

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

IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST BRIAN STANLEY CLARK

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Brian Clark of [Location 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, February 3, 2020 at 0900.

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

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

COMPOSITION/JURISDICTION

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

CHARGES AND PLEA

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

1. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of the 2010/11 to the 2018/19 school years made sexual gestures in the presence of students, thus failing to maintain the honour and dignity of the profession.
2. Brian Stanley Clark is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, during the period of the 2010/11 to the 2018/19 school years made sexual gestures in the presence of students thus failing to treat pupils with dignity and respect and be considerate of their circumstances.
3. Brian Stanley Clark 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 March 3, 2017, asked a female staff member to assist him with lifting some heavy items, or a similar statement, while he headed in the direction of the washroom, thus failing to maintain the honour and dignity of the profession.
4. Brian Stanley Clark 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

October 1, 2014, took two [Gender Redacted] students to his personal residence without the permission of the school principal, thus failing to maintain the honour and dignity of the profession.

5. Brian Stanley Clark 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 February 2, 2015, made a disparaging comment to a student about the student's prior incarceration, thus failing to treat a pupil with dignity and respect and be considerate of their circumstances.
 6. Brian Stanley Clark 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 March 6, 2017, informed a [Gender Redacted] staff member that he wanted to put something in [Gender Redacted] mouth, or a similar statement, thus failing to maintain the honour and dignity of the profession.
 7. Brian Stanley Clark 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 March 23, 2017, stated to a [Gender Redacted] student and a [Gender Redacted] staff member, "Mmm, smells like fish," or similar statement, thus failing to maintain the honour and dignity of the profession.
 8. Brian Stanley Clark 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 March 23, 2017, stated to a [Gender Redacted] student and a [Gender Redacted] staff member, "Mmm, smells like fish," or similar statement, thus failing to treat the student with dignity and respect and be considerate of their circumstances.
 9. Brian Stanley Clark 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 March 2, 2018, Clark made a sexually inappropriate comment in the presence of school staff, thus failing to maintain the honour and dignity of the profession.
 10. Brian Stanley Clark 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 February 7, 2019, yelled at a colleague, [Name Redacted], in the presence of students in a manner that could undermine the confidence of pupils in [Name Redacted].
- The investigated member entered a plea of not guilty to each of the charges.

PRELIMINARY MATTERS

1. Clark made an inquiry to the committee as to whether or not the hearing would be completed by the end of the first day. The committee informed Clark that witnesses were scheduled for two days and the hearing would proceed accordingly.
2. While clearly present at the appointed date, time and location, Clark said that he did not receive the notice of hearing as the post office would not release it to his son.

3. [Name Redacted] informed all that pursuant to section 64 of the *Teaching Profession Act*, it appeared that the Association provided notice by registered mail to the member's last known address on Association records and further, published notice twice in the [Location Redacted] on January 8, 2020 and January 15, 2020. The committee accepted that notice had been served properly.
4. After some suggestion of confusion by the member, [Name Redacted] suggested to the committee that Clark speak to each one of the charges individually, which Clark did. Clark proceeded to plead not guilty to each of the ten charges on a charge by charge basis.
5. [Name Redacted] noted for the record that Clark spoke specifically to each charge and was attentive to the wording, and entered his plea at the end of each charge.
6. [Name Redacted] informed the committee that one of his witnesses, [Name Redacted], would not be testifying due to a family emergency.

WITNESSES

The presenting officer called as witnesses:

1. Name Redacted
2. Name Redacted
3. Name Redacted
4. Name Redacted
5. Name Redacted
6. Name Redacted
7. Name Redacted
8. Name Redacted
9. Name Redacted

EXHIBITS FILED

Exhibit 1—Notice of hearing dated December 12, 2019, and returned unclaimed to the Association on January 20, 2020

Exhibit 2—Notice of hearing advertised in [Location Redacted] on January 8, 2020 and January 15, 2020

Exhibit 3—Proof of Clark's membership with the Alberta Teachers' Association during the 2005/06

school year to 2018/19 school year, dated January 23, 2020.

Exhibit 4—Two e-mails from [Name Redacted] to [Name Redacted] and [Name Redacted].

Exhibit 5—Incident report filed by [Name Redacted], dated April 21, 2017, in regard to an incident from March 3, 2017

Exhibit 6—Incident report filed by [Name Redacted] on April 15, 2017, in regard to an incident from March 3, 2017

Exhibit 7—Incident report filed by [Name Redacted] on April 15, 2017, in regard to an incident from March 6 or 8, 2017

Exhibit 8—Incident report filed by [Name Redacted] on April 15, 2017, in regard to an incident from March 23, 2017

Exhibit 9—Handwritten notes, dated March 2, 2018, signed by [Name Redacted]

Exhibit 10—Letter of reprimand from [Name Redacted] to Clark, dated May 31, 2017

Exhibit 11—E-mail from [Name Redacted] to Clark, dated March 19, 2018

Exhibit 12—Letter of reprimand from [Name Redacted] to Clark, dated May 9, 2018

Exhibit 13—Precedent Case list as presented by [Name Redacted]

Exhibit 14—Written copy of victim impact statement made by [Name Redacted] via Skype on February 4, 2020

Exhibit 15—Written copy of victim impact statement made by [Name Redacted] via Skype on February 4, 2020

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Clark was a member of the Alberta Teachers' Association during the period September 1, 2005 to June 30, 2019. (Exhibit 3)
2. Clark was an outreach teacher at [School Redacted] with the [School Division Redacted] during the period of the alleged incidents relating to the charges. This covered a period of time from the 2014/15 school year to the 2018/19 school year.
3. Clark was in his early fifties at the time the alleged incidents started to occur. Clark became an active member of the Association on September 1, 2005 (Exhibit 3) but Clark stated that he started teaching in September 2001.

