

PRACTICE REVIEW HEARING COMMITTEE

HEARING DECISION IN THE MATTER OF TIMOTHY JOSEPH FUREY

**HEARING HELD ON JANUARY 14, 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 Timothy Joseph Furey (the “Teacher”).

The following were Members of the Committee:

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

The hearing was held on Thursday, January 14, 2021 commencing at 9:00 a.m. via video-conference.

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

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

PRELIMINARY MATTERS

- [1] The Chair introduced the Members of the Committee, all individuals party to the hearing and all those in attendance. There was no objection to the composition of the panel by the Registrar’s Representative.
- [2] 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.
- [3] The Teacher was not in attendance at the hearing and did not have a representative act on his behalf. The Teacher had confirmed via email to the Secretary to the Committee that he did not intend to participate in the hearing, and had not disclosed any materials. The Teacher confirmed receipt of the Registrar’s materials which included an Agreed Statement of Facts and Joint Submission for Penalty. This email exchange was entered as Exhibit #4, as set out below.
- [4] The Chair confirmed the date of the Registrar’s Notice of Decision of February 18, 2020.
- [5] Before the hearing proceeded to the merits of the complaint, the Committee considered two preliminary matters:

- a. An application under section 24 of the Regulation to proceed in the Teacher's absence;
- b. An application under section 21(2)(b) of the Regulation to close the hearing to the public.

a. Application under section 24

- [6] 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.
- [7] 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
- [8] The Committee reviewed the evidence of service and concluded that the Teacher had been properly served with the Notice of Hearing. In addition, his awareness of the proceedings is further evident in the emails between him and the Secretary to the Committee (Exhibits #2, #3 and #4).
- [9] The Committee concluded that the hearing should proceed in the Teacher's absence.

b. Application under section 21(2)

- [10] The Registrar's Representative made submissions to close the hearing to the public in accordance with section 21(2) of the Regulation, given that the nature of the allegation, that Mr. Furey had engaged in an inappropriate relationship of a romantic nature with a former [Gender Redacted] student (a minor under the age of 18) when he was employed in the role of a teacher at [School Redacted], an Alberta accredited international school in [Location Redacted].
- [11] 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.
- [12] The Committee considered the interests of the minor who may be detrimentally affected and the sensitive subject matter of this complaint, and granted the request to close the hearing to the public and proceed in private.

- [13] In response to the Committee's ruling, the Associate Registrar asked for clarification of [REDACTED] role in the proceeding, given that the hearing was now closed.
- [14] The Committee asked [REDACTED] if she was acting as part of the secretariat or as an observer of the public. [REDACTED] confirmed that she was in attendance to support the secretariat. The Committee held that it was appropriate for [REDACTED] to attend the proceedings given [REDACTED] role as the [REDACTED], and to support the function of the secretariat. It is further noted that no members of the public were present at the hearing.

ALLEGATION

- [15] The allegation in the Registrar's Notice of Decision dated February 18, 2020 is that Mr. Furey had engaged in an inappropriate relationship of a sexual nature with a student, which was conduct contrary to the professional conduct requirements of a teacher.

EXHIBITS

- [16] The following were entered into the record:
- a) Exhibit #1 – Notice of Hearing dated December 16, 2020.
 - b) Exhibit #2 – Emails between Committee Secretary and Mr. Furey in which Mr. Furey confirmed receipt of Notice of Hearing and copy of Regulation on December 16, 2020.
 - c) Exhibit #3 – Email from Committee Secretary to Mr. Furey containing a copy of the Registrar's disclosure materials dated January 7, 2021.
 - d) Exhibit #4 – Emails between Committee Secretary and Mr. Furey dated January 11 and 12, 2021 in which Mr. Furey advised that he would not be attending the virtual hearing. He also confirmed receipt of the Registrar's disclosure materials and that he had no disclosure to submit in this matter.
 - e) Exhibit #5 – Registrar's Binder (253 pages). Links to access the audio and video recordings referenced in the Investigation Report were submitted separately to the Secretary of the Committee, due to the size of the digital files.

MANDATE OF THE COMMITTEE

- [17] 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.

