

THE ALBERTA TEACHERS' ASSOCIATION
REPORT OF THE HEARING COMMITTEE
OF THE PROFESSIONAL CONDUCT COMMITTEE
IN THE MATTER OF CHARGES OF UNPROFESSIONAL
CONDUCT AGAINST LUCAS DWAYNE HAYDEN

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Lucas Dwayne Hayden of [Location Redacted], were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada on Thursday, April 4, 2019.

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

[REDACTED]
assisted by Konni deGoeij. The investigated member, Lucas Hayden, was not present and was not represented by counsel.

COMPOSITION/JURISDICTION

There was no objection to the composition or the jurisdiction of the hearing committee.

CHARGES AND PLEA

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

1. Lucas Dwayne Hayden is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about April 13, 2018, criticized the professional performance of another teacher by sending a critical e-mail to the associate superintendent of [School Division Redacted], without first providing a copy of the e-mail to the teacher, thus contravening article 14 of the Code of Professional Conduct.
2. Lucas Dwayne Hayden is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about April 17, 2018, criticized the professional performance of teachers by sending critical e-mails to the superintendent of [School Division Redacted], and to other persons who were not the proper officials, therefore undermining the confidence of the public in the teaching profession, contravening the *Teaching Profession Act* article 23 (a)(iii) and article 14 of the Code of Professional Conduct.

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3. Lucas Dwayne Hayden is charged with unprofessional conduct pursuant to the *Teaching Profession Act*, in that he refused to cooperate with the investigating officer during the investigation and with the presenting officer in preparation for the professional conduct hearing, thus contravening article 26(4) of the *Teaching Profession Act*.

█ sought to amend Charge 2 by changing “e-mails” to the singular form, “e-mail.” The committee accepted the amendment and the amended Charge 2 is as follows.

2. Lucas Dwayne Hayden is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers’ Association, on or about April 17, 2018, criticized the professional performance of teachers by sending a critical e-mail to the superintendent of [School Division Redacted], and to other persons who were not the proper officials, therefore undermining the confidence of the public in the teaching profession, contravening the *Teaching Profession Act* article 23 (a)(iii) and article 14 of the Code of Professional Conduct.

In the absence of the investigated member, the chair directed a plea of not guilty to each of the charges.

The hearing committee was satisfied that Hayden had been served in accordance with the *Teaching Profession Act* and was aware of the investigation and hearing. The hearing committee exercised its authority under section 40 of the *Teaching Profession Act* to proceed with the hearing in Hayden’s absence.

WITNESSES

The presenting officer called as witnesses, from [School Division Redacted],

1. [Name Redacted], Associate Superintendent of Human Resources;
2. [Name Redacted], Superintendent of Schools; and
3. [Name redacted], Principal, [School Redacted].

EXHIBITS FILED

Exhibit 1—Notice of hearing and Canada Post confirmation of delivery on February, 22, 2019

Exhibit 2—Alberta Teachers’ Association record confirming most recent address of Hayden

Exhibit 3—Letter from █ to Hayden re amendment of Charge 2, dated February 27, 2019

Exhibit 4—Statement of charges including amended Charge 2

Exhibit 5—Proof of Hayden’s membership in the Alberta Teachers’ Association

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Exhibit 6—E-mail from Hayden to [Name redacted], copied to [Name redacted], dated April 13, 2018

Exhibit 7—E-mail from Hayden to [Name redacted], copied to an Alberta government address, re fundraising and selling of goods at [School Redacted], dated April 17, 2018

Exhibit 8—Package of seven (7) e-mails and correspondence.

