

PRACTICE REVIEW HEARING COMMITTEE

DECISION IN THE MATTER OF PENNY HOWELL

HEARING HELD ON OCTOBER 6, 2022

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 by video-conference on October 6, 2022 to consider a complaint made by [REDACTED] and [REDACTED] against Penny Howell (the “Teacher”).

The following individuals were in attendance:

Members of the Committee:

- [REDACTED], Chair, Public Member;
- [REDACTED], Teacher Member; and
- [REDACTED], Teacher Member.

Also in attendance were:

- [REDACTED], Independent Legal Counsel to the Committee
- [REDACTED], Secretary to the Committee
- [REDACTED], Teacher
- [REDACTED], Registrar
- [REDACTED], Associate Registrar
- [REDACTED], Registrar’s Representative
- [REDACTED], Alberta Education
- [REDACTED], Director, I &G Branch
- [REDACTED], Court Reporter
- [REDACTED], Virtual Technician

PRELIMINARY MATTERS

- [1] The Chair opened the hearing and asked the Members of the Committee and the parties to the hearing to introduce themselves for the record. The Chair reviewed housekeeping items and provided an overview of the hearing process.
- [2] The Chair inquired if there was any objection to the members of the Committee or its legal counsel at the outset of the proceedings. The Registrar’s Representative and the Teacher confirmed that there were no objections.
- [3] The Committee members confirmed that they had no prior knowledge of the matter, except for the documents provided to the Committee in advance of the hearing.

- [4] The Teacher confirmed that she understood her right to legal counsel and that she was waiving the right to have legal counsel present and asking the Committee to proceed with the hearing.
- [5] The Registrar's Representative noted two preliminary issues. First, there was a spelling error in the name of one of the witnesses in the Order to Appear as a Witness. Second, there was a further clerical error on the date of the Investigator's appointment letter, it should have been June 2019.
- [6] The parties confirmed that there was no application to close the hearing.

ALLEGATIONS

- [7] The allegations in the Registrar's Notice of Decision dated August 6, 2021 involve a student (the "Student") as follows:
 - 1. The Teacher inviting the Student to stay at her residence overnight when the Student left [REDACTED] residence due to a dispute;
 - 2. The Teacher's actions of creating a relationship of dependence with the Student that caused the Student to rely on the Teacher for support beyond the scope of an acceptable teacher and student relationship;
 - 3. The Teacher's attempt to conceal events of the Student staying at her home and dishonesty with school administration when asked about specifics of the matter.

EXHIBITS

- [8] The following documents were marked as exhibits:

Exhibit A – Registrar's Materials, consisting of:

- Tab 1 Evidence of Certification
- Tab 2 Complaint
- Tab 3 Acknowledgment and Notification of Complaint
- Tab 4 Preliminary Inquiries – Decision of the Registrar and Notification Letters
- Tab 5 Investigation Report, attaching
 - KB1 Letter of Appointment
 - KB2 Letter of Complaint
 - KB3 Notice of Decision Registrar
 - KB4 Audio of [REDACTED] Interview on August 27, 2019
 - KB5 [REDACTED] Notes dated March 20, 2019
 - KB6 Audio of [REDACTED] Interview on August 27, 2019
 - KB7 [REDACTED] Notes dated August 23, 2019
 - KB8 Audio of [REDACTED] Interview on August 27, 2019
 - KB9 Audio of [REDACTED] Interview on August 27, 2019
 - KB10 [REDACTED] Notes dated March 13, 2019

KB11 Audio of [REDACTED] Interview on June 26, 2019
KB12(a)-12(o) Document Folder from [REDACTED]
KB12(a) Binder Index
KB12(b) [REDACTED] Staff Account Agreement
KB12(c) [REDACTED] Employee Handbook
KB12(d) [REDACTED] Teacher Contract Howell
KB12(e) Howell E-mail to teachers with apology dated March 15, 2019
KB12(f) Howell E-mail to [REDACTED] March 15, 2019 unwell
KB12(g) Staff meeting Notes March 21, 2019
KB12(h) E-mail Howell to [REDACTED] March 21, 2019
KB12(i) Notes call to Registrar re Howell March 22, 2019.
KB12(j) [REDACTED] HR Investigation
KB12(k) [REDACTED] Notice of Paid Suspension March 20, 2019
KB12(l) [REDACTED] HR Follow up April 1, 2019
KB12(m) [REDACTED] Termination of Employment April 15, 2019
KB12(n) Speech April 24, 2019
KB12(o) Text messages re Howell IT access
KB13 Audio of [REDACTED] Interview on August 28, 2019
KB14 [REDACTED] Notes August 23, 2019
KB15 Audio of [REDACTED] Interview on August 28, 2019
KB16(a) E-mails [REDACTED] to Howell October 2016
KB16(b) Summary of meeting October 6, 2016
KB16(c) Summary of Meeting October 6, 2016 with Comments
KB16(d) E-mail [REDACTED] to Howell October 6, 2016 Invitation to View
KB17 Audio of [REDACTED] Interview on September 11, 2019
KB18 Audio of Interview on September 9, 2019
KB19 Audio of Interview on September 17, 2019
KB20 Audio of [REDACTED] Interview on September 2, 2019
KB21 Alberta Learning Permanent Professional Certificate [REDACTED] Howell

Tab 6 Post Investigation – Decision of the Registrar and Notification Letters

Tab 7 Letter to Chair - Referral of Matter to Hearing

Tab 8 Notice of Practice Review Hearing

Tab 9 Practice Review of Teachers and Teacher Leaders Regulation

Exhibit B – Registrar’s Cover letter dated September 22, 2022

MANDATE OF THE COMMITTEE

[9] 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
- (a) 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.