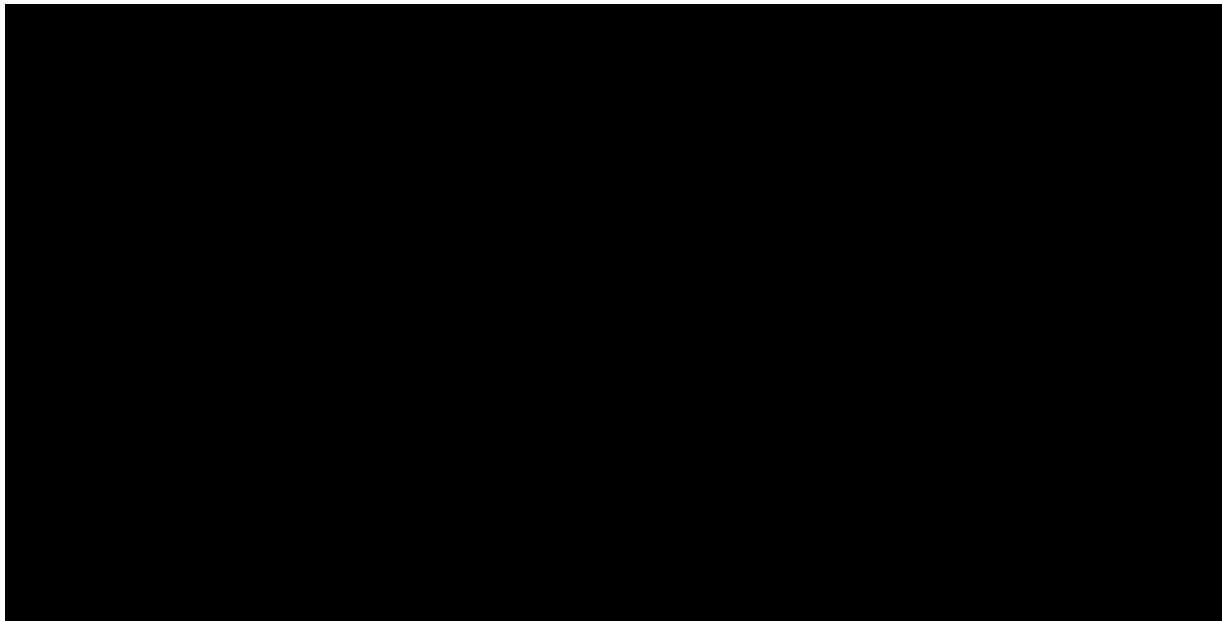
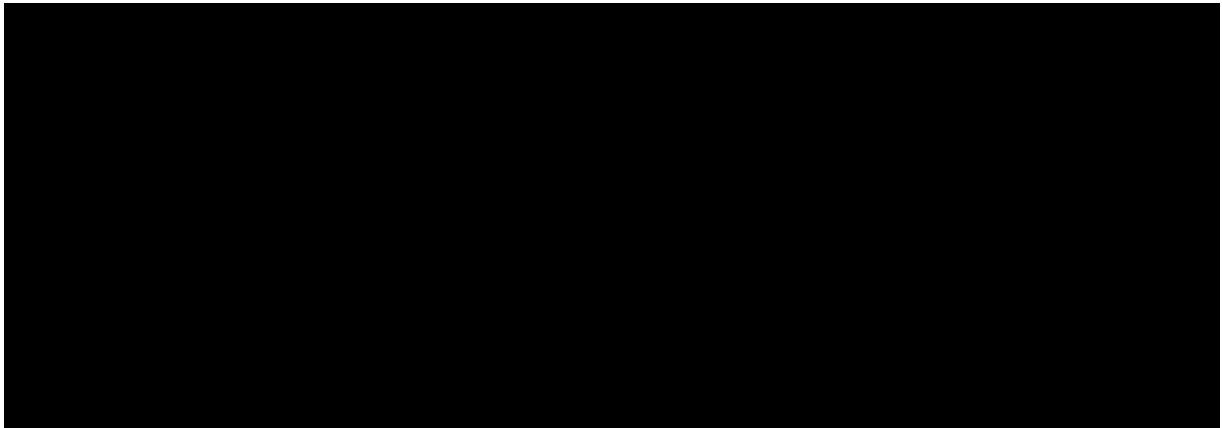
AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