- 8.1 E-mail thread between Hayden and [Name redacted], secretary in the office of the investigating officer, [Name redacted], about efforts to send documents to Hayden, dated June 28, 2018
- 8.2 E-mail from [Name redacted] to Hayden advising that previously-mailed documents are attached, dated July 19, 2018
- 8.3 Attachment to e-mail sent July 19, 2018. Attachment is the notification of a request for investigation and instructions for Hayden, dated May 31, 2018
- 8.4 E-mail from Hayden to [Name redacted] acknowledging receipt of the July 19, 2018 e-mail and stating his desire not to receive any contact from the Association in the future and that he has refused to open the attachment to the e-mail, dated July 19, 2018
- 8.5 Letter to Hayden from [Name Redacted], acknowledging receipt of Hayden's e-mails, and outlining elements of the *Teaching Profession Act*, and Hayden's obligations under the act, dated October 9, 2018
- 8.6 E-mail from [Name redacted] to Hayden, including an attached copy of a time-sensitive letter indicating that the letter was undeliverable via Canada Post, dated October 12, 2018
- 8.7 E-mail from Hayden to the executive secretary, [Name Redacted], copied to [Name redacted], advising that he will represent himself at any proceeding and requesting clarification of the process/jurisdiction, dated January 4, 2019

Exhibit 9—E-mail from Hayden to [Name redacted], copied to the Association's membership e-mail account, threatening the Association with legal action if the Association continues to attempt to contact him, dated January 23, 2019. E-mail included an attachment of a screenshot identifying [Name Redacted] as "[Name redacted]"

Exhibit 10—E-mail from Hayden to the membership account and [Name Redacted] and [Name redacted], featuring emojis, exceptionally large font and bolded phrases, threatening the Association, dated February 1, 2019

Exhibit 11—E-mail from [Name redacted] to [Name Redacted], coordinator of Member Services, forwarding an e-mail received from Hayden, featuring emojis, exceptionally large font, bolded phrases and underlined words, threatening the Association, dated January 29, 2019

Exhibit 12—[Location Redacted] document [Name Redacted], dated December 13, 2017, describing the findings of guilt and assessment of penalty against Hayden in a Discipline Committee hearing,

Exhibit 13—List of precedent cases

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED THAT:

1. Service of notice of this hearing on Hayden was effected in compliance with the *Teaching Profession Act*.
2. Hayden did not claim the registered letter serving notice of hearing. (Exhibit 1)
3. In accordance with the *Teaching Profession Act* section 64(a), the notice of hearing was sent to Hayden by registered mail to the address last shown for him on Association records. (Exhibit 2)
4. The exhibits demonstrate that a number of attempts were made to e-mail documents to Hayden about the discipline process. Hayden was asked to provide an alternative address for delivering the documents but refused to do so (Exhibit 8). Given that Hayden refused to provide a mailing address, the Association e-mailed him the documents about the investigation. He responded that he was refusing to open any attachments, indicated that he did not want to be contacted by the investigating officer and indicated that the Association had no right by law to contact him (Exhibit 8).
5. [Name redacted] said she spoke to Hayden on January 28, 2019, by telephone and attempted to explain process. Hayden advised that the conversation was not being recorded and hung up the phone on [Name Redacted]. [Name Redacted] explained that Hayden was aware that there was an upcoming hearing.
6. During the time of the incidents that gave rise to the charges, Hayden was a teacher employed by [School Division Redacted], at [School Redacted].
7. Hayden was a member of the Alberta Teachers' Association from January 1, 2018 to May 31, 2018 and from November 1, 2018 to April 4, 2019. (Exhibit 5)

Charge 1

8. [Name Redacted] is the associate superintendent of Human Resources with the school division and was so at the time of the incident.
9. [Name redacted] is the principal of [School Redacted], and was so at the time of the incident.
10. [Name redacted] knew Hayden from being involved in hiring Hayden and in Hayden's relocation to [School Redacted].
11. [Name Redacted] said he received an e-mail from Hayden on April 13, 2018. (Exhibit 6)
12. [Name Redacted] confirmed that the e-mail was copied to [Name Redacted]. (Exhibit 6)

