

**PRACTICE REVIEW HEARING COMMITTEE**

**HEARING DECISION IN THE MATTER OF RHETT JEFFREY LUNDGREN**

**HEARING HELD ON FEBRUARY 19, 2021  
EDMONTON, ALBERTA**

The Practice Review Hearing Committee (the “Committee”), established in accordance with section 7 of the *Practice Review of Teachers and Teacher Leaders Regulation*, Alberta Regulation 92/2019 (the “Regulation”), convened to hear a complaint about the alleged unprofessional conduct of Rhett Jeffrey Lundgren (the “Teacher”).

The following were Members of the Committee:

- [REDACTED]
- [REDACTED]
- [REDACTED].

The virtual hearing was held on Friday, February 19, 2021, commencing at 9:00 a.m.

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

- |              |            |
|--------------|------------|
| ■ [REDACTED] | [REDACTED] |
| ■ [REDACTED] | [REDACTED] |
| ■ [REDACTED] | [REDACTED] |
| ■ [REDACTED] | [REDACTED] |
| ■ [REDACTED] | [REDACTED] |
| ■ [REDACTED] | [REDACTED] |
| ■ [REDACTED] | [REDACTED] |

**PRELIMINARY MATTERS**

- [1] The Chair opened the hearing and requested the Members of the Committee, the parties to the hearing and all those in attendance to introduce themselves for the record.
- [2] There was no objection to the composition of the Committee by the Registrar’s Representative.
- [3] The Members of the Committee stated they did not have any knowledge of the Teacher or the allegations, apart from the materials that were provided to them in advance of the hearing.
- [4] The Teacher was not in attendance at the hearing and did not have a representative present and acting on his behalf. The Teacher had confirmed via telephone on February 18, 2021, with the Secretary to the Committee that he did not intend to participate in the hearing, and had not disclosed any materials. The Teacher also acknowledged receipt of the Registrar’s materials which included an Agreed Statement of Facts and Joint Submission for Penalty.
- [5] The Chair confirmed the date of the Registrar’s Notice of Decision of November 4, 2020.

[6] Before the hearing proceeded to the merits of the complaint, the Committee considered three preliminary matters:

- a) A request to enter the Registrar's materials as an exhibit;
- b) An application under section 21(2)(b) of the Regulation to close the hearing to the public; and,
- c) An application under section 24 of the Regulation to proceed in the Teacher's absence.

a. Request to Enter Exhibit

[7] The Registrar's Representative made a request to enter the binder titled "Practice Review Hearing Committee, Registrar's Materials, Rhett Jeffrey Lundgren, February 19, 2021", as an exhibit. She indicated that it was submitted by the deadline as directed in the Notice of Hearing and would be used to reference documents throughout the hearing.

[8] The Committee granted the request as it was satisfied the materials were disclosed by the February 9, 2021, deadline indicated on the Notice of Hearing, and a copy of these materials was provided to the Teacher in advance of the hearing. The binder was marked as Exhibit 3.

b. Application Under Section 21(2)

[9] The Registrar's Representative made submissions to close the hearing to the public in accordance with section 21(2) of the Regulation, based on the nature of the criminal charges and convictions, and further noting the court's publication ban pursuant to section 486.4 of the *Criminal Code of Canada* (Exhibit #3 page 45).

[10] Section 21(2)(b) of the Regulation states:

21(2) A hearing before a practice review hearing committee must be open to the public unless

- (b) in the opinion of the practice review hearing committee, the interests of any person other than the teacher or teacher leader who is the subject of the hearing may be detrimentally affected if the hearing is not held in private.

[11] The Committee granted the request to close the hearing to the public. In the Committee's opinion, the publication ban put in place by the court should be honoured and closing the hearing would protect the interests of underage victims directly impacted by this case, which interests could otherwise be detrimentally affected if the hearing was not held in private. It was further noted that no members of the public were present at the hearing.

c. Application Under Section 24

[12] The Registrar's Representative made submissions in support of the hearing proceeding in the Teacher's absence, given that the Teacher had confirmed receipt of the Notice of Hearing and the supporting documentation.

[13] Section 24 of the Regulation permits a hearing to proceed in the absence of a teacher where there is evidence of service. Section 24 of the Regulation states:

24 The practice review hearing committee may, on proof of service of the notice of hearing on the teacher or teacher leader who is the subject of the hearing,

- (a) proceed with the hearing in the absence of the teacher or teacher leader, and
- (b) act, decide and report on the matter being heard in the same way as if the teacher or teacher leader were in attendance

[14] The Committee reviewed the evidence of service and was satisfied that the Teacher had been properly served with the Notice of Hearing and supporting documentation. In addition, his awareness of the proceedings was further confirmed by way of telephone conversations between him and the Secretary to the Committee.