Witness 1: [Name Redacted]

4. [Name Redacted], a teacher at [School Redacted], was called as the first witness. [Gender Redacted] reviewed the concept of teaching at [School Redacted] and indicated that students have many challenges including coming from broken families, addiction, pregnancies and interpersonal issues in main stream school. [Gender Redacted] also said that students come with challenges that were not met in traditional schools and outreach teachers need to build rapport with their students in order to create trust.
5. [Name Redacted] stated that [Gender Redacted] started working with Clark, one day a week, in the 2018/19 school year.
6. [Name Redacted] stated that [Gender Redacted] found Clark hostile, inappropriate and controlling. [Gender Redacted] also said that Clark had told [Gender Redacted] that all [Gender Redacted] were tattletales.
7. [Name Redacted] stated Clark had told [Gender Redacted] that [Gender Redacted] position of supporting upper level math and science was a waste of money and that it was his mission to get rid of both [Gender Redacted] and the teaching position.
8. The initial incident between [Name Redacted] and Clark occurred February 7, 2017, when Clark disputed [Name Redacted] concerns about a biology test. (Exhibit 4)
9. Clark became upset when [Gender Redacted] refused his demand to immediately make changes to the test. (Exhibit 4)
10. [Name Redacted] informed Clark that [Gender Redacted] would revise the test after [Gender Redacted] was done working with students. (Exhibit 4)

11. [Name Redacted] said that Clark yelled at [Gender Redacted] in front of students and stated that he was sick of [Gender Redacted] and that [Gender Redacted] was moody and sulky. (Exhibit 4)
12. [Name Redacted] testified to a second incident, which took place later in the day when Clark followed [Gender Redacted] into an office, during [Gender Redacted] lunch break, in order to further discuss the biology test.[Name Redacted] said Clark yelled at [Gender Redacted] and spoke to [Gender Redacted] in an intimidating and patronizing manner. [Gender Redacted] stated Clark was between [Gender Redacted] and the door, which he closed, and had stepped towards [Gender Redacted]. [Name Redacted] said [Gender Redacted] felt both confined and threatened by his tone and “mannerisms.” (Exhibit 4)
13. [Name Redacted] testified that [Gender Redacted] repeatedly told Clark that [Gender Redacted] would not have any conversation alone with him in the office but he continued to yell at [Gender Redacted].
14. [Name Redacted] said when Clark opened the office door and exited; he stated for all staff and students to hear that if [Name Redacted] “didn’t want to be yelled at, [[gender redacted] should] not to do the things to make [[gender redacted]] deserve it.” (Exhibit 4)
15. [Name Redacted] said that the incident left [Gender Redacted] physically shaken and feeling upset and unsafe to the point where [Gender Redacted] found it necessary to immediately leave the school. (Exhibit 4)
16. [Name Redacted] made multiple references to Clark’s inappropriate behaviour dating back to 2009. Some of these incidents included:
 - a. [Gender Redacted] initial meeting with Clark in 2009 in which [Gender Redacted] offered him some chocolate but he refused indicating that “chocolate made him horny and that she was hot.”
 - b. Clark’s gyration in front of both students and staff.
 - c. Clark’s sexually inappropriate statements such as “I’m a big man with a little dick.”
 - d. Clark’s statements for shock value including his past employment as a male escort and his addictions.
17. [Name Redacted] testified that some [Gender Redacted] students said they felt uncomfortable around Clark.
18. [Name Redacted] also testified that Clark called [Gender Redacted] a prude because [Gender Redacted] did not approve of his inappropriate conduct.
19. On cross-examination by Clark, [Name Redacted] said that [Gender Redacted] was not aware of the number of hours [Gender Redacted] had worked with him and was surprised that Clark had kept track of those hours.
20. [Gender Redacted] also testified that while some students may like him it did not change the fact that his behaviour was still inappropriate.
21. In re-direction by [Gender Redacted], [Name Redacted] acknowledged that teachers are role models to their students and that positive relationships are important. [Name Redacted] said that Clark fed on students’ dysfunction in the lives of students.

Witness 2: [Name Redacted]

22. [Name Redacted], the second witness, said that she had been employed as an educational assistant (EA) since 2008/09 at [School Redacted]. [Name Redacted] said that [Gender Redacted] role was not limited to that of an EA as [Gender Redacted] was also a driver, cook and did other duties as assigned by the school division.
23. [Name Redacted] said that [Gender Redacted] last year working with Clark was around 2017.
24. [Name Redacted] testified that there were more expectations for staff working at the Outreach as students were more at risk including pregnant teens, teen parents, Fetal Alcohol Spectrum Disorder (FASD) students, students from broken homes, and students with anxiety.
25. [Name Redacted] testified that Clark was a good outreach teacher, knew how to generate credits and could think outside the box; however, his conversations could veer off task as he engaged in inappropriate conversations with the students. [Name Redacted] testified that these conversations included discussions around drug and alcohol use on the weekends.
26. [Name Redacted] testified that Clark would have students do paid work on his acreage and hosted students overnight at his house. This was in addition to driving students, including a boyfriend and girlfriend, into the city.
27. [Name Redacted] also testified that Clark would go outside and smoke with students during the break.
28. [Name Redacted] testified that [Gender Redacted] friendship with Clark broke down over time and the friendship deteriorated quicker after he became ill. "He would lose his temper and it scared me."
29. [Name Redacted] testified that Clark would use the terms "cunts" and "bitches" in talking about the principal and counsellors, [Names Redacted].
30. [Name Redacted] in [Gender Redacted] complaint (Exhibit 5) said that Clark asked [Gender Redacted] if [Gender Redacted] could help him with some "heavy lifting in the bathroom" as he had just had a [Medical Procedure Redacted] and he wanted help. In addition to his salacious comments, he said "Oh did you miss me, I missed you" and shook his body while saying "Did you miss this."
31. [Name Redacted] testified that [Gender Redacted] felt degraded when Clark said these things because "he was my colleague and we weren't really friends at the time."
32. In cross-examination, Clark questioned [Name Redacted] why it took [Gender Redacted] so long to fill out the form. [Name Redacted] readily acknowledged that [Gender Redacted] was advised to do so by her principal and had waited until she was provided with the form.

