

THE ALBERTA TEACHERS' ASSOCIATION  
REPORT OF THE HEARING COMMITTEE  
OF THE PROFESSIONAL CONDUCT COMMITTEE  
IN THE MATTER OF CHARGES OF UNPROFESSIONAL  
CONDUCT AGAINST PAUL KIRK

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Paul Kirk of [REDACTED], [REDACTED] were 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, December 5 and Tuesday, December 6, 2005.

Professional Conduct Committee members present as the hearing committee were [REDACTED]  
[REDACTED]  
[REDACTED] was present as an observer.

[REDACTED]  
[REDACTED] presented the case against the investigated member, assisted by [REDACTED]. The investigated member was not present and was not represented by legal counsel, however, he did forward a written submission of plea and a sworn affidavit of his version of the facts, stating in part, "I know them to be true."

CONSTITUTION/JURISDICTION

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

CHARGES AND PLEA

The following charges were read by the secretary to the hearing committee:

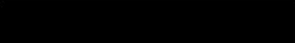
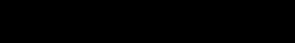
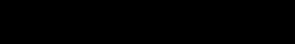
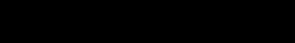
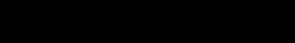
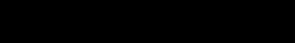
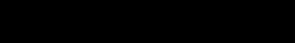

1. Paul Kirk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about May 7, 1981, physically contacted a student, [Name Redacted], in a sexual manner.

2. Paul Kirk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, between the dates of May 1, 1981 and December 31, 1981, failed to treat a student, [Name redacted], with respect in that he disclosed to colleagues information about [Name Redacted] that was contrary to [Gender Redacted] best interests.

Kirk entered, by way of his written submission, a plea of not guilty to Charge 1 and a plea of guilty to Charge 2. The hearing committee elected not to accept the guilty plea to Charge 2, not being satisfied that the admissions made by Kirk in that regard were consistent with guilt.

### WITNESSES

The prosecutor called the following witnesses:

1. 
2. 
3. 
4. 
5. 
6. 
7. 
8. 

### EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Kirk was a member of the Alberta Teachers' Association during the period September 1, 1979 to August 31, 2002 (Exhibit 3).
2. Kirk was a teacher employed by [School Division Redacted], teaching at [School Redacted], at the time of the incident (Exhibit 2 and 3).
3. [Name Redacted] was a student at [School Redacted] from 1980 to 1982.
4. [Name Redacted] was a teacher at [School Redacted] School from 1980 to 1984 (Exhibit 6).
5. [Name Redacted] was an area superintendent for [School Division Redacted] for 20 years and in 1981-82 was responsible for [School Redacted].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



DECISION OF THE HEARING COMMITTEE

Charge 1 guilty  
Charge 2 not guilty

REASONS FOR DECISION

Charge 1

1. Kirk's affidavit (Exhibit 2) and his earlier letter (Exhibit 4) contained much hearsay and speculation. The committee found them credible only for those statements specifically corroborated by other witnesses and documents. The following statements from the affidavit and said letter were substantiated by other evidence:
  - (a) Kirk was a teacher at [School Redacted] at the time of the incident.
  - (b) [Name Redacted] was a student in Kirk's [Subject Redacted] class.
  - (c) [Name Redacted] was an assistant principal at [School Redacted].
  - (d) Kirk did drive [Name Redacted] to [gender redacted] home on or about May 7, 1981.
  - (e) [Name Redacted], during this drive home, disclosed to [Name Redacted] that [gender redacted] had been sexually assaulted by a classmate.

2. The committee did not accept as credible Kirk's protestations of innocence regarding the physical sexual contact in part because [Names redacted] closely corroborated the testimony of [Name Redacted], despite the fact that nearly 25 years have passed since the incident. Further, [Names redacted] had nothing to gain nor did they appear to hold antipathy towards Kirk. Their testimony was consistent with each other's and with that of [Name Redacted]. Both witnesses clearly and confidently articulated their respective memories of the description of physical sexual contact by Kirk on [Name Redacted] as disclosed to them by [Name Redacted]
3. The actions of [Names redacted], in taking [Name Redacted]'s disclosure forward shortly after the incident, exhibited courage and diligence, thus lending credibility to their and [Name Redacted]'s testimony.
4. [Name Redacted]'s testimony was credible and was partly corroborated through witness statements and documents. [Names redacted]'s testimonies were consistent with that of [Name Redacted]. In testimony [Name Redacted] appeared sincere, forthright, clear and thoughtful. Any gaps in [gender redacted] recollection of events were understandable given the passage of time and the trauma [gender redacted] described. On the other hand, [gender redacted] recollecting and recounting of certain details had a ring of truth to them and [gender redacted] gave no indication of simply reciting from a prepared text. [gender redacted] evidence appeared to be presented by a person who was seeking to bring an end to a significantly unfortunate, traumatic and disturbing occurrence in [gender redacted] life rather than someone acting out of malice, rancour or with any hope of personal gain.
5. Students have a reasonable expectation that teachers will not abuse their positions of trust and authority by engaging in physical sexual contact with them. Such actions fail to treat the student involved with dignity and respect.
6. Kirk brought dishonour and disrespect to the teaching profession by engaging in physical sexual contact with a student who was particularly vulnerable given the circumstances that [gender redacted] elected to relate to a trusted teacher and the fact that [gender redacted] was alone with him, relying on him for advice, counselling support and, indeed, even for a ride to [gender redacted] home.
7. Kirk was afforded the opportunity to come before the hearing committee but he chose not to be available to be examined on his version of events and to assist the committee in its search for the truth.