OPENING STATEMENTS

Opening Statement of the Registrar

[10] The Registrar's Representative noted that the Practice Review of Teachers and Teacher Leaders Regulation came into force in September 1, 2019. Pursuant to section 35(8) of the Regulation a "complaint under the former regulation that is not disposed of before the coming into force of this Regulation must be continued under and dealt with in accordance with this Regulation.

[11] The Registrar's Representative reviewed the documents in Exhibit A. The Teacher was granted a permanent certificate on October 12, 1999. She teaches in an [REDACTED] which falls under the purview of the Practice Review of Teachers and Teacher Leader Regulation.

[12] The complaint was made on August 30, 2019 by [REDACTED] Superintendent of [REDACTED] [REDACTED] and [REDACTED] of [REDACTED]. The complaint was that the Teacher engaged in inappropriate conduct by inviting the Student to stay at her home overnight on March 19, 2019 and that she attempted to conceal the events of March 19, 2019 and was dishonest with [REDACTED] administration about the events. It was further alleged that the Teacher made plans to provide a long term residence of the Student.

[13] Upon receipt of the complaint, the Teacher was notified. An investigator was appointed and an investigation was conducted. Upon completion of the investigation, the matter was referred to a hearing. The Notice of Decision is dated August 6, 2021 and is at Tab 6 of Exhibit A.

[14] The Regulation at section 2 sets out the definition of unprofessional conduct. The Schedule to the Regulation contains the Professional Conduct Requirements for Teacher and Teacher Leaders. The Registrar's Representative pointed to sections 4, 5 and 6 of the Schedule.

[15] The Registrar's Representative provided an overview of the evidence expected to be called in the case.

Opening Statement of the Teacher

[16] The Teacher stated that she was refuting the allegations. She noted that her intention in her actions has always been the best interests of her students and in particular, the Student, in this case. She noted that she did the best she could under the circumstances.

EVIDENCE

Witness Evidence

[17] The Registrar called the following witnesses: [REDACTED].

[18] The Teacher gave evidence on her own behalf. The Teacher did not call any other witnesses.

[19] [REDACTED] is a teacher at [REDACTED] [REDACTED] teaches science and was the homeroom teacher for the Student in 2019.

[20] [REDACTED] noted that teachers are instructed about the rules at staff meetings and through a teacher Handbook. Professional obligations are also verbally explained and demonstrated by a teacher mentor in the early years of teaching.

[21] [REDACTED] reviewed [REDACTED] responsibilities as a homeroom teacher. [REDACTED] is responsible for students and transforming a psychoeducational profile into individual plans. [REDACTED] is responsible for communicating with parents and colleagues. As teaching advisor in the homeroom, [REDACTED] is the primary contact for parents. There are resources available to teachers, including the teaching community as a whole and guidance counselling staff. Parents are also involved in all decision-making processes.

[22] There are approved communication avenues. For parents, this includes phone calls and emails and for students, emails and a one-way texting service, to provide batch information to students.

[23] [REDACTED] noted that the Student had issues with attendance and personal wellness. The Student's individual plan would have included [REDACTED] psychoeducational assessment data, medical and personal information, goals and needs of learning, attention, focus and problem solving.

[24] [REDACTED] was asked about the incident in March 2019. [REDACTED] noted it was busy and chaotic that morning. There was a staff meeting that had run long. At the conclusion of the meeting, [REDACTED] was packing up and was in a rush to get to [REDACTED] homeroom. The Teacher approached [REDACTED] to say the Student had spent the night at her house, she had fed [REDACTED] and brought [REDACTED] to school. The Teacher said she wanted [REDACTED] to keep it confidential as she wanted to figure out

how to disclose it. [REDACTED] proceeded to [REDACTED] classroom, established that the Student was in school and appeared to be safe and proceeded with teaching until the school counsellor, [REDACTED] appeared at [REDACTED] door and they discussed the event in question in the hallway. [REDACTED] stated [REDACTED] transferred responsibility to the counsellor because that was part of [REDACTED] role.

- [25] In cross-examination, [REDACTED] stated that [REDACTED] was uncertain of [REDACTED] precise reaction to the disclosure by the Teacher.
- [26] The Teacher asked [REDACTED] about taking the Student for a haircut. [REDACTED] confirmed [REDACTED] had taken the Student for a haircut, with the advance permission of the Student's father and the knowledge of the school administration. [REDACTED] denied having students' individual cell phone numbers. [REDACTED] noted that [REDACTED] did provide snacks from [REDACTED] homeroom for the Student, which was common.
- [27] The Committee has questions of [REDACTED] [REDACTED] noted that every student is provided with learning supports and if there are needs that extend beyond learning, the school counsellor helps provide the supports. The additional supports in this case were to help the Student attend school. [REDACTED] noted [REDACTED] was unsure of the legal guardianship of the Student. With respect to the haircut, the Student's father was in [REDACTED], which was one of the reasons why the father was not present to assist.

