

**PRACTICE REVIEW HEARING COMMITTEE**

**HEARING DECISION IN THE MATTER OF MARC SERGE DUMONT**

**HEARING HELD ON MAY 6 & 7, 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 Marc Serge Dumont (the “Teacher Leader”).

The following were Members of the Committee:

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

The hearing was held on May 6 & 7, 2021 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]
- [REDACTED]

**INTERIM DECISIONS**

- [1] The Committee convened previously with legal counsel for both parties and independent legal counsel and has made some preliminary decisions in this matter. These are as follows:
- a. Oral directions to parties on September 17, 2020 during application by Webex to discuss scheduling and preliminary matters;
  - b. Interim Written Decision dated January 13, 2021 on preliminary applications;
  - c. Interim Written Decision dated February 4, 2021 on preliminary applications.

**PRELIMINARY MATTERS**

- [2] The Chair opened the hearing and asked the Members of the Committee, the parties to the hearing and all those in attendance to introduce themselves for the record.

- [3] The Chair reviewed housekeeping items and provided an overview of the hearing process.
- [4] The Chair inquired if there was any objection to the members of the panel or its legal counsel at the outset of the proceedings. The Registrar stated that there were no objections.
- [5] The Chair noted that a similar conflict of interest check was conducted with the affected parties before hearing preliminary applications. At that time, the parties indicated, through their legal counsel, that they had no objection to the members of this panel or its legal counsel.
- [6] Neither the Teacher Leader nor his legal counsel were in attendance at the hearing. On April 9, 2021, the Committee received written notice from legal counsel, [REDACTED], that the Teacher Leader no longer intended to participate in the proceedings and that the Teacher Leader had relinquished his Alberta teaching certificate [Number Redacted] unconditionally to the Minister of Education.
- [7] Before proceeding to the merits of the complaint, the Committee considered three preliminary matters:
- a. An application under section 24 of the Regulation to proceed in the Teacher Leader's absence;
  - b. A process for how the Committee would view documents and recordings during the virtual proceedings; and,
  - c. A request to enter and mark exhibits for the hearing record.
- [8] Application under Section 24
- [8] The Registrar made submissions in support of the hearing proceeding in the Teacher Leader's absence, given that the Teacher Leader was aware of the proceedings and chose not to participate in them. The Registrar advised that a copy of the disclosure was provided to the Teacher Leader's legal counsel in advance of the hearing to avoid any surprises.
- [9] Section 24 of the Regulation permits a hearing to proceed in the absence of a teacher or teacher leader 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
- [10] The Committee considered the application to proceed in the Teacher Leader's absence, and was satisfied that the Teacher Leader had notice of today's proceedings as evident in the correspondence of April 9, 2021 and chose not to attend. The Chair directed that the hearing proceed in the Teacher Leader's absence.
- b. Review of Documents and Recordings
- [11] The Registrar requested that the Committee be able to view documents and video recordings, throughout the virtual proceedings via the shared screen function to ensure panel members could see and/or refer to them.

[12] The Committee agreed with the process as proposed by the Registrar in regard to viewing the documents and recordings for the virtual proceedings. The hearing is open to the public. The Chair advised that members of the public who are present have signed an undertaking and agreement in order to attend the hearing, and it is expected they will abide by the conditions as set out within that undertaking accordingly.

c. Mark and Enter Exhibits for the Record

[13] The Registrar requested that the items contained within the Hearing Binder, collectively be referred to as Exhibit #1. The file containing the video interview with [Name Redacted] and Investigator Ken Brander (item 12-1), which was disclosed in advance of the hearing, could not be opened. That file was replaced with the audio version (item 12-3). It was the Registrar's intention to try to play item 12-1 during the hearing. The Registrar requested that [Name Redacted]'s correspondence providing notice of non-participation and surrender of licence dated April 9, 2021 and [REDACTED] letter to the Chair of the Committee in response dated April 15, 2021 be marked as exhibits #2 and #3, respectively.