Charge 2

1. The committee did not find credible evidence to establish guilt and was left concerned that Kirk's purported admission regarding this charge was not substantiated by his affidavit or any corroborating evidence.

PENALTY

The hearing committee ordered that

1. Paul Kirk is declared ineligible for membership in the Association;
2. a recommendation be sent to the minister of education to cancel Paul Kirk's teaching certificate;
3. the Association send a letter of severe reprimand to Kirk;
4. the Association, upon receiving notice from the minister of education of the cancellation of Kirk's teaching certificate, notify all teacher certification bodies in Canada of Kirk's lack of standing.

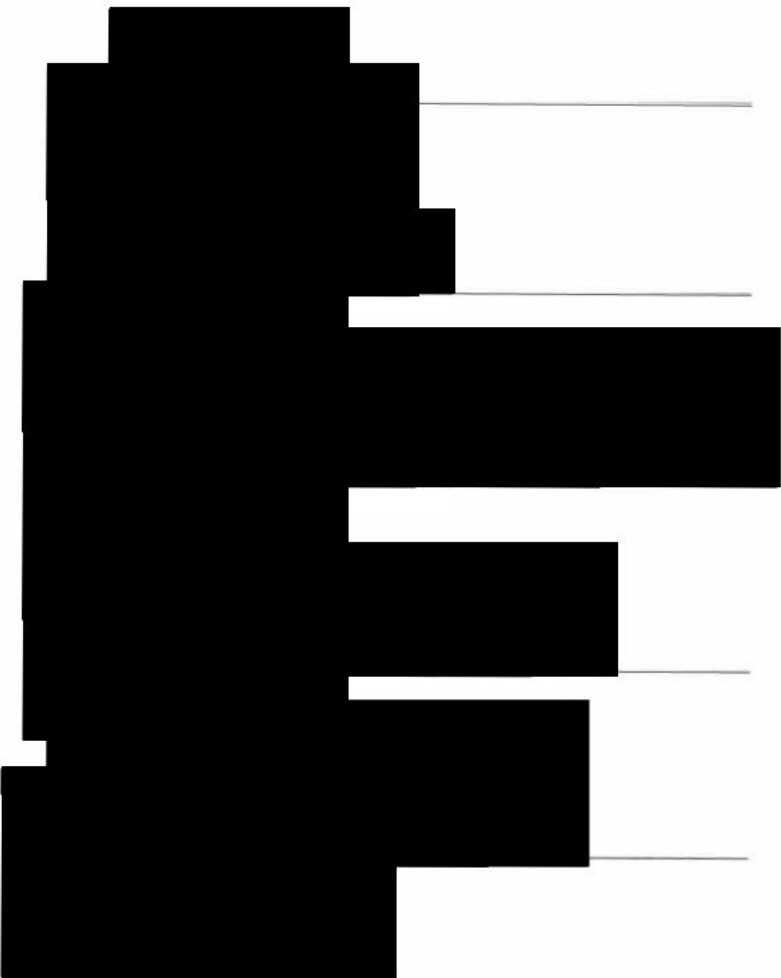
REASONS FOR PENALTY

1. Kirk, while in a position of trust and authority, took advantage of [Name Redacted] when [gender redacted] was a vulnerable student, thereby violating [gender redacted] right to safety and security.
2. Teachers must never engage in sexual activity with students.
3. Society views such actions as repugnant and reprehensible.
4. Kirk's actions showed disregard for society's expectations of teachers.
5. Society has a reasonable expectation that teachers will act in a manner that maintains a trust relationship with their students. Kirk exploited this relationship when he took advantage of [Name Redacted].
6. Kirk's actions harmed the honour and dignity of the profession.
7. The physical sexual contact caused significant emotional harm to [Name Redacted].

8. The youthful age of the victim, and the circumstances in which [gender redacted] relied on Kirk for help, guidance and support, exacerbated the severity of Kirk's breach of trust and authority. The responsibility for an appropriate teacher-student relationship rested solely with Kirk in his position of teacher and school administrator.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, December 6, 2005.

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



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