- [REDACTED]
- [28] [REDACTED] is a registered Social Worker and has worked at [REDACTED] since [REDACTED]. [REDACTED] is the only school counsellor at [REDACTED]
- [29] [REDACTED] reviewed the procedures at [REDACTED] to help staff. [REDACTED] noted that at the start of every year, the [REDACTED] does a presentation about roles and responsibilities, including the dress code, responsibilities as professionals and how to communicate with students. At staff meetings, held every other Wednesday, and at divisional meetings the roles are clearly stated. In 2018, [REDACTED] held a presentation for teachers during a professional development day regarding confidentiality and boundaries in the school
- [30] In [REDACTED] role, [REDACTED] provides resources for the community and triage support for students and staff. [REDACTED] provides support to teachers, but at the end of the day, [REDACTED] role always goes back to the students' best interests. Staff and students can access [REDACTED] for support. If [REDACTED] is not in a meeting, [REDACTED] door is open. They can also send [REDACTED] an email. Students can also access [REDACTED] through their homeroom teacher.
- [31] [REDACTED] noted that the students at [REDACTED] have a diagnosed learning disability. They struggle with social interactions and boundaries. For the Student, one of [REDACTED] main supports and the first layer of support was the homeroom teacher. The Student had other circumstances that affected [REDACTED]
- [32] In terms of [REDACTED] relationship with the Teacher, [REDACTED] noted they were colleague but did not socialize outside of school.
- [33] [REDACTED] provided [REDACTED] recollection of the events from March 20, 2019. The Teacher advised [REDACTED] that the Student had contacted [REDACTED], [REDACTED] went to get [REDACTED], and [REDACTED] stayed at her house that night. The Teacher told [REDACTED] she had contacted a board member who

gave her a consent form and she had consent from the parent. The Teacher indicated she was not planning to tell administration and the only other person who knew was the homeroom teacher.

- [34] ██████ noted that the conversation was not confidential, it was in the middle of the hallway where anyone could have heard. ██████ duty personally and professionally was to raise concerns about safety. It was ██████ obligation to report the incident.
- [35] ██████ was asked about a student who came forward about text messages. The student came to ██████ and was anxious and said the Teacher had told them to delete text messages because administration was going to go through their phones. The student told ██████ the student had freaked out and deleted all text messages.
- [36] In cross-examination, ██████ was asked if ██████ had anything written down regarding the issue with the text messages or if anyone else had come forward with the same story. ██████ noted that when the student came forward, ██████ created ██████ own contact notes. It is documented in the student's file. ██████ noted as well that another student in the Teacher's homeroom identified that the Teacher had asked them to delete texts. ██████ did not see the texts.
- [37] ██████ confirmed being told that the Teacher had told ██████ that she felt unsafe and unsupported and that there was a personal vendetta by ██████ the Principal.
- [38] ██████ indicated that at every staff meeting, ██████ says that if there are any concerns or issues with students, to contact administration at any time and ██████ number and the Vice-Principal's numbers are provided. The Handbook with their roles and responsibilities is linked in the agenda for staff meetings.
- [39] ██████ confirmed that the Student needed a lot of extra help and everyone was doing their best to help ██████ get through school. The Student's family dynamics and living situation were unstable at the time.
- [40] ██████ was asked for examples of the staff going above and beyond for the Student, including the haircut and food being bought for the Student. ██████ remembers the haircut specifically, because a school bus needed to be used and the parent needed to provide consent.
- [41] In response to a question from the Committee, ██████ confirmed that Child Protective Services had previously been called for the Student.

██████████

- [42] ██████ is the ██████ for ██████ In 2019, ██████ had been with ██████ for ██████ years and ██████ for ██████ years. ██████ has both ██████ a traditional ██████ school and ██████ with grades ██████ to ██████ for students with learning disabilities.
- [43] In 2019, ██████ had supports available for students in two categories: human resources and program accommodation. In terms of human resources, there were roughly 10 students to each teacher and a school counsellor. Some examples of program accommodation

include students being given extra time to write exams and text to speech/speech to text. There is a Handbook for teachers. The Principal makes a point of referring to the Handbook.