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13. [Name redacted] met with Hayden on April 24, 2018, during which Hayden stated that the e-mail was his way of raising his concerns and that Hayden had never indicated that he had spoken to [Name Redacted] prior to sending the e-mail. This was confirmed by [Name Redacted].
14. In his e-mail to [Name Redacted] and [Name Redacted], Hayden wrote that he had been spoken to unprofessionally and abruptly and had been manipulated and lied to by [School Redacted] administration staff. Hayden made critical comments about the delivery of school activities, and accused administration staff of putting students at risk. Hayden went on to comment that his reputation is being damaged and that failure of the school division to act would cause him to press the issue further. Hayden suggested that administration staff seek legal advice before entering a meeting with Hayden. (Exhibit 6)
15. In his e-mail to [Name Redacted], Hayden threatened further legal action in accordance with the Alberta Canadian Labour Law [sic], Alberta *School Act*, Alberta *OH&S Act*, Regulation and Code.
16. [Name Redacted] said that Hayden's complaints were an inaccurate descriptor of [Name Redacted]
17. [Name Redacted] testified that [gender redacted] was blindsided by the e-mail and never knew that Hayden felt this way or had these concerns. Hayden did not speak to [Name Redacted] about these issues prior to the mail being sent.
18. [Name Redacted] commented that [Gender Redacted] thought the working relationship with Hayden was fine. [Name Redacted] felt that Hayden did a good job teaching.
19. [Name Redacted] testified via Skype as [gender redacted] was out of the country at the time of the hearing.[Gender Redacted] was visible on a large screen and was clearly heard and identified.

Charge 2

20. [Name Redacted] is the superintendent of schools for [School Division Redacted].
21. [Name Redacted] testified that Hayden was known to [gender redacted].
22. [Name Redacted] testified that the April 17, 2018 e-mail from Hayden to [Name Redacted], copied to [Email Address Redacted], was an e-mail address that [Name Redacted] was unfamiliar with. [Name Redacted] believed that the content of the e-mail was not previously discussed with [Name Redacted].
(Exhibit 7)
23. Hayden wrote comments in his e-mail that were critical of the practice of his teacher colleagues. (Exhibit 7)
24. Hayden wrote in his e-mail that teachers have been illegally selling goods and services on school property, referencing candy, baked goods, and ice cream. Hayden also referenced the

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distribution of peanut butter and cited that this could be threatening to visitors with allergies. Hayden wrote of students providing free labour without compensation and concerns about taxation obligations for the school. (Exhibit 7)

25. Hayden indicated that he believed these issues were in contravention of the collective agreement. (Exhibit 7)
26. [Name Redacted] characterized the activities of the school as a collaborative approach to do something for the benefit of the students and community.
27. [Name Redacted] stated that [gender redacted] was seeing this e-mail for the first time while providing [gender redacted] testimony. [Name Redacted] added that Hayden had never spoken to [gender redacted] previously about these concerns. [Name Redacted] said that [Gender Redacted] was routinely available and Hayden would have had many chances to speak with [Gender Redacted] in person about his concerns. (Exhibit 7)
28. [Name Redacted] testified that Hayden had previously e-mailed [gender redacted] directly with concerns about other issues including personal days, report cards, and an Easter egg hunt.

Charge 3

29. [Name Redacted] is a secretary/receptionist in the [association redacted]
30. [Name Redacted] was the investigating officer assigned to investigate the complaint against Hayden.
31. [Name Redacted] acting on behalf of [Name Redacted], sent a series of e-mails to Hayden in which [Gender Redacted] attempted to convey Hayden's obligations under the *Teaching Profession Act*. [Name Redacted] also included copies of documents and correspondence that were sent to Hayden via registered mail and returned to the Association unopened. (Exhibits 8.1 to 8.6)
32. Hayden e-mailed [Name Redacted] repeatedly, stating his objection to the Association's process and expressing his unwillingness to cooperate with [Name Redacted] investigation. (Exhibit 8.1 to 8.6)
33. Hayden's responses escalated and became more belligerent and threatening with each e-mail he sent to [Name Redacted]. Hayden used language throughout his e-mails that intimated he has legal knowledge. (Exhibits 8.1 to 8.6)
34. Hayden asked that he no longer be contacted in any manner by the Association. (Exhibit 8.4)
35. On January 4, 2019, Hayden e-mailed [Name Redacted] and [Name Redacted]. The e-mail indicated that Hayden would be representing himself at the hearing, which he wrongly identified as a Provincial Court hearing. Hayden's e-mail demonstrated other inaccuracies when he asked

about who would be the judge and the Crown. Hayden continually referred to himself in the third person. Hayden threatened the Association with legal actions and legal repercussions, but did not identify what those legal repercussions would or could be. (Exhibit 8.7)