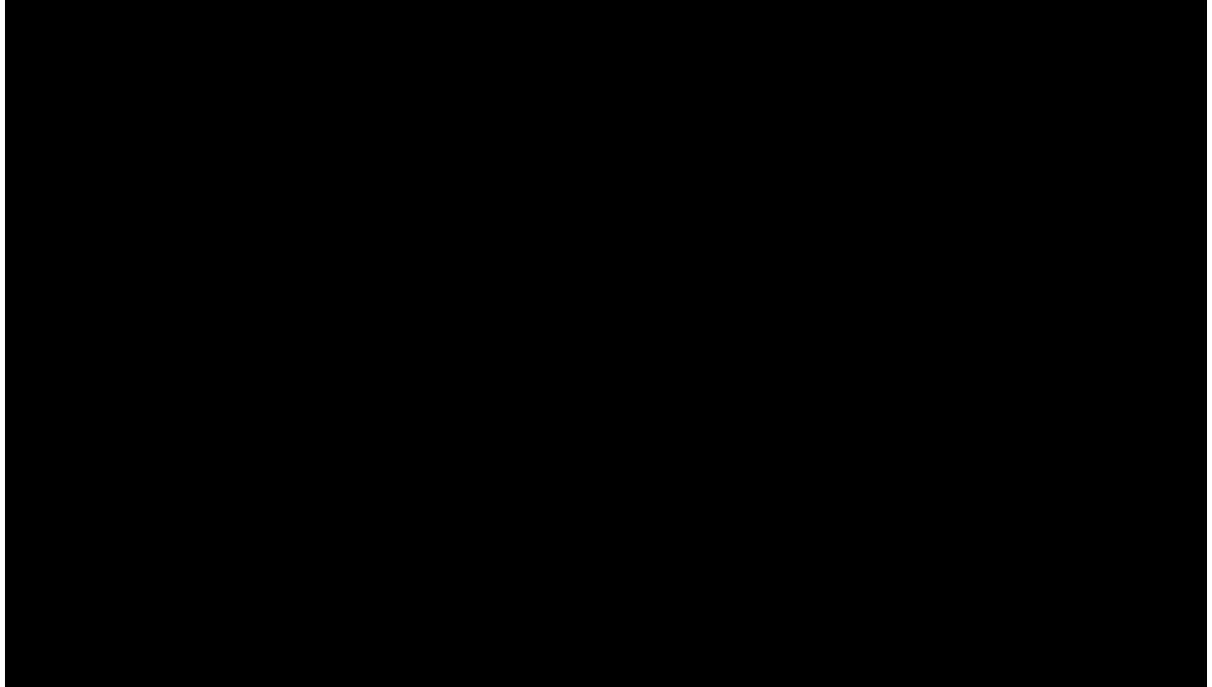
- [18] An Agreed Statement of Facts and Joint Submission for Penalty between the Registrar and the Teacher was submitted for the Committee's consideration (Exhibit #5, pages 208 - 211).
- [19] This Agreed Statement of Facts contains facts presented by the Registrar and admitted to by the Teacher for 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 is dated October 2, 2020 and is signed by the Teacher and the Registrar, [Name Redacted].

Statement of Facts

1. Timothy Furey held an *Interim Professional Certificate* valid in the province of Alberta, between September 09, 2016 to August 31, 2019 [Certificate Number Redacted]. The certificate was issued on September 09, 2016 in the province of Alberta, in accordance with the *Certification of Teachers Regulation*.
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* (AR 92/ 2019) ("Regulation"). During the time period covered by the facts admitted, teachers who were not subject to the *Teaching Profession Act* were governed by the *Practice Review of Teachers Regulation* (AR 11/2010), repealed on September 1, 2019.
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. A complaint of alleged unprofessional conduct was filed with the Registrar against Timothy Furey on January 13, 2018, by [Name Redacted], the Chair and CEO of [School Redacted] (the "Complainant"). At the time the complaint was filed, Timothy Furey was no longer employed as a teacher with [School Redacted], an Alberta accredited international school in [Location Redacted].
5. The Complainant alleged that Timothy Furey engaged in an inappropriate relationship and conduct with a [gender redacted] student at [School Redacted], resulting in his termination from employment.