[15] The Committee was also satisfied that the Teacher had received the Registrar's Notice of Decision. The Associate Registrar submitted an email containing a delivery status update from Canada Post showing the Registrar's Notice of Decision was "out for delivery" on November 9, 2020. She also provided a telephone log dated December 21, 2020, which included a summary of a conversation that occurred between her and the Teacher in which he confirmed receipt of the Registrar's Notice of Decision. These documents were marked as Exhibit 4 and 5 respectively.

[16] The Committee concluded that the hearing should proceed in the Teacher's absence.

## ALLEGATIONS

[17] The allegations in the Registrar's Notice of Decision dated November 4, 2020, were referred to at the hearing (Exhibit 3 page 64).

[18] The Teacher had committed offences in two provincial jurisdictions and was convicted of five offences, four of which were by indictment under the *Criminal Code of Canada*:

- |                                      |             |  |
|--------------------------------------|-------------|--|
| a) Count 1<br>[Location Redacted]    | 163.1(4.1)  | Accessing child pornography<br>Indictable                        |
| b) Count 2(a)<br>[Location Redacted] | 172.1(1)(a) | Luring a child<br>Indictable                                     |
| c) Count 2(b)<br>[Location Redacted] | 145(3)      | Failure to comply with appearance notice/summons<br>Summary      |
| d) Count 3<br>[Location Redacted]    | 172.2(1)(b) | Arrange to commit a sexual offence against a child<br>Indictable |
| e) Count 4<br>[Location Redacted]    | 163.1(4)    | Possession of child pornography<br>Indictable                    |

## EXHIBITS

[19] The following were entered into the record:

- a) Exhibit #1 – Notice of Hearing - Xpresspost receipt dated February 1, 2021

- b) Exhibit #2 – Registrar’s Disclosure - Xpresspost receipt dated February 9, 2021
- c) Exhibit #3 – Registrar’s Binder
- d) Exhibit #4 – Registrar’s Notice of Decision – delivery status dated November 9, 2020
- e) Exhibit #5 – Associate Registrar’s Telephone Log dated December 21, 2020

## MANDATE OF THE COMMITTEE

[20] 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 26 of the Regulation and, if so, to make recommendations under section 27 of the Regulation, as noted below.

### Finding - unprofessional conduct

**26(1)** The practice review hearing committee

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

**(2)** If a teacher or teacher leader has been convicted of an indictable offence, a practice review hearing committee must make a recommendation to the Minister under section 27(3) and has no authority to investigate the conduct of the teacher or teacher leader on which the conviction is based except for the purpose of making a recommendation to the Minister.

### Recommendations of practice review hearing committee

**27(1)** The practice review hearing committee may recommend that the Minister dismiss the complaint if the practice review hearing committee does not find

- (a) that the teacher or teacher leader who is the subject of the complaint is
  - (i) unskilled or incompetent in teaching,
  - (ii) unskilled or incompetent in carrying out the leadership duties related to a leadership certificate, or
  - (iii) unskilled or incompetent in carrying out the leadership duties related to a superintendent leadership certificate,
- or
- (b) that the conduct of the teacher or teacher leader constitutes unprofessional conduct.

(2) The practice review hearing committee may make a recommendation to the Minister under subsection (3) if the practice review hearing committee finds

(a) that the teacher or teacher leader who is the subject of the hearing is

- (i) unskilled or incompetent in teaching,
- (ii) unskilled or incompetent in carrying out the leadership duties related to a leadership certificate, or
- (iii) unskilled or incompetent in carrying out the leadership duties related to a superintendent leadership certificate;

or

(b) that the conduct of the teacher or teacher leader constitutes unprofessional conduct.

(3) The practice review hearing committee may recommend that the Minister do one or more of the following:

- (a) serve a letter of reprimand on the teacher or teacher leader;
- (b) suspend one or more of the certificates of the teacher or teacher leader, with or without conditions;
- (c) cancel one or more of the certificates of the teacher or teacher leader or cancel the certificate and issue a certificate of a different class, with or without conditions;
- (d) order that the teacher or teacher leader be ineligible for one or more certificates for a definite or indefinite period of time, with or without conditions.

