

THE ALBERTA TEACHERS' ASSOCIATION  
DECISION OF THE HEARING COMMITTEE  
OF THE PROFESSIONAL CONDUCT COMMITTEE  
IN THE MATTER OF CHARGES OF UNPROFESSIONAL  
CONDUCT AGAINST RACHELLE CHANTAL ALICE NAMCHUK

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that charges of unprofessional conduct laid against Rachelle Chantal Alice [Location Redacted], were duly investigated in accordance with the *Teaching Profession Act*. The hearing was held online via video conference on Monday, March 6, 2023, at 9:00 AM.

The participants were

1. Professional Conduct Committee members appointed as the hearing committee, [Name Redacted], [Name Redacted] and [Name Redacted];
2. counsel to the hearing committee, [Name Redacted] of [Name Redacted];
3. secretary to the hearing committee, [Name Redacted];
4. administrative secretary to the hearing committee, [Name Redacted]; and
5. presenting officer, [Name Redacted].

The investigated member, Rachelle Namchuk, was not present and was not represented by counsel.

One observer attended via video conference and verbally confirmed they would not make a recording of the hearing.

COMPOSITION/JURISDICTION

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

CHARGES AND PLEA

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

1. Rachelle Chantal Alice Namchuk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that Namchuk, while a member of the Alberta Teachers' Association, in the spring of 2021, engaged in text communications with a student that were inappropriate to the teacher-student relationship, thus failing to maintain the honour and dignity of the profession.

2. Rachelle Chantal Alice Namchuk is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that Namchuk, while a member of the Alberta Teachers' Association, during the approximate period of October 2021 to February 2022, engaged in text communications with a student that were inappropriate to the teacher-student relationship, thus failing to maintain the honour and dignity of the profession.

The investigated member entered a plea of guilty to the charges by written submission.

### WITNESSES

There were no witnesses called.

### EXHIBITS FILED

Exhibit 1—Notice of hearing and Canada Post confirmation of delivery on February 10, 2023  
Exhibit 2 Declaration of rights, signed by Namchuk, dated February 6, 2023  
Exhibit 3 Submission on plea, signed by Namchuk, dated February 6, 2023  
Exhibit 4 Agreed statement of facts, signed by Namchuk and [Name Redacted], dated February 6, 2023  
Exhibit 5 Joint submission on penalty signed by Namchuk and [Name Redacted], dated February 6, 2023

### PRELIMINARY ISSUE

1. As Namchuk was not present at the hearing, [Name Redacted] brought an application to proceed in her absence per section 40 of the *Teaching Profession Act* (TPA).
2. In support of this application, [Name Redacted] entered the Notice of Hearing and Canada Post confirmation as Exhibit 1 and the declaration of rights as Exhibit 2.
3. The TPA permits a hearing committee to proceed with the hearing in the absence of the investigated person on proof of service in accordance with the TPA.
4. The TPA states that a document is served on a person if it is sent to that person by registered mail to the address last shown for that person in the records of the association.
5. The hearing committee considered the evidence and was satisfied that service was proven, as the notice of hearing was sent to Namchuk's last shown address.
6. Further, the hearing committee considered that Namchuk acknowledged:
  - a. she had the right to a full evidentiary hearing but chose to proceed with an agreed statement of facts,

b. she had the right to speak to penalty and chose to proceed with a joint submission on penalty and

c. she had a right to attend the hearing but chose not to attend.

(Exhibit 2)

7. When all the evidence was considered, the hearing committee was satisfied that Namchuk was aware of the hearing and the allegations against her in advance of the hearing and made an informed decision not to attend.
8. Using its authority per section 40 of the TPA, the hearing committee chose to proceed with the hearing in the absence of Namchuk.