36. On January 23, 2019, Hayden e-mailed [Name Redacted]. The e-mail was largely incoherent. Hayden threatened legal action and prosecution of the Association in court. Hayden attached a screen capture of a phone record of a call from the Association and a person identified as “[Name Redacted]”(Exhibit 9)
37. On February 1, 2019, Hayden e-mailed [Name Redacted] and [Name Redacted]. This e-mail was largely incoherent. The e-mail featured bolded and enlarged text, colour changes, and extensive use of emoticons. Hayden accused the Association of using a collective agreement to cause harm cognitively and emotionally, to kill, and to cause the onset of mental illnesses to Canadian citizens. Hayden further wrote that the ATA collective agreement infringes on Canadian equality rights, and violates other Canadian law. Hayden added that the Association cannot create its own governing body and use it to harm Canadian citizens. (Exhibit 10)
38. On January 29, 2019, [Name Redacted]forwarded to [Name Redacted] and [Name Redacted] an e-mail from Hayden from the same date. Hayden’s e-mail indicated that he had been in contact with [Name Redacted] at the Alberta Law Society. The e-mail also featured bolded text and enlarged text, colour changes, and continued use of emoticons. (Exhibit 11)
39. At no point in any of his written communication did Hayden indicate that he was willing to participate in the investigation of his alleged unprofessional conduct. Hayden instead threatened legal action against the Association and its officers.

Credibility

[Name Redacted]testified via video Skype from [Location Redacted]. [Name Redacted] has been the associate superintendent of Human Resources of [School Division Redacted] for eight years, including the period of Hayden’s employment by the school division. [Gender Redacted] sounded professional. When asked, [Name Redacted]readily volunteered [Gender Redacted] experience in [Gender Redacted] current role. [Gender redacted] was knowledgeable about the incident in question, was fully prepared for [Gender Redacted] testimony and spoke confidently. [Gender Redacted] was very aware of the exhibits, spoke only to the questions [Gender Redacted] was asked and did not demonstrate bias. There were no inconsistencies in [Gender Redacted] testimony.

[Name Redacted] has been superintendent of [School Division Redacted] for two-and-a-half years, including the period of Hayden’s employment by the school division. [Name Redacted] appeared comfortable and made eye contact with committee members and others in the hearing room. [Name Redacted] had confidence in [Name Redacted] to manage the file. [Gender Redacted] did not demonstrate bias. There were no inconsistencies in [Gender Redacted] testimony.

[Name Redacted] has been principal of [School Redacted] for two years, including the period of Hayden’s assignment to [School Redacted]. [Name Redacted] was soft spoken and appeared nervous.

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[Gender Redacted] was able to clearly recall that [Gender Redacted] had not been privy to any of the concerns that Hayden had raised in his e-mails. [Name Redacted] did not speak negatively about Hayden's teaching practice. There were no inconsistencies in [Gender Redacted] testimony.

The hearing committee found all three witnesses to be credible.

DECISION OF THE HEARING COMMITTEE

Charge 1—Guilty

Charge 2—Guilty

Charge 3—Guilty

REASONS FOR DECISION

Charge 1

1. Hayden sent an e-mail to the associate superintendent of Human Resources that was critical of his principal, without first notifying the principal of his concerns.
2. By failing to provide his principal with advance notice of his concerns prior to raising the matter with a central office official, Hayden contravened article 14 of the Code of Professional Conduct.
3. Teachers are expected to adhere to the Code of Professional Conduct when making criticisms of other teachers and advancing those criticisms to proper officials, which Hayden failed to do.

Charge 2

4. Hayden sent an e-mail to the superintendent of schools and other persons who were not proper officials, in which Hayden was critical of his teaching colleagues. This e-mail was sent without first notifying his colleagues of his concerns.
5. By failing to provide his colleagues with advance notice of his concerns prior to raising the matter with a central office official, Hayden contravened article 14 of the Code of Professional Conduct.
6. By sending the critical e-mail to an outside agency [Email Redacted] Hayden communicated his concerns without first providing the teachers with a copy of the report, thereby undermining the confidence of the public in the teaching profession. This was in contravention of article 23 (a)(iii) of the *Teaching Profession Act*.