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

- (a) relates to a teacher or teacher leader 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 or teacher leader,

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

## **AGREED STATEMENT OF FACTS AND JOINT SUBMISSION**

[21] An Agreed Statement of Facts and Joint Submission for Penalty between the Registrar and the Teacher was submitted for the Committee's consideration (Exhibit #3, pages 66 - 68).

[22] This Agreed Statement of Facts contained facts presented by the Registrar and admitted to by the Teacher for the purpose of dispensing with formal proof of such facts in respect to an allegation of unprofessional conduct against the Teacher, to be heard before the Practice Review Hearing Committee. It was dated February 4, 2021, and was signed by the Teacher and the [REDACTED]

### **Statement of Facts**

Rhett Jeffrey Lundgren and the Registrar agreed to the following facts:

1. Rhett Jeffrey Lundgren held an *Interim Professional Certificate* valid in the province of Alberta, between August 13, 2007 and August 31, 2010 [Certificate Redacted]. The

certificate was issued on August 13, 2007 in the province of Alberta and expired on August 31, 2010, in accordance with the *Certification of Teachers Regulation (AR 3/99)*. This legislation was repealed and replaced by the *Certification of Teachers and Teacher Leaders Regulation (AR 84/2019)* on September 1, 2019.

2. The conduct of Alberta certificated teachers who are not subject to the *Teaching Profession Act* is governed by the *Practice Review of Teachers and Teacher Leaders Regulation (AR92/2019)* (“Regulation”).
3. The *Practice Review of Teachers Regulation* was replaced by the *Practice Review of Teachers and Teacher Leaders Regulation* effective September 1, 2019, and this matter continues under this Regulation.
4. Section 1(1)(r) of the Regulation defines a teacher as: (i) *an individual who holds a teaching certificate but is not subject to the Teaching Profession Act, or (ii) an individual who once held but no longer holds a teaching certificate.*
5. Rhett Jeffrey Lundgren was a registered teacher in Saskatchewan with a teaching certificate issued to him on January 31, 2005.
6. On August 13, 2007, Rhett Jeffrey Lundgren was also issued a valid Alberta *Interim Professional Certificate* that expired on August 31, 2010.
7. Between the years 2009 and 2016, Rhett Jeffrey Lundgren engaged in criminal conduct in [Location Redacted], while he held teaching certification in both provinces.

■ [Redacted text block]

■ [Redacted text block]

[Redacted text block]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Joint Recommendation for Findings**

16. The Registrar and Rhett Jeffrey Lundgren jointly ask the Practice Review Hearing Committee, under Section 26 of the *Practice Review of Teachers and Teacher Leaders Regulation*, to find the conduct of Rhett Jeffrey Lundgren to constitute unprofessional conduct, because Section 2 of the Regulation states that conduct that: *2(c) is the basis for a conviction for an indictable offence constitutes unprofessional conduct.*

**Joint Recommendation for Penalty**

17. The Registrar, and Rhett Jeffrey Lundgren, jointly ask the Practice Review Hearing Committee to recommend to the Minister, pursuant to Section 27(3)(d) to:

- a. Order that Rhett Jeffrey Lundgren be ineligible for one or more certificates for an indefinite period of time.

18. Rhett Jeffrey Lundgren acknowledges that if the Practice Review Hearing Committee accepts this joint submission and makes this agreed upon recommendation for penalty to the Minister of Education, the Minister of Education is not bound by the recommendation, and has the discretion pursuant to Section 33 of the Regulation to dismiss the complaint, substitute a lesser or greater penalty.

## **COMMITTEE'S FINDINGS**

- [23] The Committee carefully reviewed and considered the Agreed Statement of Facts and Joint Recommendation for Penalty and accepted the facts as stated therein.
- [24] After careful deliberation and consideration of the evidence and submissions before it, and in accordance with section 26(1)(b) of the Regulation, the Committee finds that Mr. Lundgren's actions constitute unprofessional conduct.
- [25] The Committee has agreed on the recommendation to the Minister which was the Joint Recommendation on Penalty put forward by the parties.

## **DECISION AND RECOMMENDATION**



### **Part One – Facts Found by the Committee**

- [26] In terms of the fact finding portion of the Committee's mandate, the Committee carefully considered the submissions of the Registrar's Representative and reviewed the materials presented to the Committee.
- [27] The Committee acknowledged Mr. Lundgren's signed Agreement of Facts, and accepted the facts presented therein as found on the balance of probabilities by the Committee.