Witness 3: [Name Redacted]

33. [Name Redacted], the third witness, testified via Skype. [Gender Redacted] stated that spent seven years in [Gender Redacted] role as a student advocacy counsellor. [Gender Redacted] worked twice a week with Clark at [School Redacted].
 34. [Name Redacted] testified that Clark would swear in front of the students and allowed the students to swear as well. [Gender Redacted] said that the word “fuck” was a normal word in the classroom. [Name Redacted] said Clark’s informal interactions and jokes made him appear more like a peer than a teacher. [Gender Redacted] also added that his inappropriate conversations and jokes were both racist and crude.
 35. [Name Redacted] testified that while on a field trip [Location Redacted] Clark made an inappropriate comment to a student who had just got out of jail by referring to him as a “jailbird.”
 36. [Name Redacted] testified that Clark frequently made sexual comments, often in front of the students, and provided as an example, Clark stating “Do you want my sexy body?” while he gyrated. [Gender Redacted] characterized this behaviour as his norm.
- 3 7. [Name Redacted] testified that [Gender Redacted] started to address these issues in 2015 but stopped after [Gender Redacted] “received a threatening e-mail from Clark and the jokes continued.”
38. [Name Redacted] testified that [Gender Redacted] filed three complaints against Clark after the [School Division Redacted] implementation of a “whistle-blower” policy where the complainant’s identity did not have to be revealed.
 39. The first complaint was as a witness to [Name Redacted] complaint, in regard to Clark asking [Name Redacted] to help him with some heavy lifting in the bathroom. (Exhibit 6)
 40. The second complaint was in regard to a comment Clark made to [Gender Redacted] colleague, [Name Redacted], “I’ve got something I would like to stick in your mouth.” (Exhibit 7)
 41. The third complaint was in regard to Clark’s comment, “I smell fish,” which he made to both [Name Redacted] and a student. (Exhibit 8)
 42. [Name Redacted] said that [Gender Redacted] was shocked and took Clark’s comment as sexual innuendo. (Exhibit 8 and testimony) [Name Redacted] testified that [Gender Redacted] felt Clark’s behaviour was getting worse over time and that it was very inappropriate, disgusting and “people just don’t say that sort of thing.” As a result, [Gender Redacted] felt compelled to file a complaint.
 43. In cross-examination, [Name Redacted] acknowledged Clark’s statement about a large amount of garbage outside of the kitchen due to the recent cold weather and that the basement had flooded, but [Gender Redacted] disagreed this is what Clark was referring to in his reference to “fish.”

Witness 4: [Name Redacted]

44. [Name Redacted], the fourth witness, said that she worked at [Name Redacted] as an EA. [Gender Redacted] said that students in the outreach program often came from a bad homelife, had different experiences and attitudes toward education, and had a hard time trusting people.
45. [Name Redacted] said that [Gender Redacted] had worked with Clark every day for 13 years and had an opportunity to watch him teach and interact with students. [Name Redacted] said that [Gender Redacted] believed Clark cared for the students and tried to make them feel comfortable. [Gender Redacted] also said that he shared his life experiences with the students and talked about raising his own sons, as well as his experience of working in a bowling alley.
46. [Name Redacted] said that on March 2, 2018, [Gender Redacted] noticed Clark was getting upset. Clark was not pleased with [Name Redacted] coming into the school and using the office; thus, not allowing Clark access to the printer or photocopier. [Name Redacted] said Clark referred to both [Names Redacted] "whores."
47. [Name Redacted] also said that on March 6 or 8, 2017, Clark had said to [Gender Redacted], "I've got something I would like to stick in your mouth." [Gender Redacted] said that [Gender Redacted] was very mad, upset, and "hurt, actually" by Clark's comment.
48. [Name Redacted] also testified that [Gender Redacted] was so upset with Clark that [Gender Redacted] started swearing when [Gender Redacted] exited the room and went to be with the students and [Gender Redacted] other colleagues.
49. [Name Redacted] testified that [Gender Redacted] was scared of Clark and it felt like [Gender Redacted] was walking on eggshells.
50. [Name Redacted] also testified that while Clark did not swear at the students individually, instead he did raise his voice to the whole group.
51. [Name Redacted] also testified that Clark followed [Name Redacted] into the office on February 7, and after five minutes, Clark came out yelling at [Name Redacted].
52. Clark asked [Name Redacted] if he was inappropriate with [Name Redacted]. [Name Redacted] stated that he was.
53. [Name Redacted] also confirmed that Clark would take students or families to the city.
54. In cross-examination, [Name Redacted] agreed with Clark that it was common for some staff to give students chores at their residences to earn money, purchase firewood from students' families and take students or their families to the city.

Witness 5: [Name Redacted]

55. [Name Redacted], the fifth witness, said that [Gender Redacted] had been the principal of the [Location Redacted] Outreach School and was currently the principal of [School Redacted]. [Name Redacted] testified that outreach teachers created a home away from home by creating a safe space that some of the students lacked at home.

