

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF A CHARGE OF UNPROFESSIONAL
CONDUCT AGAINST STEVEN IRUNGU KABACHIA

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Steven Kabachia 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 Wednesday, November 19, 2014 at 0900.

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

[REDACTED] presented the case against the investigated member. The investigated member, Steven Kabachia, was not present and was not represented by counsel.

CONSTITUTION/JURISDICTION

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

CHARGES AND PLEA

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

1. Steven Irungu Kabachia is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, from 2002 to 2013, engaged in actions towards students where he failed to treat students with dignity and respect in a manner that was considerate of their circumstances.

Absent any specific plea from the member, a plea of not guilty was directed.

WITNESSES

No witnesses were called.

EXHIBITS FILED

- Exhibit 1 Declaration of awareness of rights, signed by Kabachia, dated October 7, 2014
- Exhibit 2 Notice of hearing and Canada Post confirmation of delivery on August 8, 2014
- Exhibit 3 Agreed statement of facts, signed by Kabachia and [REDACTED], dated October 7, 2014
- Exhibit 4 Joint submission on penalty, signed by Kabachia and [REDACTED], dated October 7, 2014

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Kabachia was employed by [School Division Redacted] from August 29, 2002 until June 30, 2013.
2. Kabachia was a teacher at [School Redacted], teaching in the [Subject Redacted] area during his employment.
3. During Kabachia's first year of teaching, 2002/2003, there was an incident with a student who has a [REDACTED] (identified by Alberta Education as code 42) and who is hereinafter referred to as [Name Redacted]. Kabachia directed [Name Redacted] to do push-ups as a disciplinary measure and a disagreement between [Name Redacted] and Kabachia ensued. Kabachia pushed and held [Name Redacted] up against the blackboard.
4. Kabachia was directed, in his first year evaluation, to amend his behaviour and access resources that pertain to dealing with students in a non-threatening manner.
5. Kabachia attended multiple-day seminars on non-violent student intervention and several single-day seminars on approaches to teaching students with special needs.
6. A second incident, with another student hereinafter referred to as [Name Redacted], occurred the following year, on September 26, 2003. Kabachia was supervising grounds cleanup and [Name Redacted] was being disruptive to the students under Kabachia's supervision. Kabachia grabbed [Name Redacted] from behind by closing his hand around [Name Redacted] neck and directed [Gender Redacted] away from the group.
7. Kabachia was given, by school administration, a written summary of the incident which included a directive that he ensure he does not engage in such behaviour with a student again.
8. Kabachia incorporated the directive into his teacher professional growth plan and developed a plan of action to amend his behaviour.
9. On or about March 8, 2011, Kabachia had an incident with a student hereinafter referred to as [Name Redacted]. [Name Redacted] approached Kabachia to discuss a late assignment which Kabachia refused to accept. As he moved away, [Name Redacted] uttered some profanity directed at Kabachia and, Kabachia told [Name Redacted] to leave the room. [Name Redacted] went to the back of room to get [Gender Redacted] books and continued to swear. Kabachia forcefully moved a desk aside to pursue [Name Redacted] and grabbed [Name Redacted] by [Gender Redacted] hoodie (hooded sweater). The hoodie tore under the force of Kabachia's pull. Kabachia directed [Name Redacted] into the hallway.
10. Another student, here referred to as [Name Redacted], said that the forceful way that Kabachia moved the desk was frightening to other students.