- [44] The incident was brought to [REDACTED] attention the morning of March 20, 2019. [REDACTED] was contacted by the Principal. [REDACTED] office is at a different campus than [REDACTED] [REDACTED] contacted human resources and made a plan for investigation. At the end of the day, [REDACTED] met with the Teacher to discuss the incident.
- [45] Ms. Howell acknowledged to [REDACTED] that the Student had stayed overnight, she had fed [REDACTED] breakfast and drove [REDACTED] to school. She implied that parental consent had been given. However, [REDACTED] later discovered that there was no parent consent. Ms. Howell was placed on paid leave until the investigation was completed. [REDACTED] noted that [REDACTED] also returned a call to the Student's father.
- [46] In terms of the investigation, interviews were conducted with the Student, the parent of the Student and teachers.
- [47] [REDACTED] noted that this was of serious concern. The school is required to follow child protection legislation. A teacher must reach out to the Principal, the Vice-Principal or to [REDACTED]. There would be support for a teacher to make good decisions following a reporting. The Principal's cell phone number is given to teachers at the beginning of the year and teachers can use it whenever necessary. There is regular communication and meetings to remind staff of their responsibilities in difficult situations.
- [48] In cross-examination, [REDACTED] acknowledged that there is likely nothing specifically written down in the Handbook or elsewhere to state how a teacher should handle such a situation.
- [49] [REDACTED] stated that the parent was supportive of the Teacher's action after the fact, but that consent had not been obtained the evening of March 19, 2019.
- [50] In response to a question from the Committee, [REDACTED] indicated there was no detailed information about what the communication was between the Student and the [REDACTED] on the evening of March 19.

Penny Howell

- [51] The Teacher gave evidence on her own behalf. She noted that she had a bad relationship with the Principal, [REDACTED]. She had been in a bad relationship and took a stress leave for 7 months. She had a [REDACTED] to assist her and she perceived that [REDACTED] was resentful of her.
- [52] She noted that the day after the incident was absolutely slammed. She had such a trepidatious relationship with [REDACTED] that she did not want to just poke her head in the door. She knew she would need to have a conversation with [REDACTED].
- [53] She drew the Committee's attention to Exhibit A, Tab KB16(c) where she was commended in October 2016 for coming forward with an issue and being transparent.
- [54] The Teacher stated that she has never given any indication that she was not willing to work with administration. She has worked with administration. She had a good working

- relationship with ██████ Assistant ██████ and ██████ from ██████ ██████. However, she did not have the same relationships at ██████
- [55] ██████ is a small school. The philosophy was be “kinder than necessary”. There was a high level of care and small class sizes. There were blurred lines of care.
- [56] When she started at ██████ the “Remind App” was just coming out but students were not always using it. A lot of people had text messages with their homeroom. There were no policies at the time regarding text messages. Ms. Howell also noted that she had been a chaperone on a school trip and so she had all the students’ cell phone numbers for safety reasons. This was common practice during school trips. As a result, she had a lot of student’s cell phone numbers and they had her number.
- [57] The Teacher acknowledged that she did tell students that if they were ever stuck in a situation where they could not contact their parents, they could contact her. She has never had anyone call her other than the Student.
- [58] The Teacher acknowledged that she became concerned about a student’s privacy and wellbeing and that administration would go through her phone. The Teacher acknowledged she should not have told the student to delete text messages but stated it was not done out of malice. It was not to cover up her own wrongdoing, but rather to protect the student’s privacy. Ms. Howell noted she was unsure about the degree to which this spread among the student population.
- [59] The Teacher stated that she was good friends with ██████ and ██████ and they would commiserate together. They had the students’ best interests at heart. ██████ wanted her to head a club for students because the students trusted her and she got along with them very well.
- [60] The Teacher and ██████ collaborated quite a bit about the Student. They encouraged each other. They did things that were above and beyond a regular school teacher. The Teacher acknowledged giving the Student lunch money at times.
- [61] The Teacher noted there is a myriad of possibilities of what can happen with students. There was nothing in the Handbook about what to do in this specific situation. The Teacher stated that what she did is what she was trained to do, which is get the child out of danger. She was concerned about the Student’s safety. The Student was very upset and it was very cold that night. She listed a number of different possibilities of what he could do, including listing friends ██████ could contact. The Student gave reasons why friends said ██████ could not sleep over. The Student had a reputation and parents would not allow ██████ to sleep at their house. The Student felt ██████ had no other option.
- [62] The Teacher stated she got the Student out of harm’s way and into safety. She asked ██████ to call ██████ parents. The Teacher stated she knows the parents quite well, as she also taught ██████. She could hear ██████ when the Student called ██████. The Student said, “█████ says thank you”. The Student went on to talk about ██████ and why ██████ got kicked out of the house. The Teacher advised ██████ to text ██████ to tell ██████ ██████ was safe even though ██████ had kicked ██████ out.