6. In accordance with the Regulation, the Registrar directed a Conduct Investigation following a preliminary inquiry into the complaint. The Conduct Investigation was completed on February 13, 2020.
7. Upon receipt and review of the findings in the Conduct Investigation, the Registrar issued a Notice of Decision dated February 18, 2020 to refer the allegation of unprofessional conduct to a Practice Review Hearing Committee for a hearing. In the Registrar's view, the allegation of engaging in an inappropriate relationship of a romantic sexual nature with a student was deemed to be conduct contrary to the professional conduct requirements of a teacher, subject to the Regulation.
8. Timothy Furey admits to the following facts:
 - a. Between December 2017 and January 2018, Timothy Furey was employed as a teacher at [School Redacted]; an Alberta accredited international school.
 - b. Between September 2017 and January 2018, Timothy Furey engaged in an inappropriate relationship of a romantic nature with the Student, while employed as a teacher at [School Redacted].
 - c. During this time, Timothy Furey held a valid Alberta teaching certificate.





Joint Recommendation for Findings

The Registrar and Timothy Furey 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 Timothy Furey to constitute unprofessional conduct, because it was:

- (i) detrimental to the best interests of students, the public, and teachers and teacher leaders generally, and
- (ii) does not meet the professional conduct requirements set out in the *Practice Review of Teachers and Teacher Leaders Regulation*.

Joint Recommendation for Penalty

9. The Registrar, and Timothy Furey, jointly ask the Practice Review Hearing Committee to recommend to the Minister, pursuant to Section 27(3)(d) to:
 - a. Order that Timothy Furey be ineligible for one or more certificates for a ten-year period, that is issued under the *Certification of Teachers and Teacher Leaders Regulation*, or any future regulation that should replace this regulation.
 - b. And additional condition is set, that the Minister's decision in this matter will be placed on Timothy Furey's teacher file in the Office of the Registrar at Alberta Education. The Minister's decision may be considered in determining Timothy Furey's suitability to ever hold one or more certificates of qualification in the future issued under the *Certification of Teachers and Teacher Leaders Regulation*, or any future regulation that should replace this regulation.

10. Timothy Furey 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 discretion pursuant to Section 33 of the Regulation to dismiss the complaint, substitute a lesser or greater penalty.

COMMITTEE'S FINDINGS

- [20] The Committee carefully reviewed and considered the Agreed Statement of Facts and Joint Recommendation for Penalty and accepts the facts as stated therein.
- [21] After careful deliberation and consideration of the evidence and submissions before it, and in accordance with section 26(1)(a)(i) and (ii) of the Regulation, the Committee finds that Mr. Furey's actions constitute unprofessional conduct as defined under the two headings contained within the Agreed Statement of Facts.
- [22] Finally, the Committee and have agreed on the recommendation to the Minister which was the Joint Recommendation on Penalty put forward.

DECISION AND RECOMMENDATION

Part One -- Facts Found by the Committee

- [23] In terms of the fact finding portion of the Committee's mandate, the Committee carefully listened to the submissions of the Registrar and reviewed the materials presented to the Committee.
- [24] The Committee acknowledged Mr. Furey's signed Agreed Statement of Facts, and accepted the facts presented therein as found on a balance of probabilities by the Committee.