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11. Kabachia held [Name Redacted] against the wall in the hallway. Kabachia reported that he was holding [Name Redacted] by the shoulder, [Name Redacted] was swearing loudly and Kabachia was speaking to [Name Redacted] in a controlled manner.
12. Two other teachers, [Name Redacted] and [Name Redacted], witnessed portions of the incident.
13. [Name Redacted] reported that Kabachia was holding [Name Redacted] against the wall in the hallway. [Name Redacted] believed that the situation was under control.
14. [Name Redacted] came out of Gender redacted classroom in response to hearing the yelling and swearing. [Name Redacted] reported that Kabachia had [Name Redacted] against the wall. The assistant principal, [Name Redacted], arrived on the scene.
15. [Name Redacted] heard loud yelling and went to investigate. [Name Redacted] observed that [Name Redacted] was standing with [Gender Redacted] back to the windows and Kabachia was standing in front of [Name Redacted], holding his forearms and shoulders, in an attempt to get [Name Redacted] to stay. Kabachia was speaking to [Name Redacted] and [Name Redacted] was swearing.
16. [Name Redacted] took control of the situation and directed [Name Redacted] to [redacted] office.
17. Kabachia received a written severe reprimand and final warning, dated March 15, 2011, from Assistant Superintendent of Schools [Name Redacted]. The notice definitively stated that the incident with [Name Redacted] was the third such incident in Kabachia's career, that no further incidents would be tolerated and that Kabachia's employment was at risk.
18. Kabachia apologized to [Name Redacted], [Name Redacted] mother, the students in Kabachia's class, the principal and the assistant superintendent. [Name Redacted] believed the apologies were genuine.
19. [Name Redacted] mother contacted the [Name Redacted] police. Kabachia was charged with assault.
20. The crown withdrew the prosecution when [Name Redacted] was uncooperative in the investigation.
21. [Name Redacted] was a student with significant behavioural issues (identified by Alberta Education as code 42), who tended to exhibit [redacted] tendencies. [Name Redacted] reported that Kabachia was apprised of [Name Redacted] condition prior to his placement in Kabachia's classroom.
22. Kabachia had a fourth incident, with another student hereinafter referred to as [Name Redacted], on January 3, 2013.
23. Kabachia had his class in the library and some of the students, including [Name Redacted], were talking very loudly. Kabachia directed [Name Redacted] and the other students sitting with him to get their work done. Kabachia then walked away to another table to help another student. [Name Redacted] yelled at Kabachia and told him that [Gender Redacted] work was all done for the week.

Report of the Hearing Committee of PCC re S Kabachia, page 4

24. Kabachia continued with the other student and then returned to [Name Redacted] at which point Kabachia “flicked” [Name Redacted] in the head and told [Name Redacted] that [Gender Redacted] had wasted Kabachia’s time for the last two years.
25. [Administration] entered the library and, [Name Redacted] told [Gender Redacted] about the incident. [Name Redacted] was unhappy and continued to talk about the incident in the common area. [Name Redacted] took [Name Redacted] to the office.
26. Principal [Name Redacted] spoke with [Name Redacted] and Kabachia about the incident. Kabachia confirmed he had flicked [Name Redacted] in the head and that he had told [Name Redacted] he had wasted Kabachia’s time for the last two years. [Name Redacted] believed that Kabachia initially considered apologizing for the flick but not for his comments. Over the course of the next few days, Kabachia became unwilling to apologize for any part of the incident and refused to meet with [Name Redacted] parents.
27. Kabachia was suspended by Superintendent [Name Redacted] on January 7, 2013. [Name Redacted] intended to recommend to the board that Kabachia’s contract of employment be terminated.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

REASONS FOR DECISION

1. Kabachia, on four separate occasions, demonstrated a disregard for students’ circumstances and failed to treat those students with dignity and respect and in a manner that was considerate of their circumstances.
2. Kabachia was physically aggressive with students when there were no extenuating circumstances that could potentially justify his behaviour. Kabachia held one student by his neck, forcibly restrained a student on two separate occasions, forcefully shoved a desk and flicked a student in the head in a manner that caused the student pain.
3. Kabachia spoke inappropriately to a student by telling the student that he had wasted two years of Kabachia’s life.
4. Teachers are expected to improve and refine their practice over time. Despite being directed to take appropriate steps to change his behaviour, Kabachia failed to implement required improvements and was profoundly unsuccessful in correcting his conduct.
5. Teachers are expected to provide an environment where students feel safe. Kabachia failed in this regard.

PENALTY

The hearing committee imposed the following penalty on Kabachia:

1. A declaration of ineligibility for membership in the Alberta Teachers' Association for a period of one year
2. A recommendation to the minister of education to suspend Kabachia's teaching certificate for a period of one year

REASONS FOR PENALTY

1. Teachers are expected to have, and exercise, appropriate means of maintaining a safe and secure learning environment for students and to engage only in reasonable and measured disciplinary action. They are expected to continually strengthen their practice, amending as necessary, to ensure a safe and secure environment. Kabachia failed to correct his practice, despite clear identification of his deficiency and repeated directives from administration to improve. His failure to improve was evidenced by his recurring failure to treat his students with dignity and respect.
2. Kabachia engaged in episodic behaviours that suggest an inability to improve his practice.
3. Kabachia's repeated inappropriate behaviours require a significant penalty that demonstrates the Association's desire to deter this unacceptable conduct and to ensure the safety of students.

Dated at the City of Edmonton in the Province of Alberta, Monday, December 15, 2014.

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