56. [Name Redacted] testimony about the type of students that outreach schools attract was consistent with previous witness testimonies. [Gender Redacted] also stated the outreach schools built students' confidence up, allowed many to catch up on their studies, upgrade their marks and allowed the students to get a fresh start after being in trouble with the law.
57. [Name Redacted] testified that [Gender Redacted] worked with Clark from August 2013 to June 2017. [Gender Redacted] said that [Gender Redacted] attempted to visit his school at least once a week.
58. On May 31, 2017, [Name Redacted] issued a letter of reprimand after meeting with Clark on April 21, 2017, in regard to three issues reported to her by staff. Those issues included: (1) March 3, 2017 incident in which Clark asked a [Gender Redacted] staff member, in front of other staff, to come into the bathroom to assist with lifting heavy things; (2) March 6, 2017 incident in which Clark told a [Gender Redacted] colleague he had something he would like to stick in [Gender Redacted] mouth; and (3) March 23, 2017 incident in which Clark made a comment around a [Gender Redacted] staff member and a [Gender Redacted] student that he smelled fish. (Exhibit 10)
59. [Name Redacted] testified that while [Gender Redacted] would usually meet with teachers individually, [Gender Redacted] chose to have her vice-principal join [Gender Redacted] in the meeting with Clark to "act as a buffer." [Gender Redacted] also said that it was important to have a third person, specifically a [Gender Redacted], present as a witness and to assist if Clark became agitated as he had in the past when given feedback. [Name Redacted] said that having a third person in the room was not the norm when meeting with teachers.
60. [Name Redacted] testified that Clark had told [Gender Redacted] he was going to take the letter to the ATA to assist with a response. No response was received.
61. [Name Redacted] testified that Clark said that he wished [Gender Redacted] was dead but [Name Redacted] acknowledged that Clark said he was joking when he made the comment.
62. [Name Redacted] said Clark tried to be more careful around [Gender Redacted] with his language as [Gender Redacted] was his direct supervisor.
63. [Name Redacted] also said that [Gender Redacted] believed Clark's language would be less tolerable in a non-outreach school setting.
64. On cross-examination, [Name Redacted] testified that [Gender Redacted] did not recall bags of garbage being in or around the kitchen that Clark claimed caused the odour.

Procedural Matter

After [Name Redacted]' testimony, the last witness of February 3, 2020, Clark was anxious to leave. He was requesting that the committee start calling the witnesses scheduled for tomorrow, February 4, 2020. [REDACTED] stated that the steps and procedures of the hearing must be followed. [REDACTED] and counsel to the committee, [Name Redacted], wanted to ensure that Clark understood where the parties were in the proceedings and what would occur on Day 2 of the hearing. After reviewing the steps and procedures with Clark, Clark stated that he would be available the following day at 9:00AM.

Witness 6: [Name Redacted]

65. [Name Redacted], the sixth witness, testified that [Gender Redacted] was the current principal of [School Redacted]
66. [Name Redacted] said that [Gender Redacted] would be at Clark's school at least two to three times a month.
67. [Name Redacted] said that Clark, as a teacher, had good relationships with his students but could be inappropriate with colleagues.
68. [Name Redacted] sent an e-mail summary on March 20, 2018, of a meeting with Clark. The meeting occurred on March 19, 2018 and outlined concerns [Name Redacted] had with Clark's behaviour and his language around colleagues. This was because of an incident that occurred at [School Redacted] on March 2, 2018. (Exhibit 11)
69. [Name Redacted] said at the end of his e-mail to Clark, he had written that if Clark disagreed with the content of the e-mail he should respond within 24 hours. Clark had made corrections to previous e-mails, on separate matters; however, he did not do so in this case. (Exhibit 11 and testimony)
70. On cross-examination, [Name Redacted] acknowledged there was an odour in the school but said that it was a sewage smell due to renovations. No time period was specified as to when the renovations took place.

Witness 7: [Name Redacted]

71. [Name Redacted], the seventh witness, testified that he was the director of learning and human resources for the [School Division Redacted].
72. [Name Redacted] testified that [Gender Redacted] worked with multiple levels of staff in [Gender Redacted] role at central office, including Clark.
73. [Name Redacted] testified that [Gender Redacted] knew Clark as an off-campus teacher.
74. [Name Redacted] testified that in [Gender Redacted] investigation he discovered that Clark had made a reference to his [Gender Redacted] colleagues as, "whores" and "skanky cunts." Clark, by his own admission, did not deny making these statements. Clark also admitted to a comment he made about lifting heavy items. [Name Redacted] referenced both incidents in his May 9, 2018, letter of reprimand to Clark. [Name Redacted] also stated in [Gender Redacted] letter that this was Clark's second letter of reprimand in the last two years and the letter "acts as a final warning." (Exhibit 12)
75. Clark was given seven days to appeal the content of the letter of reprimand from the time it was received. There was no response from Clark. (Exhibit 12)
76. On cross-examination, [Name Redacted] testified he was not sure if accusations against Clark had been solicited by [Name Redacted].

77. On re-direction by [Name Redacted], [Name Redacted] testified that it was not normal for teachers to:
- use the term skanky cunts,
 - tell someone you wanted to stick something in their mouth,
 - make a statement in front of a [Gender Redacted] colleague and [Gender Redacted] student that he smelled fish, or
 - gyrate in front of colleagues and students.

78. [Name Redacted] testified that such comments and behaviours were inappropriate.

Brian Clark's testimony

79. Brian Clark, the investigated member, took the stand.

80. Clark testified that he worked in both the hotel and entertainment industry before entering the teaching profession in 2001.

81. Clark also testified [Medical Condition Redacted].

82. Clark stated he "comes out like a rat if he feels cornered." He also testified that he can be "absolutely terrifying" when in this state.

83. Clark testified that he was a [Personal Information Redacted], which provided him with a different perspective on teaching.

84. Clark testified that "all we have is our voice" and that he was "not a traditional teacher."

85. Clark testified that he considers himself to be a relationship builder and that he took great lengths to build relationships with students and their parents.