Part Two -- Unprofessional Conduct

- [25] After having found the facts referenced above, the Committee considered sections 26(1)(a)(i) and (ii) of the Regulation in order to come to the conclusion that Mr. Furey's actions constituted unprofessional conduct.
 - a. **Section 26(1)(a)(i) – Detrimental to the Best Interests of Students, the Public, and Teachers and Teacher Leaders Generally**
- [26] The Committee found that this conduct, being an inappropriate relationship with a minor student under the care of a teacher, to be profoundly detrimental to the best interests of students.
- [27] In particular, the Committee was cognizant of the detrimental impact on the student, which can be seen in the documents disclosed to the Committee. Although the student did not testify in this matter, the Committee was acutely aware of the possible psychological impact on a [REDACTED] year old student of someone in a position of authority and trust to take advantage of a vulnerable [REDACTED].
- [28] This conduct crossed all boundaries – physical, emotional, and physiological, and was a complete breach of trust of the authoritative role of Mr. Furey, a teacher, in this student's life.

- [29] Beyond the impact on the particular student in this case, the Committee felt that conduct of this nature detrimentally affects students more generally. By engaging in this conduct, Mr. Furey damaged the reputation of all teachers in respect of their students – it is possible that other students learned of this relationship, or felt it would be appropriate or justified for teachers to engage in this action due to Mr. Furey’s conduct.
- [30] In addition to that, it is clear that the conduct was detrimental to the best interests of the public. The Committee noted that the role of a teacher is to act as a parent in the absence of the student’s actual parents while school was in session, and when conduct such as this occurs, it damages that relationship of trust between the public and teachers.
- [31] If the Committee did not act strongly to condemn Mr. Furey’s actions, which it feels it has done by the Recommendations of the Committee, the public’s perception of teachers generally would suffer and therefore, the Committee feels that a strong sanction is merited in order to ensure that the public is aware that this conduct is not condoned or tolerated.
- [32] Finally, this conduct has the possibility to detrimentally affect the best interests of teachers. Teachers are held to a high standard by the public, with good reason, because they are tasked with caring for very vulnerable members of our society: children. The reputation of all teachers, in this important role, is affected when one teacher chooses to cross boundaries like Mr. Furey.
- [33] It is very important for the Committee to ensure that the perception of teachers to the public is rehabilitated by a strong condemnation of the actions of Mr. Furey.

b. Section 26(1)(a)(ii) – Does not Meet the Professional Conduct Requirements

- [34] Although the behaviour of Mr. Furey that is the subject of this hearing would meet the criteria for unprofessional conduct under the last heading – given its extreme impropriety and its clear detrimental impact on multiple affected parties – the Committee wished to also make it clear that conduct does not meet the Professional Conduct Requirements found in the Regulation as well.
- [35] In a Schedule to the Regulation, there are the “Professional Conduct Requirements for Teachers and Teacher Leaders” (“the Requirements”). The Committee reviewed the Requirements and found multiple breaches committed by Mr. Furey, as set out below.
- [36] First, the Teacher in this case breached Requirement 1(c), which requires that teachers are required to teach “in a manner that respects the dignity and rights of all persons and is considerate of their circumstances” (Regulation, Schedule, 1(c)).
- [37] The Committee finds that Mr. Furey did not teach in a manner that was respectful of the dignity or the rights of the student in question, a [REDACTED] under his supervision and care. He took advantage of [REDACTED] naiveté and [REDACTED] inexperience in life, and should have known better. He was in a position of trust, and [REDACTED] was looking to him for guidance on proper conduct, religion and culture, and he breached [REDACTED] trust emotionally, psychologically and physically.
- [38] Second, the Committee found that Mr. Furey breached Requirement 5(a), which requires that a teacher is required “to conduct himself ... in a manner that maintains the dignity and honour of the profession” (Regulation, Schedule, 5(a)).

- [39] As expressed above, Mr. Furey’s conduct did not maintain the dignity and honour of the teaching profession. Engaging in an inappropriate relationship with any student, but in this case a minor student under his care, is an egregious act which stains the dignity and honour of the profession. It falls far below what is expected of teachers, who are expected to act in the place of parents in terms of providing attentive, respectful and dignified care to each student under their supervision.
- [40] Finally, the Committee finds that Mr. Furey’s conduct breaches Requirements 6(a) and 6(c) in that he did not conduct himself in a manner that “maintains the good reputation of the school and the employer” (Regulation, Schedule, 6(a)), nor did he conduct himself in a manner that “is respectful of the norms and values of the school community” (Regulation, Schedule, 6(c)).
- [41] Obviously, the conduct of Mr. Furey failed to maintain the good reputation of the school, his employer, in that his actions created a terrible breach of trust between the school and one of its students. His actions fall far below the standard expected of teachers teaching in Albertan schools, or Albertan accredited schools.
- [42] Secondly, Mr. Furey’s actions were not respectful of the norms and values of the school community. It is a foundational principle of all teachers that they ensure that they do not engage in romantic or sexual relationships with their students. This is a clear norm and value for all schools, and was present in the school community where Mr. Furey was employed. His conduct, which is the subject of this complaint, clearly breached this norm.