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7. Teachers are expected to adhere to the Code of Professional Conduct when making criticisms of other teachers and advancing those criticisms to proper officials, which Hayden failed to do.
8. Teachers have a duty to uphold the public's confidence in the teaching profession, which Hayden failed to do.

Charge 3

9. Hayden repeatedly communicated to Association officials that he was refusing to cooperate with the investigating officer, thus contravening article 26(4) of the *Teaching Profession Act*.
10. Hayden repeatedly communicated to Association officials that he was refusing to cooperate with the presenting officer, thus contravening article 26(4) of the *Teaching Profession Act*.
11. In communication with Association officials, Hayden threatened Association officials and the Association in general.
12. In communication with Association officials, Hayden made a mockery of the process by his nonsensical statements and his use of inappropriate written text.

SUBMISSION ON PENALTY

[Name Redacted] submitted documentation from the [Association Redacted] that indicates Hayden was previously found guilty of four violations of unprofessional conduct as a teacher in the [Location Redacted]. The nature of Hayden's conduct in the [Location Redacted] was similar in nature to Charge 1 and Charge 2 in this proceeding. The [Name Redacted] Executive Committee imposed sanctions including a three-month suspension of Hayden's membership in the [Name Redacted], effective the first day of any future active [Name Redacted] membership. The violations were committed in the fall of 2016 and the summary of the decision was published on December 13, 2017. (Exhibit 12)

[Name Redacted] highlighted Hayden's e-mails to district officials and others who were not proper officials, in which he was critical of his colleagues, and the fact that Hayden had failed to provide prior notice of his concerns to his colleagues.

[Name Redacted] cited the [Name Redacted] decision as evidence that Hayden's behaviour while employed by [School Division Redacted] was repeat behaviour. [Name Redacted] also noted that the behaviour in the [Location Redacted] occurred only a short time prior to the behaviour in question in this proceeding.

[Name Redacted] spoke to the fact that Hayden had prior teaching experience. His actions also created an unnecessary burden for school division staff. Hayden's actions had the potential to undermine public confidence in the teaching profession.

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[Name Redacted] said Hayden had not taken any responsibility for his actions, nor did he demonstrate remorse. Hayden refused to participate in the process from the onset of the investigation through to the hearing. Hayden mocked the process and failed to acknowledge the authority of the Association to discipline its members. Hayden threatened the Association and its officers with legal action.

[Name Redacted] also cited the previous three-month suspension levied by the [Name Redacted].

[Name Redacted] cited a number of precedent cases dealing with Charges 1 and 2, and also Charge 3 separately. (Exhibit 13)

Corsi recommended the following penalties be imposed on Hayden:

1. For Charge 1 and Charge 2—a letter of severe reprimand to address both charges
2. For Charge 3—six-month suspension of membership in the Association and a recommendation to the minister of education to suspend Hayden's certificate for six months.

PENALTY

The hearing committee imposed the following penalties:

Charge 1

- a letter of severe reprimand and
- a fine of \$500, payable within 60 days of Hayden's receipt of the written decision of the hearing committee. Failure to comply will result in Hayden being suspended from membership in the Alberta Teachers' Association.

Charge 2

- a letter of severe reprimand and
- a fine of \$500, payable within 60 days of Hayden's receipt of the written decision of the hearing committee. Failure to comply will result in Hayden being suspended from membership in the Alberta Teachers' Association.

Charge 3

- suspension of membership in the Association until August 31, 2020, effective immediately,
- a recommendation to the minister of education that Hayden's teaching certificate be suspended until August 31, 2020 and
- a fine of \$3000, payable within 60 days of Hayden's receipt of the written decision of the hearing committee. Failure to comply will result in Hayden being suspended from membership in the Alberta Teachers' Association.