86. Clark testified that if he had made the "smells like fish" statement, the father of the [Gender Redacted] student would have, "kick[ed] my ass" for speaking to his [Gender Redacted] in that manner.

87. Clark testified that, when "I lose it my language becomes impolite."

88. Clark testified that in 2017, the school environment changed and it became "an era of mistrust and accusations."

89. Clark testified that he had a [Medical Info Redacted] in 2017, and "was not in good shape." Medication had changed his behaviour and that he did not know that he was getting aggressive.

90. Clark testified that it was his belief that [Names Redacted] hated him and that they had ruined his relationship with his other colleagues.

91. Clark testified that he does not deny making the comments but those comments were taken out of context and had been said in front of friends and colleagues.

92. Clark testified that he was a creature of habit, cannot control himself, and at [Age Redacted], he probably would not change.
93. Clark testified that his comments and dancing were taken out of context. He also said that he would let loose at lunch and staff meetings including doing his “Homer Simpson” dance from the television show, The Simpsons, to wake the students up after lunch.
94. Clark testified his biggest offense was insulting a principal; he terrified [Gender Redacted] as he got his Masters’ degree before [Gender Redacted].
95. On cross-examination, [Name Redacted] reviewed most of the charges with Clark:
 - a. For Charges 1 and 2, [Name Redacted] asked whether or not Clark had made sexual gestures. Clark admitted to the gestures and said “unless you are a real pig,” you would not consider them sexual. [Name Redacted] followed up and asked if the dance would be considered sexual to a 15-year-old girl and Clark said no.
 - b. For Charge 3, [Name Redacted] asked if whether or not Clark made the “heavy lifting” comment. Clark admitted to making the comment but advised it was in response to the EA’s comment about his “old man bladder” which was made on his way to the bathroom.
 - c. For Charge 4, [Name Redacted] asked whether or not Clark had taken students to his home. Clark admitted to taking students to his home. Clark said that his colleague, [Name Redacted], also had students at his house. As a follow up, [Name Redacted] asked if students stayed overnight? Clark admitted to hosting students overnight but said there was always at least two students present.
 - d. For Charge 5, [Name Redacted] asked whether or not Clark made a jailbird statement to one of his students who had just been released from jail. Clark admitted to making the comment but said that he was joking and also stated that he had known the family for years.
 - e. For Charge 6, [Name Redacted] asked whether or not Clark made the “he wanted to put something in [Gender Redacted] mouth” comment to a colleague. Clark said he did not recollect saying that. [Name Redacted] followed up by asking if that colleague swore often and Clark said that [Gender Redacted] did.
 - f. For Charges 7 and 8, [Name Redacted] asked whether or not Clark made the comment “smells like fish.” Clark admitted to making the comment. [Name Redacted] asked if he considered the audience when he made the comment. Clark said that he did not and was not aware of the impact until he saw the look on his colleague’s face.
 - g. For Charge 9, [Name Redacted] asked whether or not Clark referred to colleagues as “skanky cunts.” Clark admitted to making the comment. Clark said that he did not think the comment was a big deal until today (February 5, 2020).
 - h. [Name Redacted] did not speak to Charge 10.

SUBMISSION OF THE PARTIES

1. On the following day, after testimony by Clark, Clark advised the committee that he had to leave. [[Name Redacted] told Clark that the committee still needed to hear closing arguments. [Name Redacted] advised that the committee could hear from the investigated member, Clark, first. [Name Redacted] stated that while it did not comply with the usual steps and procedures, it should not be an issue.

2. The committee recessed to consider [REDACTED]'s advice in regard to changing the normal sequence of steps and procedures to allow Clark to tell his side as he had indicated that he had to leave for his own health. The committee concurred with advice from counsel to change the order of closing arguments.

Clark's Submission

3. Clark spoke first in closing arguments.
4. In his closing statement, Clark said that he had given most of what he had to say on the witness stand.
5. Clark said that as a [Personal Info], truth is foremost and he tried to put things into context for the hearing committee.
6. Clark said that "four or five [Gender Redacted] may have a negative effect as the result of my behaviours and see it as failing of dignity and honour of the profession."
7. Clark also said that the hearing process was a "charade of justice."
8. Clark said that he had never harmed a student and never wilfully harmed another staff member.
9. Clark said that he left it in the committee's hands to decide his fate with guidance from the Creator.
10. After Clark finished speaking, [Name Redacted] strongly encouraged Clark to attend and come back whenever he could. [Name Redacted] also said that the committee valued his participation in the process.
11. Clark said that he had to leave before his [Medical Information] became full-blown and left the room.

Procedural note

The committee, before recessing for lunch, directed the secretary to the committee, [Name Redacted], to contact Clark on his cell phone and encourage him to return to the hearing as his attendance was important. [Name Redacted] contacted Clark and encouraged him to return to hearing if his health allowed for it. The investigated member returned at lunch break. The chair advised Clark that he had not missed anything substantive.

Coles's Submission

12. [Name Redacted] in his closing arguments, reviewed the charges.
13. For Charges 1 and 2, [Name Redacted] confirmed that Clark admitted to the comment and it was confirmed by his colleagues. [Name Redacted] said that in doing so, Clark failed to be a good role model.