- [63] The Teacher acknowledged there were other decisions she could have made, but this is the course of action she followed and she thought it was appropriate and in the best interest of the child. The Teacher felt that she had parental consent and noted that both [REDACTED] and [REDACTED] wrote a letter advocating for her.
- [64] The Teacher stated she was concerned about getting the Student to school, as [REDACTED] had missed a lot of school. She did not want [REDACTED] to miss anymore school.
- [65] The next day, she spoke to [REDACTED] and [REDACTED] first thing in the morning. She spoke to them because of their relationship. She thought their response at the time was very supportive. She mentioned to both that she would like to personally tell [REDACTED] because of the trepidatious relationship she had with [REDACTED] and asked them not to mention the matter to [REDACTED] specifically. She worked straight through the day and did not even take a lunch break. The Teacher said she knew she was going into the lion's den and wanted to prepare.
- [66] [REDACTED] came to school and she was happy to see [REDACTED]. She noted that it had not occurred to her that she could reach out to [REDACTED]. [REDACTED] took her to [REDACTED] office and she was relieved to see [REDACTED] was not there. [REDACTED] was also there, they asked if she knew why they were there and she said "yes, we need to figure out what to do about the Student." The Teacher stated she was shocked that she was in trouble. She thought they would have commended her because she went above and beyond the call of duty.
- [67] An investigation was started. However, it was not made clear to her that she was in a lot of trouble. Following spring break, she was told it was not a good fit and that she was being terminated. [REDACTED] She did not have a lawyer and was given the impression it was a "gag order" for both sides. She had no idea she was going to be accused of unprofessional conduct and that is why [REDACTED]. She was planning to move [REDACTED] and that it was time to move on. She had no idea the incident would be reported as unprofessional conduct and that her licensure would be under question or possibly revoked.
- [68] The Teacher noted that teachers love their students. She stated that while there are bad people out there, she is not one of them. She stated that she knows in her heart that she did the right thing. Her major concern and priority was the safety of the student. Technically, she did not know if she did something wrong, she informed many people, but she did avoid someone she had issues with.
- [69] The Teacher was not asked any questions in cross-examination.
- [70] In response to questions from the Committee, the Teacher indicated that she knew the Student had called [REDACTED] because [REDACTED] called [REDACTED] in front of her and she could hear [REDACTED]. She stated she did not talk to [REDACTED] because she was in a panic, her back hurt and she wanted to feed the Student and get [REDACTED] to sleep so they could get to school the next day. She believed there was sufficient parental consent.

CLOSING SUBMISSIONS

Closing Submissions of the Registrar

- [71] The Registrar's Representative noted that the Teacher's good intentions do not negate her actions. The Teacher's evidence that she continues to think she did the right thing does not show any remorse or understanding and is troubling.
- [72] The Registrar's Representative addressed the evidence given by the Teacher regarding the incident in 2016. In the prior incident in 2016, she may have been transparent, but she was not transparent in relation to the March 2019 incident.
- [73] There is discrepancy between the evidence of [REDACTED] and the Teacher regarding use of the Remind App for communications with students. In addition, while cell phone information might be shared for the purpose of a trip, it is not appropriate to keep student cell phone numbers once the trip is completed.
- [74] The Registrar's Representative acknowledged that there will not be procedures for every single situation. However, it is in those difficult situations that a teacher's training should kick in. The Teacher had a legal obligation if she felt the Student was in need of intervention to contact the authorities.
- [75] The Registrar's Representative noted that it was clarified in the investigation that the communication with the parent was a text. The [REDACTED] was very clear with the investigator that [REDACTED] did not communicate with the Teacher in any way and that [REDACTED] did not speak to the Student that night, but that the communication was by text messaging. The Registrar's Representative noted that the Teacher changed her story during the investigation. The Registrar's Representative played small portions of the investigation interview recordings with the Teacher and the [REDACTED] as part of [REDACTED] closing submissions.
- [76] The Registrar's Representative noted that notification by a minor to their parent does not equate to a teacher receiving parental consent. While there were references in the evidence to getting a consent form signed, this is not relevant as that would be for a school sanctioned event.
- [77] On the night of March 19, 2019, the Teacher made dinner for the Student. She did not reflect on the situation she was putting the Student in or the risk involved for the school. The Teacher's evidence was that she did not know what to do. However, she had 20 years' experience. It was not reasonable for her to fail to reach out to school administration, the parents or the authorities.
- [78] The Registrar's Representative noted that the Teacher had struggles with [REDACTED]. The Teacher would call the students "her kids" and considered herself their sounding board and appeared to not understand appropriate boundaries.
- [79] With respect to allegation 2, the Registrar's Representative referenced the investigation report (Exhibit A, Tab 5, para. 245) regarding statements made by the Teacher to the Student that living with her was potentially an option. The Registrar's Representative noted that to make such statements to a student without running it before school administration is negligent, if not cruel and was detrimental to the best interests of the Student.

- [80] For allegation 3, the Registrar's Representative stated that the Teacher changed her story depending on who she was talking to. The Registrar's Representative stated that this calls into question the Teacher's candor and reliability. It was not reasonable that the Teacher would not recognize that she was crossing boundaries and putting a child at risk by having the Student stay at her home. This is highly improbable and the Registrar's Representative submitted that the Teacher knew her course of action was not appropriate, but did it anyway.
- [81] The Teacher was suspended from her employment. She took steps of contacting students to delete text messages. Her intention was to destroy records. This put students in a position where they may need to lie for the Teacher. The Registrar's Representative pointed to Exhibit A, Tab KB12(j), page 277 () regarding admissions made by the Teacher that she told a student to delete text messages and to "spread the word".
- [82] The Registrar's Representative noted Exhibit A, Tab KB12(c), page 215 () which notes under (D) Professional Boundaries that employees "(e) do not send private messages and/or texts to students."
- [83] In addition, the next morning on March 20, 2019, the Teacher should have advised administration right away. The fact that she did not tell administration is also concerning. There was no reason to wait until the end of the day.
- [84] The Registrar's Representative noted the Schedule to the Regulation, which is the Professional Conduct Requirements for Teachers and Teacher Leaders, section 4(e) which requires a teacher "to foster and maintain open and honest communication with the employer and the members of the school administration."
- [85] The Registrar's Representative noted that a finding of unprofessional conduct is reasonable and should be made. The Teacher has admitted to the conduct. The Registrar takes the position that cancellation of her permit is required in the circumstances.