[14] The Committee confirmed that exhibits #1 - #3 would be marked and entered for the record.

**ALLEGATION**

[15] The allegation in the Registrar's Notice of Decision dated November 8, 2019 is that the Teacher Leader engaged in an inappropriate relationship with a student while supervising a group of students on a school field trip in [Location Redacted] including engaging in acts of physical intimacy of a sexual nature with a student which is conduct contrary to the professional conduct requirements of a teacher.

**EXHIBITS**

[16] The following were entered into the record:

a) Exhibit #1 – Hearing Binder:

- Item 1            *Education Act* – relevant extracts
- Item 2            *Practice Review of Teachers and Teacher Leaders Regulation*
- Item 3            Practice Review Hearing Committee Rules – Sept 2019
- Item 4            Registrar Notice of Decision November 8 2019
- Item 5            Confirmation Service NOD Directing Hearing Committee
- Item 6            Hearing Schedule Decision Feb 19 2021 Dumont Letter to
- Item 7            Minister April 9 2021
- Item 8-1          Investigation Report of Superintendent #4
- Item 8-2          Exhibits to Investigation Report 4
- Item 8-3          Exhibit 4 - RCMP Interview of [Name Redacted]
- Item 8-4          Transcript RCMP Interview [Name Redacted]
- Item 9-1          Transcript of Brander Interview [Name Redacted]
- Item 9-2          Transcript of Brander Interview [Name Redacted]
- Item 9-3          Transcript of Brander Interview [Name Redacted]
- Item 10          Transcript of Brander Interview [Name Redacted]

Item 11	Transcript of Brander Interview [Name Redacted]
*Item 12-1	[Name Redacted] Interview Video 1KB (Unplayable – replaced with Item 12-3) Transcript
Item 12-2	of Brander Interview [Name Redacted] Audio of
Item 12-3	Interview [Name Redacted] 2019 Feb 16
Item 13-1	Investigation 4 re [Name Redacted]
Item 13-2	P. Connolly interview [Name Redacted]
Item 14	<i>R v. CMG</i> 2016 ABQB 368
Table of Contents	Registrar's Documents

- b) Exhibit #2 – Email of April 9, 2021 from [REDACTED] legal counsel to the Teacher Leader, advising Notice of Non-Participation and Surrender of Licence.
- c) Exhibit #3 – Letter of April 15, 2021 from [REDACTED] legal counsel to the Registrar, advising Chair of Registrar's position.

## 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 Leader, to determine whether the Teacher Leader'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
  - (b) 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,