Part Three -- Recommendation to the Minister

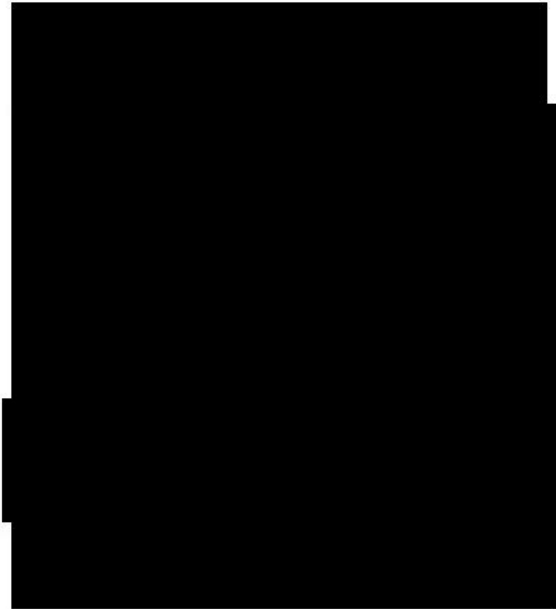
- [43] During this portion of the hearing, the Committee was presented with a Joint Recommendation for Penalty, signed by both the Registrar, [Name Redacted], and Mr. Furey (Exhibit #5, page 211).
- [44] The Committee listened to the submissions of the Registrar on the penalty being suggested to the Committee, including that this sanction expressed a significant period of ineligibility (10 years) and that this decision would be placed on Mr. Furey’s teacher file to be considered by the Minister if Mr. Furey ever sought to hold one or more certificates of qualification in the future.
- [45] In this case, the Committee feels that a sanction of the highest level is appropriate for this case, and the 10 year ineligibility period is appropriate and necessary to ensure the protection of the public, the specific deterrence for this teacher, and the general deterrence that other members of the profession do not act in this manner or think this conduct is acceptable or without consequence.
- [46] The Committee does acknowledge Mr. Furey’s involvement and compliance with the hearing and investigation process, and that he entered into an Agreed Statement of Facts and Joint Recommendation for Penalty, and views this as one mitigating factor which demonstrates that Mr. Furey is on the path to becoming accountable for his actions.
- [47] However, accountability aside, the Committee finds that the integrity of the teaching profession is paramount, and that teachers must be held to a very high standard of professional conduct. Students, minors and vulnerable to influence, are placed in teachers’ care, and in this case, that care was abused by Mr. Furey. He placed the student that is the

subject of this complaint in harm's way emotionally, physically and psychologically, and there must be an appropriately harsh penalty for that type of conduct.

[48] Therefore, the Committee recommends the following penalty to the Minister:

- a. An Order that Timothy Furey be ineligible for one or more certificates for a ten-year period, that is issued under the *Certification of Teachers and Teacher Leaders Regulation*, or any future regulation that should replace this regulation; and
- b. An additional condition be included: that the Minister's decision in this matter will be placed on Timothy Furey's teacher file in the Office of the Registrar at Alberta Education. The Minister's decision may be considered in determining Timothy Furey's suitability to ever hold one or more certificates of qualification in the future issued under the *Certification of Teachers and Teacher Leaders Regulation*, or any future regulation that should replace this regulation.

Dated at the City of Edmonton in the Province of Alberta on this 25th day of February 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


44 Capital Blvd., 10044 – 108 Street
Edmonton, Alberta T5J 5E6

Or submitted via email to:

EDC.Governance@gov.ab.ca