Closing Submissions of the Teacher

- [86] The Teacher maintains that she did the right thing and asks the Committee to consider the spirit of the law, and not simply the letter of the law. The Teacher stated that she has devoted her life to teaching. She cares very much about this hearing. Her previous comments that she did not care have been taken out of context.
- [87] The Teacher referenced the audio recording played to the Committee and noted this was a heated exchange and not her stating that she had a conversation with the . She stated that she does not understand the evidence regarding the . The provided a letter to the school stating that she was a good Samaritan and that had given consent. The also wrote a letter on her behalf. There was a text message where she communicated with the . was telling her that was contacting and that thought they were "gunning" for her.
- [88] The Teacher acknowledged saying to the Student, while was crying and saying wanted to graduate with friends, "let's see what we can do" and "we will figure it out". She said

this to console [REDACTED] that night. She would have been willing to consider this. She made inquiries about being in *loco parentis*, to have [REDACTED] billeted. Teachers have done this in the past with international students.

- [89] The Teacher noted that with respect to [REDACTED] evidence, it was flawed. The Teacher questioned why [REDACTED] and [REDACTED] responded to her disclosure the way they did, if they were not comfortable. It seemed to her that they were grateful that she had done something kind. They had collaborated on so many things, why not collaborate with her on the course of action to follow. She questioned why they did not tell her to call [REDACTED]
- [90] The steps she took were to contact a Board member, have the Student call [REDACTED] and text [REDACTED]. The [REDACTED] advocated vehemently for her with the school.
- [91] The Teacher noted that saying she loves her students is not highly inappropriate. It shows she cares. Teachers go into education because they love what they do and want their students to feel safe.
- [92] The Teacher concluded by saying that she did what she thought was right. She acknowledged that talking to the other student about the text messages was stupid but she was panicking. There seemed to be a lot going on in the background that was not in her favour. She acknowledged she could have done things better, but she does not regret her actions. She would rather lose her job than one of her kids. It may not be appropriate to say “her kids”, but she could not live with something happening to the Student. She had the best of intentions and tried to do what was right.

Reply Submissions of the Registrar

- [93] The Registrar’s Representative noted that while there may be empathy for the Teacher, this does not excuse the conduct or negate the Teacher’s professional obligations. Teachers have a professional responsibility to inform themselves of their professional and legal obligations. The Teacher’s lack of remorse and statements at the hearing are troublesome.
- [94] The Registrar’s goal is not to remove a teacher, but where a teacher places both students and the teaching profession at risk, this is concerning. The Registrar’s Representative noted that the Teacher stated she would do the same thing again. There is no reasonable option but to recommend cancellation as that is the only way to ensure there is no risk to students.

COMMITTEE’S DECISION

- [95] The Committee finds that allegations 1 and 3 are proven. The Committee finds that allegation 2 is not proven.
- [96] The Committee finds that allegations 1 and 3 constitute unprofessional conduct pursuant to section 26(1)(a)(ii) of the Regulation. The Teacher’s conduct breached sections 4, 5 and 6 of the Professional Conduct Requirements for Teachers and Teacher Leaders, as set out in the Schedule to the Regulation.
- [97] The Committee recommends to the Minister, pursuant to section 27(3)(b) and (d) of the Regulation that the Teacher’s certificate be suspended and that the Teacher be ineligible for

a certificate for a period of one year and until the Teacher has successfully completed a course acceptable to the Registrar regarding professional conduct requirements, including professional boundaries.

[98] The Committee's reasons are set out below.

REASONS AND RECOMMENDATION

[99] The Committee carefully considered the evidence and submissions of the parties. The Committee also considered the Regulation.

[100] Section 2 of the Regulation states:

2 Unprofessional Conduct

Conduct that

- (a) is detrimental to the best interests of students, the public, teachers or teacher leaders generally,
- (b) does not meet the professional conduct requirements, or
- (c) is the basis for a conviction for an indictable offence

constitutes unprofessional conduct.

[101] The Schedule to the Regulation contains the Professional Conduct Requirements for Teacher and Teacher Leaders. The Schedule states:

- 4** In relation to the teacher's or teacher leader's employer, the teacher or teacher leader is required
- (a) to respect the authority of the employer and the members of the school administration,
 - (b) to express any concerns that the teacher or teacher leader has about the employer or the members of the school administration or the operation of the school through appropriate channels as outlined in applicable policies and in an appropriate manner,
 - (c) to protest through appropriate channels any administrative policies or practices that the teacher or teacher leader cannot in good conscience accept,
 - (d) to express his or her opinions and bring forward suggestions regarding the employer, the members of the school administration or the operation of the school through appropriate channels and in an appropriate manner,
 - (e) to foster and maintain open and honest communication with the employer and the members of the school administration,
 - (f) without limiting clauses (b) to (d), to be supportive of the employer and members of the school administration,
 - (g) to fulfill the terms of his or her contract of employment, and
 - (h) in the case of a teacher to bring it to the attention of members of the school administration, or in the case of a teacher leader to bring it to the attention of the administrator, if the teacher or teacher leader is
 - (i) assigned duties that the teacher or teacher leader is not qualified to carry out, or
 - (ii) required to work in conditions that make it difficult for the teacher or teacher leader to teach or for the teacher leader to carry out duties related to a leadership certificate or superintendent leadership certificate.