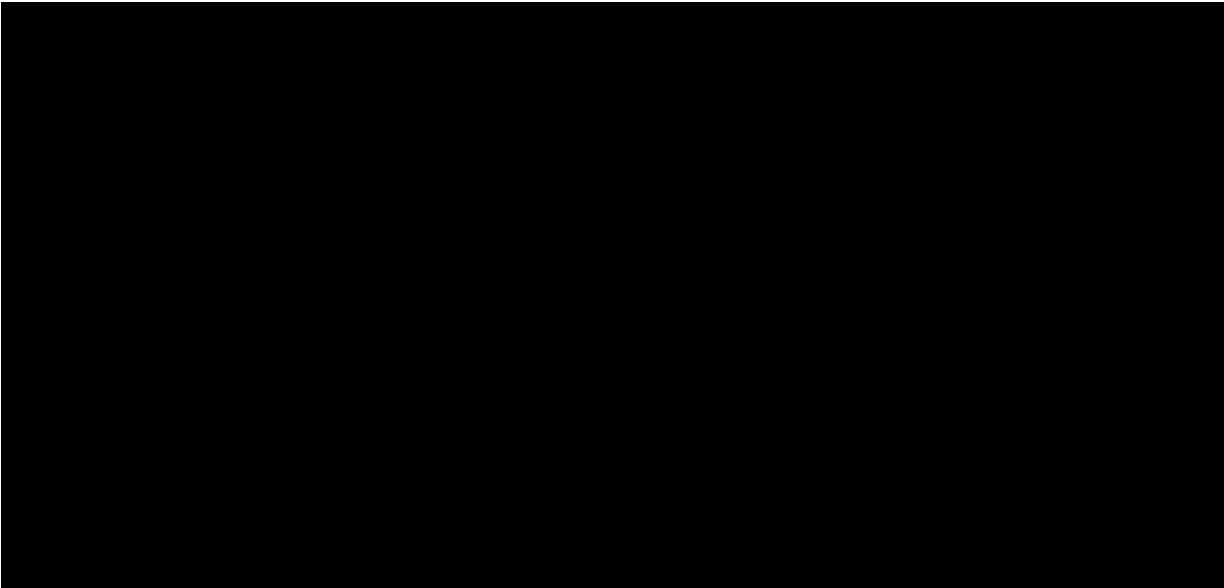
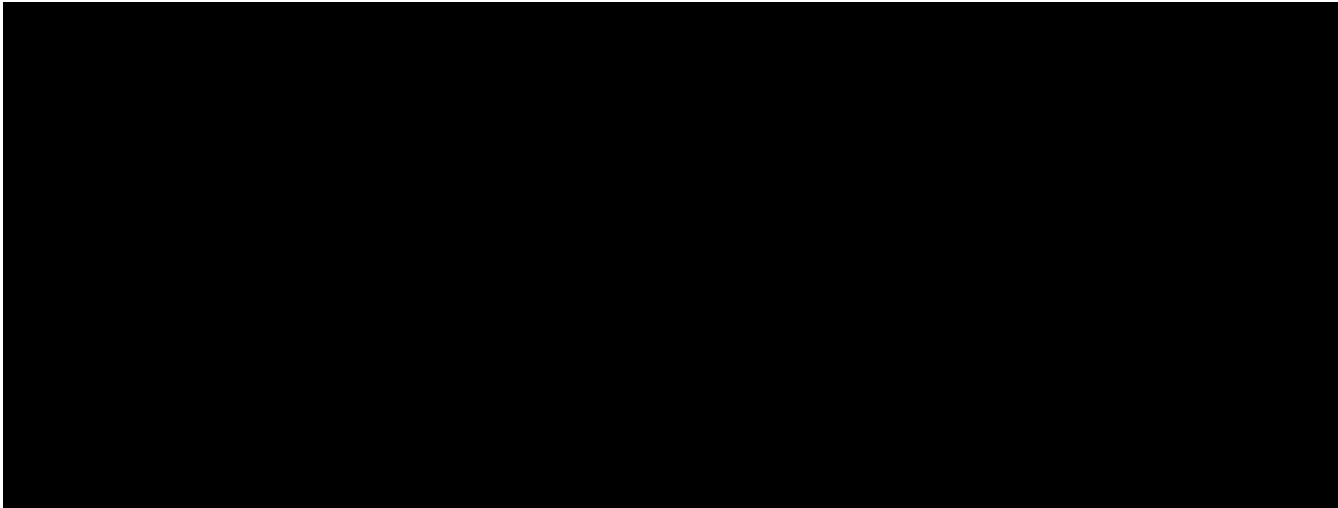
the decision must include reasons why such a recommendation has not been made.