14. For Charge 3, [Name Redacted] confirmed that Clark admitted to making the “heavy lifting” comment and [Name Redacted] said that it involved sexual innuendo. [Name Redacted] said that while Clark attempted to apply context to his action he failed to consider their impact. [Name Redacted] went on to say that Clark attempted to absolve himself of responsibility and it was the recipients’ problem on how they perceived his comments.
15. For Charge 4, [Name Redacted] confirmed that Clark admitted to taking students to his home.
16. For Charge 5, [Name Redacted] confirmed that Clark admitted to making the jailbird comment about one of his students. It was more important to Clark to be funny rather than uphold the dignity of the student and be considerate of their circumstances. Teachers need to hold themselves to the highest professional standard.
17. For Charge 6, [Name Redacted] asserted that while Clark states he couldn’t recall saying the statement about “putting something in his colleague’s mouth,” you have seen the pattern of speaking with sexual innuendos.
18. For Charges 7 and 8, [Name Redacted] confirmed that Clark made the comment about something smelling like fish. [Name Redacted] said that the comment was sexually inappropriate and derogatory and was made in front of staff and students. It failed to treat students with honour and dignity. A [Gender Redacted] student is very impressionable so it is important that teachers choose their words carefully.
19. For Charge 9, [Name Redacted] confirmed that Clark made the comments “skanky whores”. [Name Redacted] said that using such terms fell very short of the Code of Professional Conduct.
20. For Charge 10, [Name Redacted] confirmed that Clark yelled at his colleague, [Name Redacted] and blamed the victim for his actions.
21. In summary for:
 - a. Charge 10, [Name redacted] said that no teacher deserves to be yelled at.
 - b. Charges 2, 5, and 8, [Name Redacted] said that students came from broken homes, were vulnerable, and that Clark’s comments were wrong in any school setting. Clark was not considerate of their circumstances.
 - c. Charges 1, 3, 4, 6, 7, 9, [Name Redacted] said that Clark subjected his to [Gender Redacted] colleagues to sexual comments and innuendo both implicit and explicit. Clark’s actions had consequences which he refused to acknowledge. No context can excuse this.

Clark’s Response

The committee asked Clark if he wished to respond to any new information.

22. Clark accused [Name Redacted] of dramatizing some of the events.
23. Clark further accused [Name Redacted] of degrading the profession through his presentation.
24. Clark also accused his administration of forcing staff to fill out complaints against him.

Procedural Matter

Following Clark's closing argument, he once again stated that he needed to leave and did so. The committee did advise him prior to his departure that it was important to stay but Clark said that his [Medical Information] was peaking and it would be better if he left.

WITNESS CREDIBILITY

1. [Name Redacted] carried [Gender Redacted] in a professional manner and was very matter of fact. [Gender Redacted] remained calm even when provoked by the investigated member during cross. [Name Redacted] was thoughtful and carefully considered [Gender Redacted] responses. [Name Redacted] testimony was both internally and externally consistent. The committee found [Gender Redacted] recall of the events to be probable. The committee found [Gender Redacted] testimony in regard to Charge 10 to be credible.
2. [Name Redacted] was very professional and authentic. [Gender Redacted] always kept eye contact with the presenting officer when responding to his questions. [Name Redacted] worked with Clark for a number of years which gave [Gender Redacted] the perspective to testify first-hand to the events in question. [Name Redacted] freely admitted [Gender Redacted] own transgression in regard to using inappropriate language around students and in turn showed remorse for [Gender Redacted] actions. In the eyes of the committee this contributed to [Gender Redacted] overall credibility as a witness. The committee found [Gender Redacted] testimony in regard to Charges 1, 2, 3, and 4 to be credible.
3. [Name Redacted] testified from Costa Rica via Skype and there were no technical issues. [Name Redacted] was very prepared in [Gender Redacted] testimony. [Gender Redacted] did not hesitate in responding to any of the questions asked by the presenting officer or when crossed by Clark. It was the committee's position that [Gender Redacted] felt harassed and fearful of further escalation by Clark. The committee believed [Gender Redacted] to be very maternal in [Gender Redacted] protective instincts toward students and staff. The committee heard that [Name Redacted] could no longer deal with Clark's abusive behaviour. The committee found [Gender Redacted] testimony in regard to Charges 1, 2, 3, 5, 6, 7, and 8 to be credible.
4. [Name Redacted] was soft spoken when testifying. [Gender Redacted] had worked with Clark daily for over a decade. This provided [Name Redacted] with the opportunity to observe the escalation of Clark's unprofessional conduct. The committee found [Gender Redacted] testimony in Charges 6, 9 and 10 to be credible, however, found inconsistencies in [Gender Redacted] testimony regarding Clark's use of inappropriate language around students.
5. [Name Redacted] was Clark's immediate supervisor as Principal of [School Redacted] and as such had the opportunity to observe Clark's behaviour with staff and students. [Gender Redacted] also received a number of complaints from Clark's colleagues and conducted [Gender Redacted] own investigation into his behaviour. [Gender Redacted] was able to recall the details of the matters at hand but had some difficulty recalling other matters as [Gender Redacted] said they happened a long time ago. [Gender Redacted] testimony was largely consistent with other witnesses and evidence but was inconsistent on the matter of Clark's use of inappropriate language. [Name Redacted] did qualify that inconsistency by noting that Clark, most likely, cleaned up his language because of [Gender Redacted] supervisory role. The committee found [Gender Redacted] testimony on Charges 3, 6, 7 and 8 to be credible.