- 5 In relation to the teaching profession, the teacher or teacher leader is required
 - (a) to conduct himself or herself in a manner that maintains the honour and dignity of the profession, and
 - (b) not to engage in activities that adversely affect the quality of the teacher's or teacher leader's professional service.

- 6 In relation to the school community as a whole, the teacher or teacher leader is required
 - (a) to conduct himself or herself in a manner that maintains the good reputation of the school and the employer,
 - (b) to be knowledgeable about and able to communicate accurately the philosophy, mission and policies of the school and the employer, and
 - (c) to conduct himself or herself in a manner that is respectful of the norms and values of the school community.

Allegation 1: The Teacher inviting the Student to stay at her residence overnight when the Student left his residence due to a dispute

- [102] The Committee considered that the evidence clearly establishes that this allegation is proven. The Teacher did pick up the Student and had [REDACTED] stay overnight at her residence. The evidence before the Committee clearly establishes this allegation, including the Teacher's own evidence about the incidents of the evening of March 19, 2019.
- [103] The Committee accepts that the Teacher had the best interests of the Student at heart. However, there are professional boundaries that must be respected, which are in place to protect both teachers and students. The Teacher's conduct placed the school and administration at risk. It also placed herself and the Student at risk. Professional boundaries are in place to ensure the safety of all.
- [104] The Teacher should have, at a minimum, had a conversation with the parent and someone from administration that evening. She had an obligation to contact administration, regardless of her relationship with her Principal.
- [105] The Committee accepted the evidence that there were various supports in place for teachers at [REDACTED]. Teachers knew they could contact school administration after hours if concerns or issues arose. There were meetings and training specific to teachers' responsibilities and appropriate boundaries. Further, the Handbook provided references to guide the Teacher's conduct and decision making. Although this specific situation may not have arisen in the meetings, training or Handbook, the Teacher should have understood her professional obligations and exercised her judgment to contact school administration that evening.
- [106] The Teacher's conduct did not maintain the honour and dignity of the profession. By having a student stay at her residence overnight without parental consent or knowledge of the school administration, the Teacher put the honour and dignity of the profession at risk. Such conduct is clearly not acceptable. Her conduct further adversely affected the quality of her professional service.

[107] The Committee acknowledges that the philosophy at the school was to be “kinder than necessary”. Further, the Committee acknowledged that there is no allegation of inappropriate behaviour by the Teacher towards the Student of a sexual nature. Although the Teacher acknowledged there are bad people out there and that she is one of the good ones, there is no question she breached professional boundaries. Professional boundaries are in place to ensure the protection of all involved.

[108] The Teacher’s conduct did not maintain the good reputation of [REDACTED]. She breached the policies of [REDACTED]. She did not respect the norms and values of the school community.

[109] The Teacher’s conduct was beyond the scope of practice for a teacher and was a violation of professional boundaries. The Teacher’s conduct breached section 5(a) and (b) and section 6(a), (b) and (c) of the Professional Conduct Requirements.

[110] The conduct is a breach of the Professional Conduct Requirements and is unprofessional conduct pursuant to section 26(1)(a)(ii) of the Regulation.

Allegation 2: The Teacher’s actions of creating a relationship of dependence with the Student that caused the Student to rely on the Teacher for support beyond the scope of an acceptable teacher and student relationship

[111] The Committee considered the evidence with respect to this allegation. The Committee accepted the evidence from the Teacher that she said to the Student, while [REDACTED] was crying and saying [REDACTED] wanted to graduate with [REDACTED] friends, “let’s see what we can do” and “we will figure it out”. The Committee noted that these comments were made in the course of one evening and in the context of very stressful events. The Teacher was concerned for the Student’s safety and made comments in the moment to comfort him.

[112] The Committee also considered the evidence that the Teacher had told her students that they could contact her at any time.

[113] Finally, the Committee considered the events of March 19, 2019. While the Student contacted the Teacher on the evening of March 19, 2019, there was no evidence led during the hearing that this was done because of a relationship of dependence. There was no evidence that the Student relied on the Teacher for support beyond the scope of an acceptable teacher and student relationship. The evidence showed [REDACTED] contacted the Teacher on March 19, 2019, but not that [REDACTED] was dependent on her or reliant on her for support.

[114] The Committee did not find that the evidence established that the Teacher’s actions caused a relationship of dependence with the Student. This allegation is not proven.

Allegation 3: The Teacher’s attempt to conceal events of the Student staying at her home and dishonesty with school administration when asked about specifics of the matter


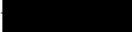
[115] The Committee considered the evidence regarding allegation 3. The Committee finds that the Teacher did not report the situation to school administration. She did not contact school

administration on the evening of March 19, 2019 or the next morning. It was the [REDACTED] who confronted her later in the day on March 20, 2019.