#### EVIDENCE ADDUCED AND EXHIBITS FILED INDICATED

1. Namchuk taught at [School Redacted], the [School Division Redacted], from September 2015 to February 2022. Namchuk was the teacher responsible for the [subject redacted]. (Exhibit 4)
2. Namchuk was an active member of the Alberta Teachers' Association during this period. (Exhibit 3)
3. [Name Redacted], principal, [School Redacted], contacted [Name Redacted], acting superintendent, about an email dated January 26, 2022, that [gender redacted] had received from a parent concerning texts that Namchuk had sent to Student A. (Exhibit 4)
4. The e-mail was in the form of a letter, and the signature line listed four parents. All four parents were concerned with the content of texts sent from Namchuk to Student A. The parents attached copies of texts dated October 2021 to February 2022. (Exhibit 4)
5. [Name Redacted], during [gender redacted] conversation with [Name Redacted], indicated that [gender redacted] had previously sent Namchuk a letter of reprimand dated May 4, 2021, related to Namchuk sending texts to Student A in the spring of 2021. (Exhibit 4)
6. [Name Redacted] directed the [School Division Redacted] to investigate Namchuk's texts for both time periods. [Name Redacted] assigned [Name Redacted], a retired former associate superintendent, to investigate. (Exhibit 4)
9. In a letter dated January 26, 2022, [Name Redacted] advised Namchuk that she was being placed on suspension with pay while the investigation was being conducted. (Exhibit 4)
10. On February 8, 2022, Namchuk met with [Name Redacted] to discuss the allegations and investigation. During that meeting, Namchuk acknowledged texting Student A and later entered into an agreement to resign from her teaching position with the [School Division Redacted]. (Exhibit 4)

11. [Name Redacted] provided [Name Redacted] with a summary of [gender redacted] investigation in a letter dated February 8, 2022. [Name Redacted] concluded that Namchuk sent text messages to Student A during both time periods under investigation and there was sufficient evidence that the text messages were inappropriate for a teacher-student relationship. (Exhibit 4)

12. [Name Redacted] concluded [gender redacted] letter stating:

... it is my determination that R. Namchuk's continued pattern of unprofessional conduct is detrimental and fails to treat students with the respect and dignity they deserve. Her behaviour has the potential to harm the standing of the profession and contravenes the *Teaching Profession Act* (2021) Section 23.

(Exhibit 4)

### **Facts related to Charge 1**

7. On April 25, 2021, [Name Redacted] received two e-mails from the mother of Student A. (Exhibit 4)

8. Student A's mother was concerned about what she viewed as inappropriate text messages that Namchuk had sent to Student A. (Exhibit 4)

9. Namchuk and Student A began communicating in spring 2021, both through texting and Instagram. (Exhibit 4)

10. The texts between Namchuk and Student A involved discussions related to Student A's mother's commitment to Student A's [sport redacted] and the mother's level of support and interest in [sport redacted]. (Exhibit 4)

11. Namchuk made comments to Student A that Student A should tell [gender redacted] parents how much [gender redacted] loved [sport redacted] as Student A's mother did not appear "to be ready to be a hard-core [sport redacted] mom." (Exhibit 4)

12. Namchuk also asked Student A to speak to [gender redacted] parents about the time they spent watching Student A's sibling play [sport redacted], thereby intimating that the parents should treat both activities in the same way. (Exhibit 4)

13. Student A's mother saw the texts as undermining her in her role as a parent. (Exhibit 4)

14. [Name Redacted] issued Namchuk a letter of reprimand dated May 4, 2021, related to the inappropriate texts that Namchuk had sent to Student A. The letter of reprimand included the following statements:

On April 23, 2021, it was brought to my attention that you have been messaging students regarding parent commitments to being involved in [sport redacted]. Text messaging

students directly is an inappropriate form of communication and the messages sent crossed the line of professional communication.

... Please be advised that you are directed to not message students regarding non-academic information, to not give any student a ride in a personal vehicle and asked to adhere to the extra-curricular program guidelines from [School Division Redacted] Re-entry plan.

Should these behaviours continue, this matter may be referred to the office of Superintendent/CEO.

(Exhibit 4)

15. Namchuk acknowledged that in the communications, she discussed Student A's relationship with [gender redacted] parents. The conversations included comments as to how Student A's parents were not as invested in Student A's [sport redacted] as Namchuk's family had been. Namchuk had compared her experiences with her own family to the experiences of Student A. (Exhibit 4)
16. Namchuk acknowledged that Student A's parents, after reading the texts, were offended because they felt that the texts made them look like bad parents. (Exhibit 4)
17. Namchuk acknowledged that her communications with Student A were inappropriate for a teacher student relationship. (Exhibit 4)
18. At a meeting, Namchuk apologized to the parents and stated that she understood how they felt. (Exhibit 4)
19. Following this meeting, [Name Redacted] told Namchuk that Namchuk was not to communicate with Student A via texts or through social media. (Exhibit 4)

