

PRACTICE REVIEW HEARING COMMITTEE

HEARING DECISION IN THE MATTER OF SHANE VAN VEEN

**HEARING HELD ON OCTOBER 22, 2018
EDMONTON, ALBERTA**

The Practice Review Hearing Committee (the “Committee”), established in accordance with section 7 of the *Practice Review of Teachers Regulation*, Alberta Regulation 11/2010 (the “*Regulation*”), convened to hear a complaint about the alleged unprofessional conduct of Shane Van Veen (the “Teacher”).

The following were Members of the Committee:

- [REDACTED] Chair, Teacher Member;
- [REDACTED] Teacher Member; and
- [REDACTED] Public Member.

The hearing was held on Monday, October 22, 2018 commencing at 1:34 p.m. at the 44 Capital Boulevard Building, 10044 108 Street, Edmonton, Alberta.

In addition to the Committee, the following individuals were present at the hearing:

- [REDACTED] Associate Registrar, Registrar’s Representative
- [REDACTED] Education Manager, Office of the Registrar
- [REDACTED] Legal Counsel to the Hearing Committee
- [REDACTED] Secretary to the Committee
- [REDACTED] Recording Officer, Secretariat Support
- [REDACTED] Court Reporter

PRELIMINARY MATTERS

The Teacher was neither represented nor in attendance at the hearing. The Secretary to the Committee presented the Committee with evidence that the Notice of Hearing had been sent to the Teacher on July 30, 2018 by recorded mail. A Canada Post tracking summary, entered as Exhibit “B”, demonstrated that the Notice of Hearing had been picked up by “I VAN VEEN” on July 31, 2018. In addition, the Teacher had emailed [REDACTED] on October 22, 2018, addressing the Committee. The email was entered as Exhibit “C”.

The Committee reviewed the evidence of service and concluded that the Teacher was aware of the proceedings and that the hearing should proceed in his absence.

The Chair made introductions of the Committee Members, all individuals party to the hearing, and all those in attendance. There were no objections to the composition of the Committee from the Registrar’s Representative.

The Chair confirmed dates of service of the Notice of Hearing and the materials disclosed to both the Teacher and the Office of the Registrar. All dates were verified and no objections were raised from Registrar’s Representative.

The Committee approved the entry of a binder containing the Registrar’s Materials, which had been distributed in advance to the Teacher, as Exhibit “A” for the purposes of this proceeding.

The Registrar's Representative raised the two following preliminary issues:

1. An application under section 19(2)(b) of the *Regulation* to have the hearing closed to the public due to a [Location Redacted] court ordered publication ban, which is still in effect; and
2. A request by the Office of the Registrar that the Committee not consider an email from the Teacher to [REDACTED] addressed to the Committee dated October 22, 2018, due to the information not being submitted by the due date contained in the Notice of Hearing dated July 27, 2018.

On the first issue, the Committee listened to submissions by the Registrar's Representative as to why the hearing was being proposed to be closed to the public, which included that in this instance the criminal proceedings involving the Teacher had a publication ban on the identity of the complainant, a minor.

Upon deliberation and consideration of the sensitive nature of the criminal proceedings involving a minor, the Committee approved the request to close the hearing to the public.

On the second issue, the Committee reviewed the email from the Teacher dated October 22, 2018 and considered the Registrar's Representative's submissions that the information in that email had been provided after the deadline in the Notice of Hearing dated July 27, 2018, and no explanation had been provided as to why this email was being provided after the deadline.

In the interests of having all relevant information before it as to the Teacher's position and in accordance with the discretion given to the Committee for the introduction of evidence under section 19(4) of the *Regulation*, the Committee decided to admit the email of the Teacher dated October 22, 2018 into evidence as Exhibit "C". The Committee clarified that because the email is not sworn and cannot be cross-examined upon, the email will be admitted but the Committee will consider the weight of the email when rendering its decision in the matter before them, and will allow a rebuttal from the Registrar's Representative in relation to the email.

ALLEGATIONS

The allegations in the Notice of Decision (Exhibit "A", tab 9) were referred to the Committee for a hearing:

1. The Teacher's criminal conviction of an indictable offence under section 153(1)(a) of the Criminal Code of Canada related to touching the body of a person under the age of 18, for a sexual purpose while in a position of trust.
2. The Teacher's criminal conviction of a summary offence under section 171.1(1) of the Criminal Code of Canada for making sexually explicit materials available to a person under the age of 18 for the purpose of facilitation the commission of the offence of sexual exploitation.

EXHIBITS

The following were entered as Exhibits in the hearing:

- A. Exhibit A – Registrar's materials binder titled "Registrar Materials";
- B. Exhibit B – Canada Post Tracking Summary dated October 22, 2018; and
- C. Exhibit C – Email from Shane Van Veen to [REDACTED] dated October 22, 2018.

MANDATE OF THE COMMITTEE

The mandate of the Committee is to hear the evidence presented with respect to the complaint about the alleged unprofessional conduct of the Teacher, to determine whether the Teacher's actions constitute unprofessional conduct, as defined under section 24 of the *Regulation* and, if so, to make recommendations under section 25 of the *Regulation*, as noted below.