6. [Name Redacted] was Clark's immediate supervisor as Principal of [School Redacted] and as such had the opportunity to observe Clark's behaviour with staff and students. [Gender Redacted] also received a number of complaints from Clark's colleagues and conducted [Gender Redacted] own investigation into Clark's behaviour. The committee found [Gender Redacted] testimony on Charges 7, 8, and 9 to be credible.
7. [Name Redacted] was very matter-of-fact in his testimony. [Gender Redacted] was clear and articulate when providing testimony, even when asked to repeat the offensive terms used by Clark. Even while soft spoken, [Name Redacted] was firm in his responses. [Name Redacted] had conducted both an informal and formal investigation as a result of Clark's actions and issued a letter of reprimand to Clark. The committee found [Gender Redacted] testimony on Charges 3 and 9 to be credible.
8. Brian Clark—Clark seemed scattered in his thought but touched on a number of the issues. The committee found him credible in that he admitted to his actions in all charges with the exception of Charge 6. He admitted to using inappropriate language but tried to rationalize his behaviour and deflect responsibility by providing a number of circumstances. Clark argued forcefully against many of the accusations against him but seemed to have very little corroborating evidence to support his assertions and seemed to lack insight into his wrongful actions. The committee put little weight in the context provided by Clark as he had no corroborating evidence to support his testimony, which ran counter to other witness testimony that the committee preferred as more credible. Overall, the committee found him to be somewhat credible.
9. [Name Redacted]—scheduled but did not testify due to family emergency

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty
Charge 2—Guilty
Charge 3—Guilty
Charge 4—Guilty
Charge 5—Guilty
Charge 6—Guilty
Charge 7—Guilty
Charge 8—Guilty
Charge 9—Guilty
Charge 10—Guilty

REASONS FOR DECISION

1. The sexual nature of Clark's dancing in the presence of staff and students was a matter of debate. Clark denied the dancing was of a sexual nature but on the balance of probability, the committee accepted the testimony of [Names Redacted], that the dance was sexual in nature, to be more probable. Clark's actions in the presence of both staff and students failed to maintain the

honour and dignity of the profession. Further, Clark failed to treat pupils with dignity and respect. He also failed to be considerate of their circumstances.

2. By his own admission, Clark invited a [Gender Redacted] colleague to assist him with some “heavy lifting” in the bathroom. In doing so, he offended his colleagues with comments that were perceived as sexual innuendo, and thus failed to maintain the honour and dignity of the profession.
3. By his own admission, Clark frequently invited students to his residence and on some occasions had them stay overnight. Clark also admitted to taking students and, on some occasions, their families, on trips of a personal nature to Edmonton. In doing so, Clark failed to maintain the honour and dignity of the profession.
4. By his own admission, Clark made a disparaging comment, “Oh, they let the jailbird out” to a student about his recent incarceration. In doing so, Clark failed to treat the pupil with dignity and respect and be considerate of his circumstances.
5. Based on the testimony of witnesses, the committee heard that Clark, who was in a position of power, made a repulsive comment to a [Gender Redacted] colleague in that he said he wanted to “put something in [Gender Redacted] mouth.” In doing so, Clark made [Gender Redacted] feel degraded and traumatized. Clark’s misogynistic statement failed to maintain the honour and dignity of the profession.
6. By his own admission, Clark made a comment in the presence of both a [Gender Redacted] student and a [Gender Redacted] colleague that he “smelled fish.” Regardless of the intent of the comment, Clark failed to consider how his words could impact the audience. In doing so, Clark failed to treat a student with dignity and respect and be considerate of [Gender Redacted] circumstances. Further, in using such comments, he failed to maintain the honour and dignity of the profession.
7. By his own admission, Clark made an inappropriate sexual comment by referring to [Gender Redacted] colleagues as “skanky cunts” and “whores.” In making these degrading statements, he demeaned his colleagues and did significant damage to the honour and dignity of the profession.
8. By his own admission, Clark yelled at his colleague, [Name Redacted] and said that she deserved it. Clark’s yelling and threatening behaviour was an attempt to intimidate [Name Redacted] and to establish a position of power. In doing so, Clark failed to maintain the honour and dignity of the profession.
9. Clark’s habitual and abusive behaviour and inappropriate language was both escalating and ongoing. It reflected his continuous poor judgement in a setting where extra sensitivity was required. By his own admission, when confronted, Clark characterized himself as “absolutely terrifying.” Teachers have an obligation to create safe and caring learning environments for their students and colleagues. By his actions, Clark failed to do so.

SUBMISSION ON PENALTY

After receiving advice from counsel and hearing the presenting officer, the committee recessed and decided to allow the investigated member to give his submission first as a result of Clark's indication that he was going to leave.

Clark's Statement Regarding Penalty

Clark advised the committee that he had a [Personal Information Redacted] in January 2017 and was taking medication [Medical Information]. He also stated he had a variety of [Medical Information] As Clark failed to provide any supporting medical evidence other than his testimony, the committee put little weight on these mitigating circumstances.

Clark recommended that the penalty in this case should consist of:

1. a letter of reprimand
2. a fine that would go to a mental health fund for the Alberta Teachers' Association
3. no suspension of teaching certificate

Victim Impact Statements

Under oath, the committee received victim impact statements via Skype from both [Name Redacted] and [Name Redacted]. There were no technical issues with their testimony. Both witnesses read from prepared statements (Exhibits 14 and 15). Both witnesses confirmed that their statements were their own words and no one had assisted them with their statements.

