

THE ALBERTA TEACHERS' ASSOCIATION

REPORT OF THE PROFESSIONAL CONDUCT APPEAL COMMITTEE

IN THE MATTER OF AN APPEAL BY PROVINCIAL EXECUTIVE COUNCIL OF THE DECISION OF THE HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE WITH RESPECT TO CHARGES OF UNPROFESSIONAL CONDUCT AGAINST AMANDA CHILTON

The Professional Conduct Appeal Committee reports that the appeal by Provincial Executive Council of the decision of the hearing committee of the Professional Conduct Committee with respect to charges of unprofessional conduct against Amanda Chilton was heard in accordance with the *Teaching Profession Act*. The appeal hearing was held at Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Tuesday, February 25, 2014.

Professional Conduct Appeal Committee members present were [REDACTED]

[REDACTED] The respondent, Amanda Chilton, was not present and was not represented by legal counsel.

CONSTITUTION/JURISDICTION

There were no objections to the constitution or jurisdiction of the appeal committee.

SUBMISSION OF THE APPELLANT

The appellant, Provincial Executive Council, did not question the conclusion or decision of the hearing committee relative to guilt or innocence. Provincial Executive Council submitted that the penalty ordered by the hearing committee is

- (a) too lenient,
- (b) does not fit the nature of the offences and
- (c) does not address the Association's responsibility of acting in the best interest of students, the public or the profession or in a manner which maintains the honour and dignity of the profession.

Provincial Executive Council did not take issue with the severe reprimand or the fine of \$1000 ordered by the hearing committee. Council indicated that the focus of its appeal was the hearing committee's orders that Chilton be ineligible for membership in the Association for a period of three years and that a recommendation be made to the minister of education to suspend Chilton's teaching certificate for a period of three years. Council submitted that the three-year period was inadequate given Chilton's deliberate attempts to subvert the Association's discipline process.

Council also urged the appeal committee to consider that Chilton's actions needlessly prolonged the discipline investigation.

SUBMISSION OF THE RESPONDENT

There was no submission received from the respondent.

DECISION OF THE COMMITTEE

1. Based on the standard of review of reasonableness, the decision of the appeal committee is that the appeal is upheld.
2. The decision of the appeal committee is that the penalty be varied to add
 - (a) an additional three years of ineligibility for membership in the Alberta Teachers' Association;
 - (b) a recommendation to the minister of education for an additional three-year suspension of Chilton's teaching certificate; and
 - (c) the additional three-year period is to be served consecutively to the original penalty of three years of ineligibility and recommended suspension, for a total of six years.

REASONS FOR DECISION

1. In considering the penalty ordered by the hearing committee, the appeal committee applied a standard of review of reasonableness. A standard of review of reasonableness means that the appeal committee must exercise deference in relation to the decision of the hearing committee. Using this standard of review, a decision is unreasonable if the decision falls outside the range of possible acceptable outcomes given the evidence before the hearing committee and precedents.
2. At the professional conduct hearing, the presenting officer made submissions on penalty specific to each of the charges as follows:

Charge 1—A letter of severe reprimand

Charge 2—Chilton be declared ineligible for membership in the Alberta Teachers' Association for a period of three years and a recommendation be made to the minister of education to suspend Chilton's teaching certificate for a period of three years.

Charge 3—A letter of severe reprimand and a one thousand dollar fine

Charge 4—Chilton be declared ineligible for membership in the Alberta Teachers' Association for an additional period of three years, and that a recommendation be made to the minister of education to suspend Chilton's teaching certificate for an additional period of three years.

Charge 5—A letter of severe reprimand

3. The appeal committee reviewed the presenting officer's submission on penalty and the global penalty imposed by the hearing committee.

The appeal committee found that the hearing committee's decision, with respect to the letter of severe reprimand and the fine of \$1000, was intelligent, reasonable and justifiable and sufficient rationale was provided in the report to support the decision on these penalties.

However, the appeal committee could not determine, from the hearing committee's report, why the hearing committee did not accept the recommendation of the presenting officer with respect to ineligibility for membership and suspension of certificate, because no reasons were provided. It was not clear to the appeal committee why the hearing committee opted to order the three-year period of ineligibility for membership and suspension of certificate rather than the six-year period recommended by the presenting officer.

4. In the presenting officer's written submission on penalty, he recommended, for Charge 4, an additional period of three years of ineligibility for membership and suspension of certificate. The appeal committee noted from the transcript (pages 28–29), that the presenting officer further recommended the additional three years be served consecutively to the penalty for Charge 2.
5. The report of the hearing committee omitted any clear reference to the reason for the deviation from the presenting officer's recommended penalty. In addition, the transcript shows the hearing committee had a long and fulsome discussion regarding suspension and the necessity for the member to follow the Association's rigorous reinstatement process (pages 38–48) at the conclusion of the suspension period, in order to return to teaching; however, this discussion was not reflected in the written decision and does not shed light on why the hearing committee opted for a three-year period of ineligibility and suspension rather than the six-year period which was recommended.
6. In these circumstances, the appeal committee concluded that the three-year period of ineligibility and suspension was unreasonable.
7. The appeal committee concluded that Chilton's attempt to subvert the investigative process by repeatedly lying to the investigating officer and others, and by encouraging others to lie for her, is a serious matter and when combined with the totality of the charges, warrants a longer penalty.

8. The penalty that the appeal committee is ordering is based on a review of precedent cases and fits within the reasonable range of penalties.

Dated at the City of Edmonton in the Province of Alberta, Thursday, March 27, 2014.

THE PROFESSIONAL CONDUCT APPEAL COMMITTEE
OF THE ALBERTA TEACHERS' ASSOCIATION