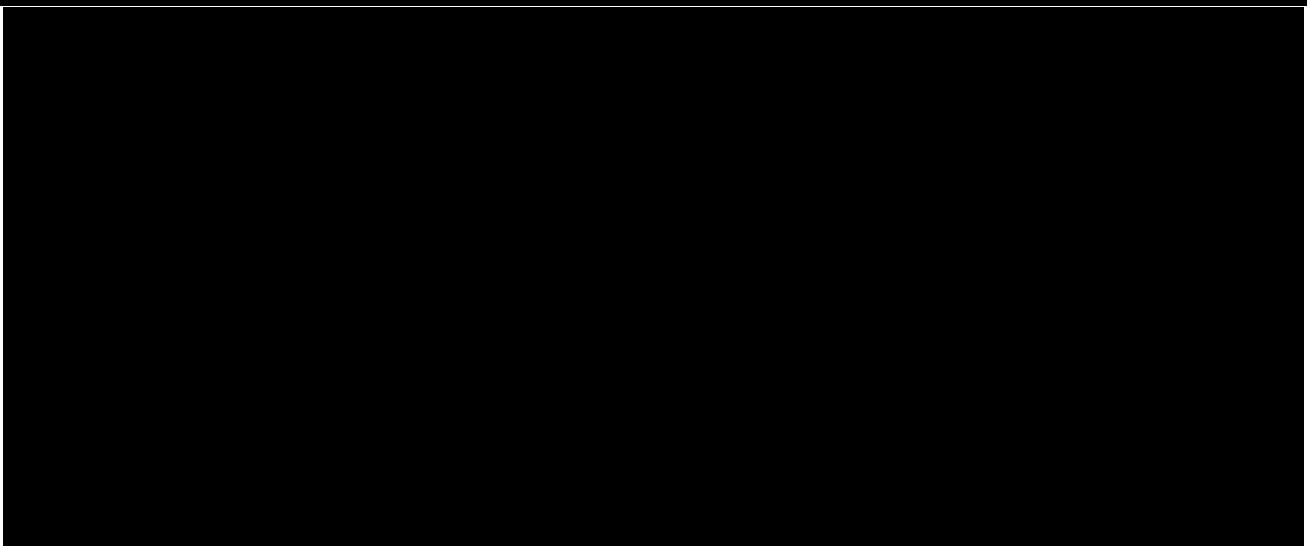
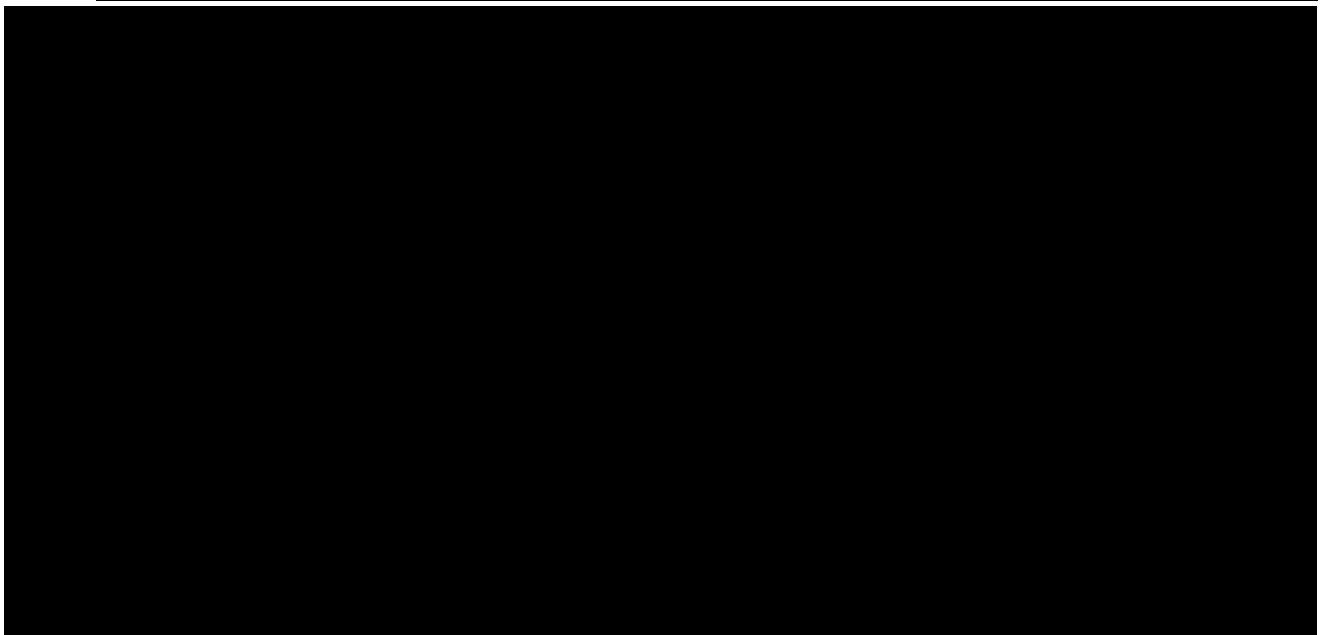
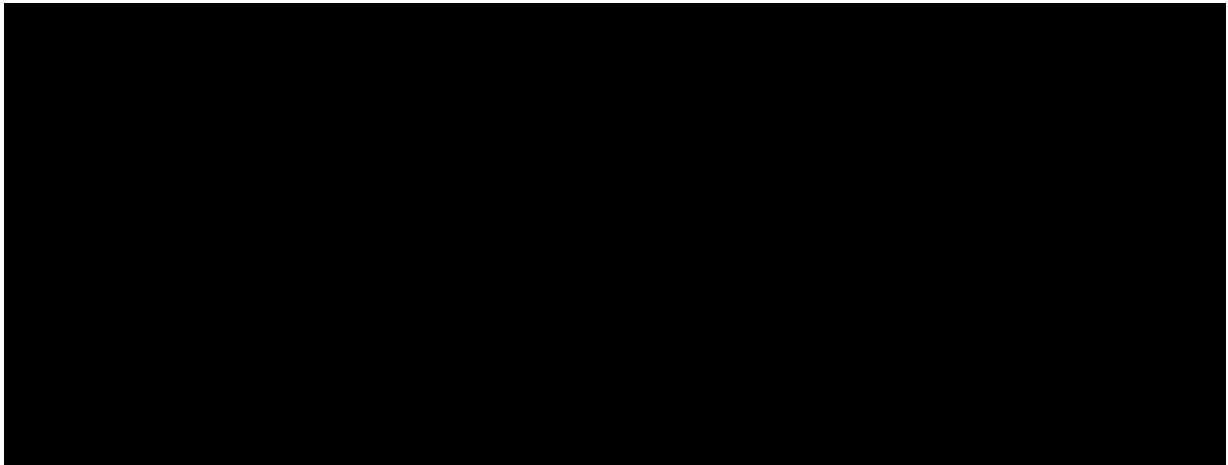
**SUBMISSIONS AND EVIDENCE OF THE PARTIES**