REASONS FOR PENALTY

1. A teacher criticizes the professional competence of another teacher only in confidence to proper officials and only after the other teacher has been informed of the criticisms. Hayden failed to fulfill this requirement on two separate occasions by failing to notify the other teacher prior to notifying a proper official of the concerns.
2. A teacher criticizes the professional competence of another teacher only in confidence to proper officials and only after the other teacher has been informed of the criticisms. Hayden expressed concern about colleagues to a person who was not a proper official.
3. Hayden demonstrated contempt for the Association by failing to respond to phone calls and letters from the Association and to receive documentation from the Association. Imposing a penalty consisting solely of a letter of reprimand would afford Hayden another opportunity to ignore Association correspondence. The imposition of a fine does not permit Hayden to ignore documentation from the Association without further consequences.
4. In 2016, Hayden was found guilty of similar charges by a sister teacher organization in Canada.
5. Hayden repeatedly refused to recognize the authority of the Association to investigate and prosecute its members under the *Teaching Profession Act*.
6. Hayden demonstrated contempt and derision towards the Association and its policies, processes and procedures.
7. Hayden deliberately tried to frustrate the Association as it carried out its work.
8. Hayden demonstrated ungovernability when he refused to accept the authority of his governing body to examine his conduct, leading to much higher sanctions than normal. A core tenet of professionalism is the willingness to account to one's peers through the professional discipline process. The history of communications by Hayden demonstrates ungovernability. Hayden engaged in the following specific conduct with respect to ungovernability:
 - a) failed to cooperate in any way with the investigation and hearing;
 - b) refused to provide an address for delivery;
 - c) refused to open an attachment to e-mails including documents about the discipline process;
 - d) proclaimed that the Association has no legal right to contact him using any form of communication;
 - e) claimed that any hearing must be in the Provincial Court;
 - f) claimed that without the information requested there cannot be any hearing in which his client "Lucas Hayden" needs to attend;
 - g) threatened the executive secretary with possible charges and legal repercussions;

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- h) when contacted by an executive staff officer about the hearing, claimed that there is no such thing that governs a person with any form of authority;
 - i) claimed that the executive staff officer must be represented by a lawyer;
 - j) claimed that only a lawyer can be assigned to such actions;
 - k) threatened the executive secretary that the ATA could be prosecuted in court for pretending to be officers of the law;
 - l) asserted that the "ATA Collective Agreement" is causing harm cognitively, emotionally and causing the onset of mental illness;
 - m) claimed that the Association does not have a right to exist as a governing body;
 - n) claimed that the Association is not entitled to regulate its own laws against teachers;
 - o) claimed that the Association has no right to hold a hearing;
 - p) threatened the executive secretary that he could face charges and be subjected to life in prison; and
 - q) claimed that hearings can only be held with proper authorities involving police officers or RCMP officers, paralegals or lawyers, and "Crowns."
9. Hayden's pattern of repeated behaviour towards the authority of the Association and its officers demonstrated ungovernability.
10. Hayden's recent prior conviction of unprofessional conduct, and his repeat behaviour in this matter demonstrated a lack of understanding of the impact of his actions.
11. Hayden's prior teaching experience shows that Hayden is not an inexperienced teacher. Hayden has an obligation to be aware of his professional responsibilities. The prior charges, convictions and sanctions imposed on him by the [Name Redacted] should have made Hayden more keenly aware of these responsibilities.
12. The penalty reflects the precedent cases referenced by the presenting officers and appropriately elevates the penalty from those recommended for similar behaviour, due to the fact that Hayden is a repeat offender and that Hayden showed a blatant disregard for the Association's authority and process.
13. The penalty needs to be significant in order to act as a true deterrent for others who may wish to obstruct and obfuscate the Association's professional conduct process.
14. The committee was unable to consider any potential mitigating factors due to Hayden's refusal to participate in the process.
15. There was a need to consider the potential impact on the public and the teaching profession when a member wantonly disregards the Association's professional conduct process.

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16. Hayden's prior and continued behaviour caused the committee to lack confidence in his future behaviour and actions. The penalty must reflect this and send a clear message that this unprofessional behaviour was truly unacceptable.

Dated at the City of Edmonton in the Province of Alberta, Thursday, May 9, 2019.

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