#### **Facts related to Charge 2**

20. Namchuk curtailed her communications with Student A for the remainder of the 2020/21 school year after receiving the letter of reprimand from [name redacted]. However, she resumed communications during the 2021/22 school year. (Exhibit 4)
21. In October 2021, Student A asked Namchuk if Namchuk would speak with [gender redacted] about struggles [gender redacted] were having with a friend. (Exhibit 4)
22. Namchuk agreed to engage in conversations either after school or during the lunch hour. The conversations took place at least twice a week. (Exhibit 4)
23. In early November 2021, Student A asked Namchuk if [gender redacted] could speak with Namchuk about an emergent family matter. (Exhibit 4)



24. Namchuk stated that when Student A began crying, "I let my guard down and I told [Student A] that [gender redacted] could text me if [gender redacted] needed to talk." (Exhibit 4)
25. Near the end of November 2021, Namchuk and Student A's mother began communicating and Namchuk interpreted from that communication that Student A's mother was no longer upset about the prior incident. Therefore, Namchuk felt she did not "need to be so guarded" in her relationship with Student A, which contributed to Namchuk reengaging with the student. (Exhibit 4)
26. In January 2022, Student A began texting Namchuk about difficulties [gender redacted] had had with [gender redacted] friend, Student B. (Exhibit 4)
27. On January 26, 2022, [Name Redacted] received an e-mail from the parent of Student B that was signed by the parents of Student A and Student B. (Exhibit 4)
28. Student B's parents' concerns were that Namchuk:
  - 1) discussed with Student A the marks and performance of at least three other students without their consent;
  - 2) made derogatory, personal comments about other students with no discretion;
  - 3) plotted with Student A to embarrass and bully another student;
  - 4) modelled toxic behaviour to children in her care; and
  - 5) personally contacted a minor after specifically being warned against doing so by a parent or guardian and her employer.(Exhibit 4)
37. Following are text message excerpts:
  - a. Namchuk, in response to Student A's concerns about [gender redacted] peer's lack of commitment to [sport redacted], wrote, "Not gonna lie. I kind of hope neither of these [students] join [sport redacted] next year. I'm done with the attitude [referenced students]."
  - b. Namchuk also texted a statement that the two students were refusing to [sport redacted] and were trying to make Student A look dumb given Student A's attempts to expand [gender redacted] [sport redacted] .
  - c. Namchuk, in reference to Student B and another student, wrote to Student A, "It will show when it comes to [sport redacted]. I just can't handle those two anymore. Very frustrating."

- d. In response to Student A texting that upon their return [gender redacted] would have students bully Student B all day, Namchuk wrote, "Hahaha. You're evil," with a smiling emoji.
- e. In response to Student A texting about a student skipping Namchuk's [subject redacted] class, Namchuk wrote, "I emailed [gender redacted] mom about [gender redacted] extensive bathroom breaks," followed with a smiling emoji.
- f. In response to Student A texting about timing of another student's bathroom breaks, Namchuk responded, "I'm ready to embarrass [gender redacted] in front of the class at this point."
- g. In response to Student A's complaint about Student B being let off the hook when [gender redacted] did not perform [sport redacted], Namchuk responded, "Uum I marked [gender redacted] as failed last time. So [gender redacted] didn't get off the hook."
- h. In response to Student A texting about who another student would be paired off with for [sport redacted] Namchuk responded, "[Student B]. I don't want to doom anyone else with those two," followed by a smiling emoji.
- i. Namchuk texted Student A that Namchuk had contacted the parents of the student involved.
- j. Namchuk texted Student A the following comments about one of Student A's peers, "Honestly though don't let [gender redacted] take credit for a project that is not [gender redacted], that is not fair to you and [gender redacted] needs to pull up [gender redacted] socks. Sadly it seems [[gender redacted] don't] care at all about [gender redacted] academics this year."