**Submissions and Evidence of the Registrar:**

[18] On November 8, 2019, the Registrar issued a Notice of Decision following an investigation of a complaint filed by [Name Redacted] (“the Complainant”) against the Teacher Leader, former superintendent with [School Division Redacted], directing the matter to the Committee for a hearing.

[19] The Complainant alleged that the Teacher Leader who was [gender redacted] teacher when [gender redacted] was a [grade redacted] student at [School Redacted] had engaged in sexual relations with [gender redacted] in 1996, when [age redacted]. This occurred during a school field trip to [location redacted] when the Teacher Leader was supervising a small group of students, including the Complainant. The inappropriate activities included kissing, fondling, petting, touching of the genitals, and oral sex. The Complainant reported these events to the Royal Canadian Mounted Police (“RCMP”) in May 2018, when [gender redacted] was [age redacted].



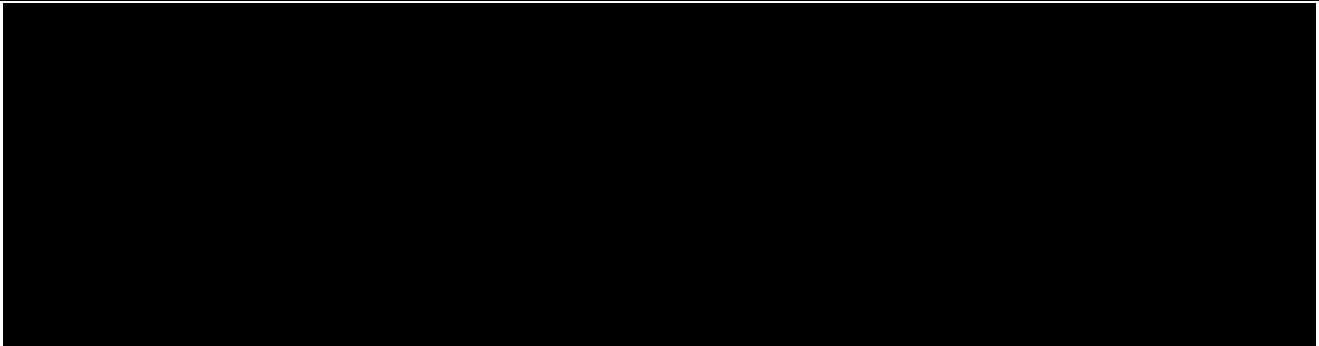
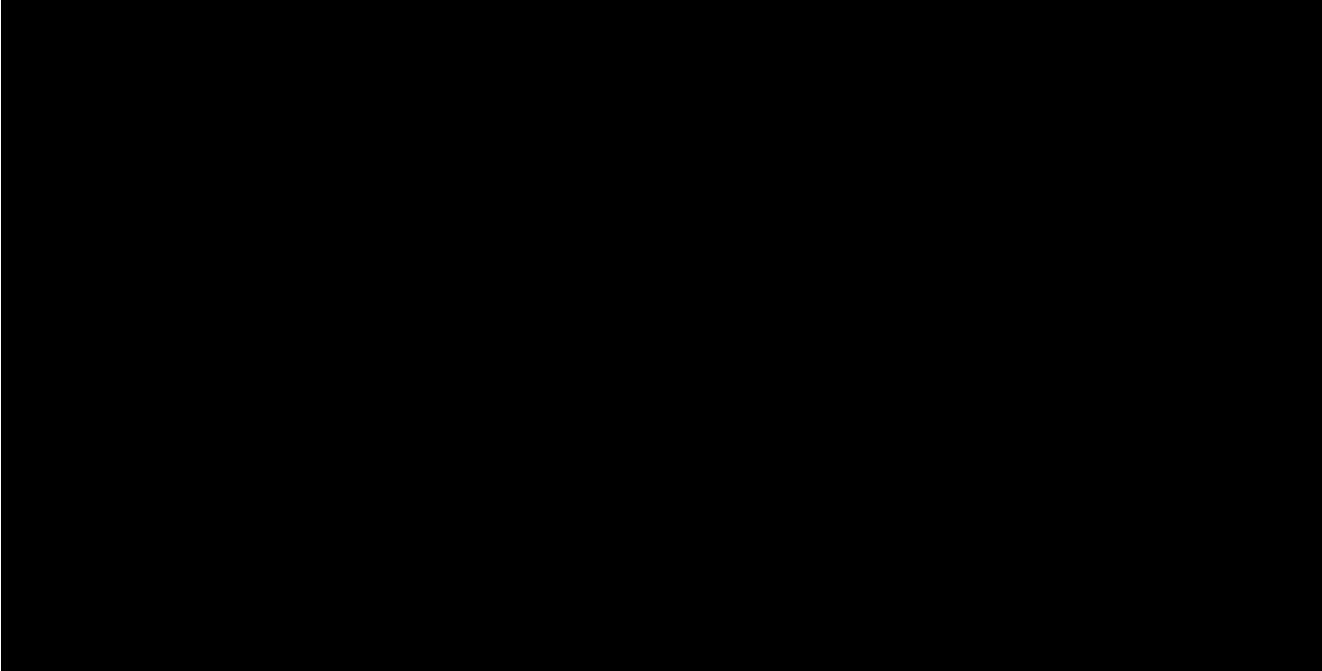
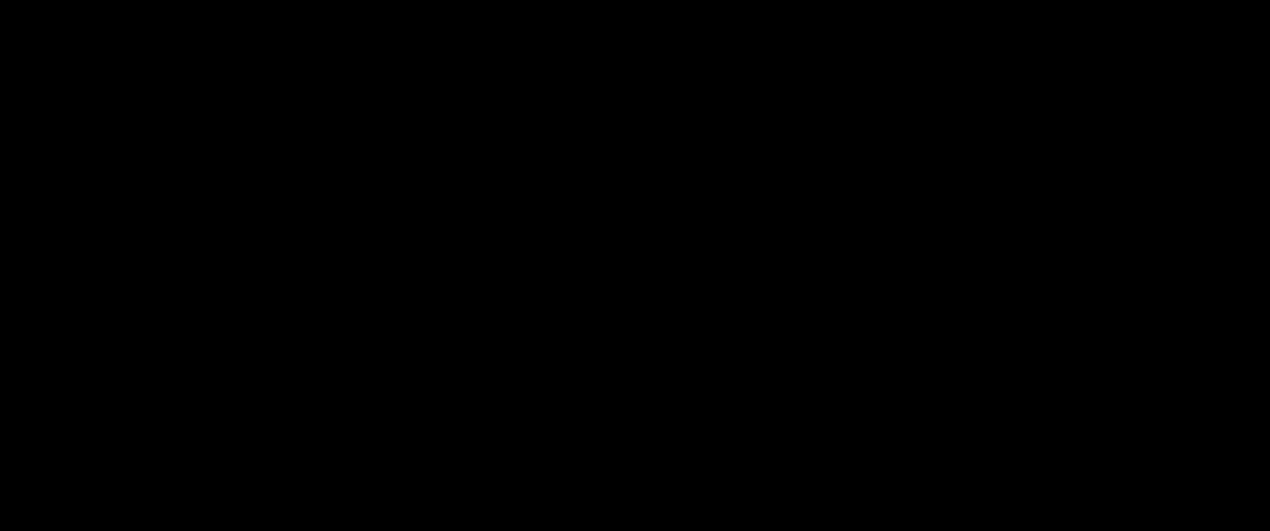