Unprofessional conduct

24(1) The practice review hearing committee

- (a) may find the conduct of a teacher to constitute unprofessional conduct if, in the opinion of the practice review hearing committee, that conduct is
 - (i) detrimental to the best interests of students, the public or teachers generally, or
 - (ii) does not meet the professional conduct requirements,and
- (b) must find the conduct of a teacher to constitute unprofessional conduct if that conduct is the basis for a conviction for an indictable offence.

(2) Where a teacher has been convicted of an indictable offence, a practice review hearing committee shall make a recommendation to the Minister under section 25(1)(b) and has no authority to investigate the conduct of the teacher on which the conviction is based except for the purpose of making a recommendation to the Minister.

Recommendations of practice review hearing committee

25(1) If a practice review hearing committee

- (a) does not find that a teacher is unskilled or incompetent in teaching or does not find that the conduct of a teacher constitutes unprofessional conduct, the practice review hearing committee may recommend that the Minister dismiss the complaint, or
- (b) finds that a teacher is unskilled or incompetent in teaching or that the conduct of a teacher constitutes unprofessional conduct, the practice review hearing committee may recommend that the Minister do one or more of the following:
 - (i) serve a letter of reprimand on the teacher who is the subject of the complaint;
 - (ii) suspend the certificate of the teacher who is the subject of the complaint, with or without conditions;
 - (iii) cancel the certificate of the teacher who is the subject of the complaint or cancel the certificate and issue a certificate of a different class, with or without conditions;
 - (iv) order that the teacher who is the subject of the complaint be ineligible for a certificate for a definite or indefinite period of time, with or without conditions.

(2) If the decision of a practice review hearing committee

- (a) relates to a teacher who has been convicted of an indictable offence, and
- (b) does not contain a recommendation that the Minister cancel or suspend the certificate of the teacher,

the decision must include reasons why such a recommendation has not been made.

BACKGROUND

The Teacher:

- currently holds a Permanent Professional Certificate in Alberta, issued to him on August 30, 2006;
- held a Permanent Professional Certificate in Manitoba, which was issued on June 30, 2004, and which was cancelled effective June 1, 2016; and
- pled guilty and was convicted on January 21, 2016 of two offences under sections 153(1)(a) and 171.1(1) of the *Criminal Code of Canada*, one of which was an indictable offence.

POSITIONS OF THE PARTIES

Registrar’s Representative:

- In June 2016, the Registrar was notified, in accordance with a Canadian Inter-Jurisdictional Protocol, that the Teacher’s teaching certificate in Manitoba had been cancelled. Upon requesting further information, the Registrar learned of the Teacher’s offences and convictions.
- Pursuant to section 12(1)(b) of the *Regulation*, the Registrar appointed an investigator to investigate this matter. Based on the findings in the investigator’s report, the Registrar rendered his decision dated June 20, 2018, referring the matter to a Practice Review Hearing Committee.
- The Registrar is of the opinion that the Teacher’s convictions, which were entered by guilty plea, are very serious in nature [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- The Registrar is of the view that all Teachers are required to conduct themselves with due regard to the honour, dignity, welfare, rights and best interests of students, parents, colleagues, employers, and the teaching profession, and the Teacher in this instance severely breached his position of trust.
- The Registrar recognizes that the *Regulation* requires the Committee to make a finding of unprofessional conduct by the Teacher in this circumstance. The Registrar asks that the Committee recommends to the Minister of Education that the Teacher’s certificate be cancelled in accordance with the *Regulation*.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DECISION AND RECOMMENDATION

After due deliberation and consideration of the evidence before it, and in accordance with section 24(1)(b) of the *Regulation*, the Committee finds that Mr. Shane Van Veen’s conduct was unprofessional.

Based on this finding, and in accordance with section 25(1) of the *Regulation*, the Committee recommends to the Minister of Education that Mr. Shane Van Veen’s Alberta Permanent Professional Certificate be cancelled. The Teacher in this hearing engaged in reprehensible conduct which was the subject of extremely serious criminal proceedings, resulting in two convictions. The conduct arose in the context of his employment as a teacher and was a severe breach of trust and misuse of his position of authority over a student. Cancellation is appropriate in this case.

Section 25(2) of the *Regulation* states that if the decision of the Committee relates to a teacher who has been convicted of an indictable offence and the Committee does not recommend that the certificate of the Teacher be cancelled, reasons must be included as to why cancellation was not recommended. In this instance, as cancellation has been recommended, those additional reasons are not required.

[Redacted Signature]

Chair
Practice Review Hearing Committee

December 4, 2018
Date

[Redacted Signature]

Public Member
Practice Review Hearing Committee

December 4, 2018
Date

[Redacted Signature]

Teacher Member
Practice Review Hearing Committee

December 4, 2018
Date

OPTION TO APPEAL – NOTICE TO SHANE VAN VEEN

In accordance with section 28 of the *Regulation*, within fifteen (15) days of receipt of this decision, you may appeal to the Practice Review Appeal Committee. The appeal must be in writing and must describe the finding or recommendation, or both, being appealed and state the reasons for the appeal. The appeal must be addressed to:

The Chair, Practice Review Appeal Committee
c/o [Redacted]
44 Capital Blvd., 10044 – 108 Street
Edmonton, Alberta T5J 5E6