(Exhibit 4)

- 38. Namchuk acknowledged stating to Student A that Student B was not making good choices, was doing poorly academically and was failing Namchuk's [subject redacted] class. (Exhibit 4)
- 39. Namchuk acknowledged that she made the mistake of telling Student A that she would embarrass Student B in class. (Exhibit 4)
- 40. Namchuk acknowledged that her text comments to Student A crossed the line when Namchuk made comments to Student A as a friend, rather than comments a teacher would make. (Exhibit 4)

#### DECISION OF THE HEARING COMMITTEE

Charge 1 guilty  
Charge 2 guilty

### REASONS FOR DECISION

1. After reviewing Exhibits 3, 4 and 5, the hearing committee accepted that the allegations were factually proven and amounted to unprofessional conduct.
2. There is ample evidence that Namchuk sent text messages to Student A and that the content of the text messages was not appropriate for the teacher-student relationship. The evidence included copies of the text messages and Namchuk's admission that the conduct had occurred.
3. The hearing committee finds that the conduct as outlined in the charges is proven.
4. The hearing committee then considered whether the proven conduct amounted to unprofessional conduct.
5. It is inappropriate and unprofessional for a teacher to maintain student contact information in their personal devices, to discuss with a student the academic performance or behaviour of another student and to communicate with a student in a way that undermines the role of a parent.
6. The hearing committee noted that Namchuk had already received guidance and direction that the proven conduct was unprofessional.
7. Despite receiving the letter of reprimand from [Name Redacted] directing Namchuk not to communicate with students via text, Namchuk participated in inappropriate text conversations with Student A that were both elevated and concerning.
8. Namchuk admitted that her conduct amounted to unprofessional conduct and that she had failed to maintain the honour and dignity of the profession.
9. For these reasons, the hearing committee is satisfied that the allegations amount to unprofessional conduct under section 23 of the TPA.

### SUBMISSION ON PENALTY

The parties submitted a joint submission on penalty (Exhibit 5) that recommended the following:

1. a single letter of severe reprimand for both charges; and
2. a fine of \$500 on the first charge and a fine of \$1,200 on the second charge, for a total fine of \$1,700, to be paid within three months after the Professional Conduct Committee hearing decision has been announced. Failure to pay the fine within this time frame will result in a suspension of Association membership.



The presenting officer and investigated member acknowledged the hearing committee is not bound by their joint submission on penalty. (Exhibit 5)

### PENALTY

The hearing committee ordered the following penalty:

1. Charge 1 and Charge 2 a single letter of severe reprimand for both charges,
2. Charge 1 a fine of \$500 and
3. Charge 2 a fine of \$1,200.

The total fine of \$1,700 is to be paid within three months after the Professional Conduct Committee hearing decision has been announced. Failure to pay the fine within this time frame will result in suspension of Namchuk's Association membership until the fine is fully paid.

### REASONS FOR PENALTY

1. The hearing committee acknowledged the high threshold for rejecting a joint submission as outlined in the Supreme Court of Canada case, *R v Anthony-Cook* and as endorsed in *Bradley v Ontario College of Teachers*. The hearing committee should not depart from a joint submission on sanction unless the proposed penalty would bring the administration of justice into disrepute or would be contrary to the public interest.
2. The hearing committee then considered the factors, as outlined by [Name Redacted], to determine whether the joint submission met that test.
3. The hearing committee considered the following factors to be aggravating:
  - a. The proven conduct against Namchuk did not rise to the level expected of a professional and is in the serious range of conduct, which suggests a significant penalty is warranted.
  - b. Namchuk is an experienced teacher. The more experienced the investigated member is, the more serious the penalty should be.
  - c. Namchuk was reprimanded by her employer and directed to cease text messaging with students. Despite this, she failed to adhere to this directive and escalated the content of her messaging with a student.
4. The hearing committee considered the following factors to be mitigating:
  - a. Namchuk had not been previously disciplined by the Association. The lack of prior complaints or convictions is a mitigating factor on penalty.

- b. Namchuk was cooperative during the investigations of both the employer and the Association.
  - c. Namchuk, because of her actions, resigned her teaching position with the [school division redacted]. Therefore, she has suffered some additional consequences for these actions.
5. The hearing committee also considered that the penalty must be at a threshold to deter others in the profession from engaging in similar behaviour(s) of unprofessional conduct. The penalty of a letter of severe reprimand and a total fine of \$1,700 demonstrates to the teaching profession the importance of complying with the Code of Professional Conduct with respect to treating students with dignity and respect. The penalty also serves as a general deterrent to other teachers who will understand this conduct is not acceptable.
6. On weighing all the factors, the committee concluded the joint submission on penalty was appropriate and would not bring the administration of justice into disrepute. The hearing committee therefore accepted the joint submission on penalty.

Dated at the City of Edmonton in the Province of Alberta, April 13, 2023.

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