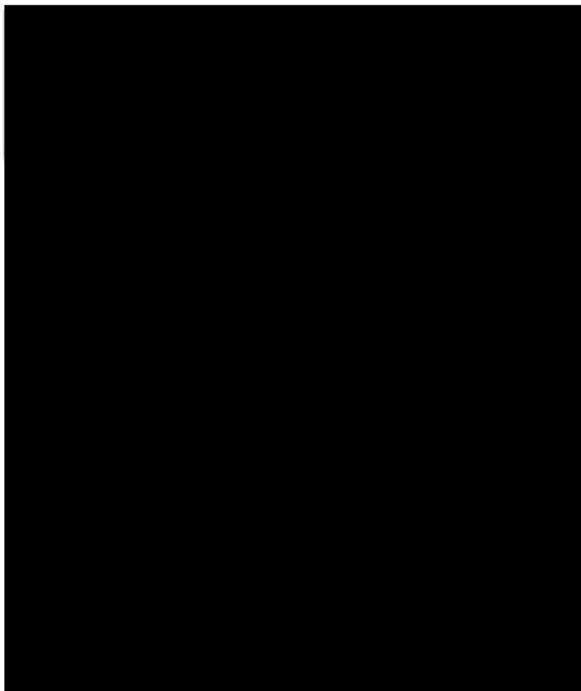
- [116] While the Teacher told another teacher colleague and the school counsellor the morning of March 20, 2019 what had occurred, she asked them to keep it quiet.
- [117] The Committee considered the Teacher's explanations to school administration about the events. The evidence was not clear regarding what communications with the father occurred on March 19, 2019. However, the Committee finds that the Teacher did not have any direct contact with the father. The Committee finds that the Teacher gave different accounts about what communications she had with the father on March 19, 2019 and that such conduct was not an honest and open communication with school administration.
- [118] Further, the Teacher implied during the days following the March 19 incident and during the school's investigation that there was a consent form that had been obtained. The Committee finds that there was no such consent form.
- [119] Finally, the Committee finds that the Teacher contacted at least one student about deleting her text messages. The Teacher's evidence was that she was concerned for the student's privacy. The Committee finds that, given the timing of the events and the Teacher's inconsistent statements about the incident, the Teacher's actions were done to conceal her involvement in texting with students.
- [120] The Committee finds that the Teacher was dishonest with school administration regarding the events of March 19, 2019.
- [121] The Teacher's conduct did not foster and maintain open and honest communication with her employer or school administration. She took deliberate steps to conceal the events and made statements about obtaining consent that were misleading.
- [122] The Teacher's conduct did not maintain the honour and dignity of the profession and adversely affected the quality of her professional service. The Teacher had a professional duty to communicate openly and honestly with school administration.
- [123] The Teacher's conduct did not maintain the good reputation of [REDACTED]. She was not honest in her communications with [REDACTED]. She did not respect the norms and values of the school community.
- [124] The Teacher's conduct for Allegation 3 breached section 4(e), 5(a) and (b) and section 6(a) and (c) of the Professional Conduct Requirements.
- [125] The conduct is a breach of the Professional Conduct Requirements and is unprofessional conduct under section 26(1)(a)(ii) of the Regulation.

Recommendation

- [126] The Committee considered the recommendation to make to the Minister pursuant to section 27(3) of the Regulation.
- [127] The Registrar's Representative takes the position that the Teacher's registration ought to be cancelled. The Teacher opposes the cancellation of her registration.

- [128] The Committee recommends to the Minister, pursuant to section 27(3)(b) and (d) of the Regulation that the Teacher's certificate be suspended and that the Teacher be ineligible for a certificate for a period of one year and until the Teacher has successfully completed a course acceptable to the Registrar regarding professional conduct requirements, including professional boundaries.
- [129] The Committee does not consider that this is an appropriate case for cancellation. The Committee considered that cancellation is an extreme penalty and that such penalty would be excessive in this case. While the Teacher clearly made a mistake, the Committee accepts that the Teacher did have the best intentions of the Student at heart.
- [130] Further, while the Teacher indicated she did not regret her actions, she acknowledged that she could have done things better. The Committee views that a suspension and a condition that she not be eligible for a certificate for a period of one year is a significant sanction. This sends the appropriate message of deterrence to the Teacher. It is a strong sanction that maintains the integrity of the teaching profession and has a strong deterrent effect.
- [131] Further the recommendation for a course on professional conduct requirements, including professional boundaries, is aimed at remedial action to help the Teacher learn how to properly deal with professional conduct issues, in particular, professional boundaries.
- [132] In reaching this recommendation, the Committee considered the unique environment at , where teachers did more for students than in a  school. The Committee accepted that the Teacher faced circumstances that a teacher may not encounter in the every day school setting.

Dated at the City of Edmonton in the Province of Alberta on this 16 day of November 2022.



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 Secretariat to the Committee
44 Capital Blvd., 10044 – 108 Street
Edmonton, Alberta T5J 5E6

Or submit via email to:

EDC.Governance@gov.ab.ca