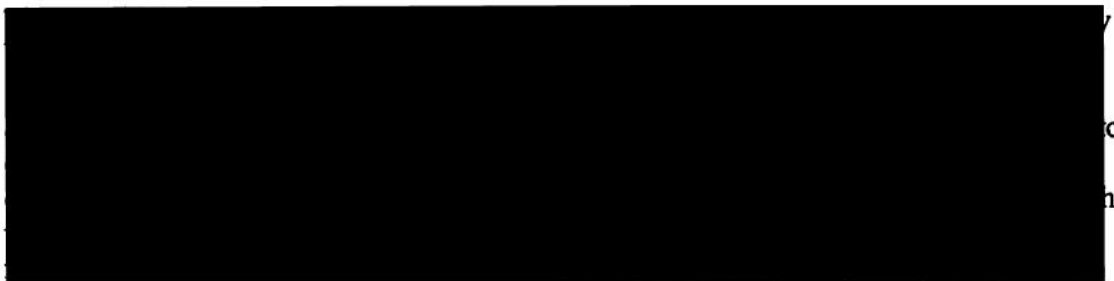
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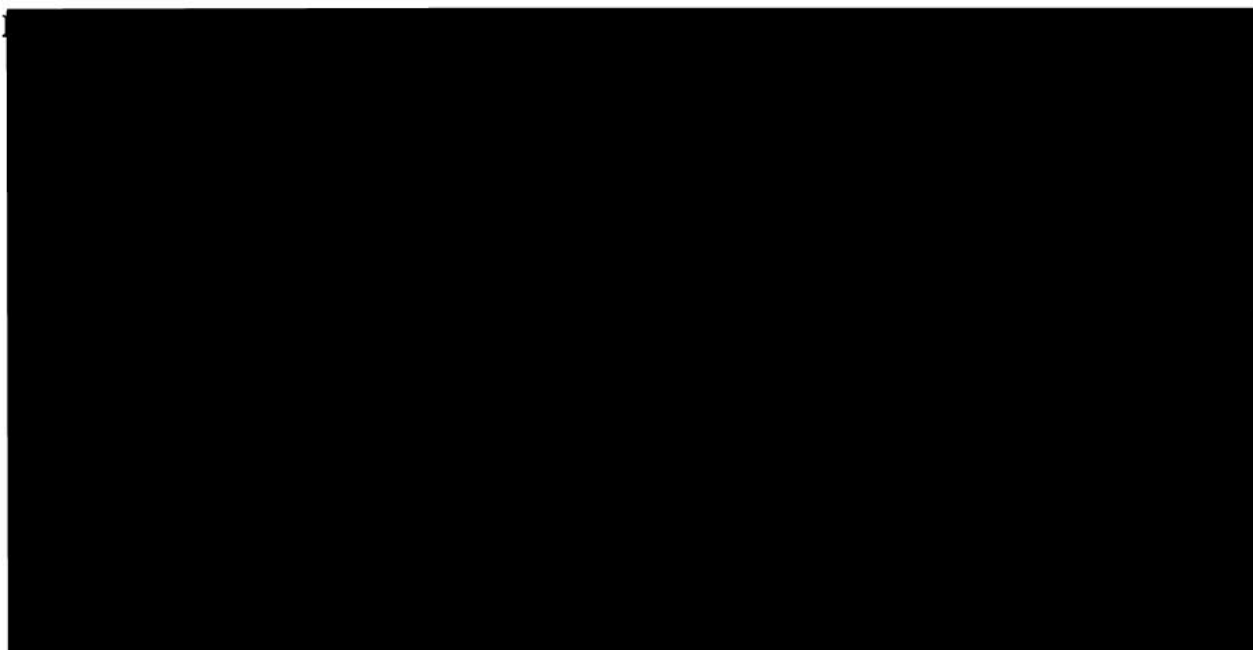
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Statement



Comments from the Committee

1. The victim impact statements were considered by the hearing committee and reinforced what the committee heard in witness testimony during the hearing.
2. It was clear to the committee that the unprofessional conduct of Clark had a profound and lasting impact on his colleagues.

[Name Redacted] Statement Regarding Penalty

[Name Redacted] advised that while Clark had no previous convictions with the Association there were a number of issues in regard to both the nature and gravity of Clark's actions and behaviour:

1. Clark's language and gestures were highly sexualized and occurred in front of both students and staff. Many of these young [Gender Redacted] students very highly vulnerable teens and he was not considerate of their situation.

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2. Clark is in his 50s and has many years of experience. He should know better than to behave the way he did over the last few years.
3. Clark had received two letters of reprimand and was told to stop, but his inappropriate behaviour continued.

[Name Redacted] submitted five precedent cases for the committee's consideration. (Exhibit 13)

[Name Redacted] suggested the following penalty:

1. a single letter of severe reprimand
2. a fine of \$3,000.
3. a suspension of membership in the Alberta Teachers' Association until August 31, 2021 and
4. a recommendation to the minister of education to suspend Clark's teaching certificate until August 31, 2021.

PENALTY

The hearing committee imposed the following penalty:

1. a single letter of severe reprimand to encompass all 10 charges
2. a fine of \$3,000 payable within 90 days of Clark's receipt of the written decision of the hearing committee. Failure to pay the fine in full within the specified time will result in Clark being declared ineligible for membership in the Alberta Teachers' Association.
3. a declaration that Clark is ineligible for membership in the Alberta Teachers' Association.
4. a recommendation to the minister of education to cancel Clark's teaching certificate.

REASONS FOR PENALTY

1. Teachers have an obligation to treat their students and colleagues with dignity and respect; Clark failed to do so.
2. The public expects teachers to conduct themselves in a way that upholds the honour and dignity of the profession; Clark failed to do so.
3. The students in Clark's charge lived very complex lives, thus his words and actions needed to be more sensitive and cautious than in a traditional school setting. In not doing so, Clark failed to treat pupils with dignity and respect and was not considerate of their circumstances.
4. Society expects that a teacher will preserve the integrity and trust of the student-teacher relationship; Clark failed to do so.
5. Society and the profession expect that teachers will act in a manner that establishes and maintains appropriate boundaries in trust relationships with students; Clark failed to do so.
6. Clark admitted to his detestable actions and heinous comments but failed to take responsibility or feel remorse for the impact and damage that he inflicted on both students and colleagues. It

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was a concern that he lacked insight into the unprofessionalism and the impacts of his comments and action.

7. By his own admission, Clark said he was not going to change. This level of ungovernability prompted the committee to apply the most severe penalty available a declaration of ineligibility for membership in the Alberta Teachers' Association and a recommendation to the minister of education to cancel his teaching certificate so he can never teach again in any school—public or otherwise.

Dated at the City of Edmonton in the Province of Alberta, Friday, February 28, 2020.

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

