incarceration for 32 months in a federal corrections facility. (Exhibit 7)
12. As part of her conviction, Tungul is required to comply with the *Sex Offender Information Registration Act*. This mandates that she must report to the police and/or RCMP annually with her location and any updated personal information for 20 years. (Exhibit 7)

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

REASONS FOR DECISION

1. Tungul was convicted of an indictable offense under section 151 of the *Criminal Code* of Canada.
2. Per section 23(2)(a) of the *Teaching Profession Act*, the conduct of a teacher on which a conviction of an indictable offence was based is deemed to constitute unprofessional conduct.

SUBMISSION ON PENALTY

1. The parties submitted a Joint Submission on Penalty signed by both Tungul and [REDACTED] (Exhibit 7) requesting that the hearing committee order the following penalties in this case:
 - a. a declaration that Tungul be permanently ineligible for membership in the Alberta Teachers' Association and
 - b. a recommendation to the Minister of Education that Tungul's teaching certificate be permanently cancelled.
2. The Joint Submission on Penalty set out that Tungul was advised by [REDACTED] that the committee is not bound by the recommended penalty and that the committee would make its own determination.
3. The Joint Submission on Penalty also stated that [REDACTED] advised Tungul she could make a written submission or an oral presentation to the committee on penalty. Tungul declined.
4. At the hearing, [REDACTED] reviewed the Joint Submission on Penalty, including the factors the parties were asking the committee to consider.
5. On behalf of the parties, [REDACTED] submitted that the nature and gravity of the seriousness of the allegation was in the most serious range of conduct. [REDACTED] also submitted that Tungul worked as a teacher for approximately seven years and had no previous professional discipline by the Association.
6. In consideration of the age and condition of Student A, the individual affected by Tungul's conduct, [REDACTED] noted that Student A was [REDACTED] years old at the time the sexual interference

occurred. The court considered Student A to be a [REDACTED] and a particularly vulnerable youth.

7. The Joint Submission on Penalty described Tungul's actions as causing significant harm to Student A, Student A's family members and society and involved a breach of trust against a vulnerable youth.
8. The Joint Submission on Penalty also included statements on whether the member had already suffered other consequences and the presence or absence of mitigating factors. Tungul was suspended from her teaching position in May 2019 and has been sentenced for the criminal conviction of sexual interference. She was remorseful for her actions and presented letters in support, which factored into her criminal sentencing. She was also considered to be less likely to reoffend.
9. Another factor submitted for consideration in the Joint Submission on Penalty was the need to promote deterrence. Teachers must uphold the requirements of the *Teaching Profession Act* and the Code of Professional Conduct in relation to the best interests of students. A teacher who is convicted of an indictable offence, particularly one involving sexual interference of a student, seriously violates the *Teaching Profession Act* and brings dishonour and disrepute to the profession. By her actions, Tungul both disregarded and violated the trust relationship that society expects teachers to maintain with students. To serve the purpose of deterrence, the penalty ordered by the hearing committee must deter others from engaging in similar activity.
10. In terms of needing to maintain confidence in the profession, the Joint Submission on Penalty stated that Tungul's actions amounted to an indictable offence, failed to maintain the honour and dignity of the profession and adversely impacted the public perception of the profession. Teachers have a responsibility to serve as positive role models for their students and students in general. As a result, society holds teachers to a higher standard than other members of the community. The profession must take significant steps to ensure that the profession acknowledges the standard required of teachers, and through severe penalties, communicate that a serious breach of the standard cannot be condoned.
11. [REDACTED] advised the hearing committee of two similar cases (Appendix 1 and 2 of Exhibit 7) in which the ATA asked for comparable penalties.

PENALTY

The hearing committee ordered the following penalty:

1. A declaration that Tungul is permanently ineligible for membership in the Alberta Teachers' Association and
2. A recommendation to the minister of education that Tungul's teaching certificate be permanently cancelled.

REASONS FOR PENALTY

1. Tungul was convicted of an indictable offence under section 151 of the *Criminal Code* of Canada.
2. Per section 23(2)(a) of the *Teaching Profession Act*, a teacher's conduct on which a conviction of an indictable offence was based is deemed to constitute unprofessional conduct.
3. Tungul was engaged with Student A as their teacher, which placed her in a significant relationship of trust. In the related criminal decision (Appendix 3 of Exhibit 5), the court found that Student A was a vulnerable individual and that Tungul's conduct constituted an indictable offence that breached this trust. A breach of trust increases the gravity of an offence because it is likely to increase harm to the victim.
4. Society has a right to expect that teachers will act in a manner that establishes and maintains a trust relationship between teachers and students. Tungul violated this trust relationship.
5. Teachers must uphold the requirements of the *Teaching Profession Act* and the Code of Professional Conduct in relation to the best interests of students.
6. A teacher convicted of an indictable offence, particularly an offence involving the sexual interference of a student, seriously violates the *Teaching Profession Act* and brings dishonour and disrepute to the profession.
7. As noted in the Joint Submission on Penalty, a teacher should not engage in inappropriate intimate relationships with any student. The hearing committee agrees that society views such actions as repugnant and reprehensible. Tungul's actions showed disregard for the societal expectations of teachers.
8. The penalty, therefore, must deter other teachers from engaging in any type of activity related to this behaviour.

9. Extensive media coverage of Tungul's conviction presented an image that was damaging to the profession.
10. Tungul's actions resulted in her being found guilty of the indictable offence of sexual interference of a minor. Her actions not only failed to maintain the honour and dignity of the profession, but they also adversely impacted public perception of the teaching profession.
11. The offences in question involved activities deemed to be unacceptable by society. The penalty imposed by the Alberta Court of Queen's Bench confirms the serious nature of Tungul's actions.
12. Because teachers have a recognized responsibility to provide a positive role model for not only their students but students in general, society holds teachers to a higher standard than other members of the community.
13. Where teachers commit serious breaches of the *Criminal Code*, the teaching profession must take significant steps to ensure that it is clear to all that the profession acknowledges the standard required of teachers and, through the imposition of severe penalties, communicate that such serious breaches of that standard will not be condoned. The hearing committee is satisfied that the ordered penalties will have that effect in this case.

Dated at the City of Edmonton in the Province of Alberta, October 19, 2022.

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