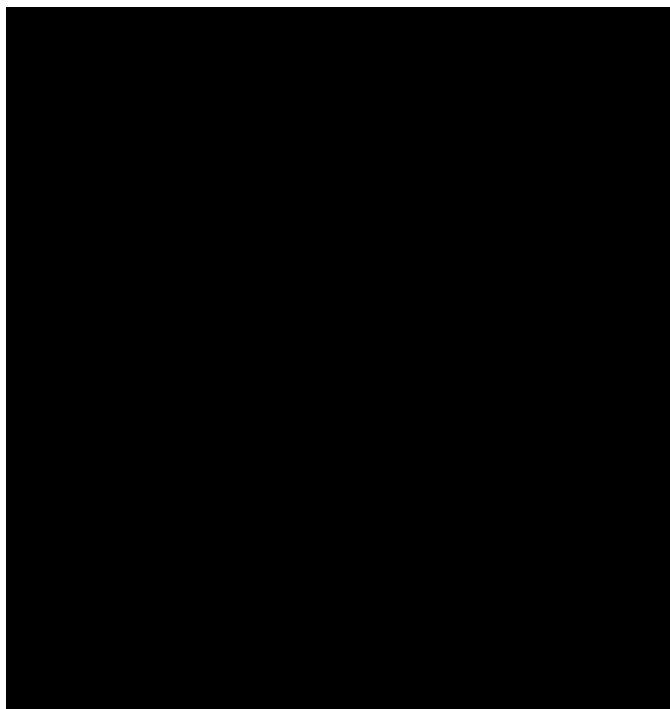
### **Part Two – Unprofessional Conduct**

- [28] After having found the facts referenced above, the Committee considered section 26(1)(b) of the Regulation in order to come to the conclusion that Mr. Lundgren's actions constituted unprofessional conduct.
- [29] The Committee finds that Mr. Lundgren is guilty of unprofessional conduct: Mr. Lundgren's conduct resulted in him pleading guilty to four indictable offences in relation to minors under sections 163.1(4), 163.1(4.1), 172.1(1)(a), 172.2(1)(b), and one summary offence under section 145(3) of the *Criminal Code of Canada*, offences that occurred in a separate series of events in [Location Redacted]. The Teacher admitted to these facts underlying this matter in the Agreed Statement of Facts.
- [30] In coming to this conclusion, the Committee is mindful of section 26(1)(b) of the Regulation, which states that the Committee "must find the conduct of a teacher or teacher leader who is the subject of the hearing to constitute unprofessional conduct if the teacher's or teacher leader's conduct is the basis for a conviction for an indictable offence". The Teacher's convictions include four indictable offences in relation to minors. [REDACTED]
- [31] The Teacher acknowledged his actions constitute unprofessional conduct [REDACTED]
- [REDACTED] This conduct alone is sufficient for the Committee to find unprofessional conduct in accordance with section 26(1)(b) of the Regulation, however, the Committee stresses that this conduct is especially severe and deserving of sanction given that the Teacher was in a position of trust and this conduct was a severe breach of this trust, and relates to the vulnerability of children, including a student in his care.

**Part Three – Recommendation to the Minister**

- [32] During this portion of the hearing, the Committee was presented with a Joint Recommendation for Penalty, signed by both the Registrar, , and Mr. Lundgren (Exhibit #3, page 68).
- [33] The Committee listened to the submissions of the Registrar’s Representative on the penalty being suggested to the Committee, that Mr. Lundgren be ineligible for one or more certificates for an indefinite period of time.
- [34] In this case, given the egregious nature of the Teacher’s conduct, the Committee feels that this sanction is appropriate for this case.
- [35] The Committee notes Mr. Lundgren’s admission that his conduct was unprofessional and that he agrees to never teach again in an Albertan school.
- [36] The Committee also notes that Mr. Lundgren and the Registrar’s joint submission on penalty, which was agreed to by both parties, includes the most severe sanction possible.
- [37] .
- [38] Therefore the Committee recommends the following penalty to the Minister:
- a) An Order that Rhett Jeffrey Lundgren be ineligible for one or more certificates for an indefinite period of time.

Dated at the City of Edmonton in the Province of Alberta on this 18<sup>th</sup> day of March 2021.




**OPTION TO APPEAL – NOTICE TO THE TEACHER & THE REGISTRAR**

The Teacher and the Registrar have fifteen (15) days of receipt of this decision to submit a notice of appeal to the Practice Review Appeal Committee, in accordance with section 29 of the Regulation.

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 of the Practice Review General Panel  
c/o  Wood  
44 Capital Blvd., 10044 – 108 Street  
Edmonton, Alberta T5J 5E6

Or submit via email to:

[EDC.Governance@gov.ab.ca](mailto:EDC.Governance@gov.ab.ca)