[Redacted]

[Redacted]

[Redacted]

[Redacted]



Summation of Registrar's Position

[30] The preamble in the *Education Act* encapsulates the visions, principles and values which are the foundation of the education system in Alberta. Students are entitled to welcoming, caring, respectful and safe learning environments that respect diversity and nurture a sense

of belonging and a positive sense of self. The educational best interest of the child is the paramount consideration in making decisions about a child's education. The Teacher Leader's actions breached these principles and impacted a student's sense of belonging and sense of self, the impact of which was not limited to 1996 but carried over the course of 20 years and continues to this day.

- [31] Unprofessional conduct is defined in the Regulation as conduct that is detrimental to the best interests of students, the public, teachers or teacher leaders generally, and does not meet the professional conduct requirements. Here, the Teacher Leader was responsible to supervise a small group of students throughout an overseas school sanctioned field trip and he engaged in sex acts with one of his ■■■ year old students. This constitutes unprofessional conduct.
- [32] The Schedule contained within the Regulation, "the Professional Conduct Requirements for Teachers and Teacher Leaders" expands on the conduct requirements, which apply regardless if a teacher is on or off duty. In this case, the Teacher Leader was on duty throughout the entire trip, regardless of the time of day or night. He was entrusted by the parents as the sole chaperone and his conduct during that school trip breached all of those expectations and norms.
- [33] The Complainant's interview with the RCMP bears all the hallmarks of sincerity and honesty. The Complainant has a clear and strong memory in regard to these traumatic events, although ■■■ may not remember all of the details. Moreover, ■■■ does not attempt to rationalize or minimize ■■■ own behaviour, which was typical of a ■■■ year old who had a naïve belief that this could be a relationship. It is clear from ■■■ own interviews, ■■■ feels shame and feels responsible for ■■■ actions which is a fairly common reaction of a young person who has been sexually abused. It also explains why it took a lengthy period of time to come forward in a public way. Teenagers test boundaries at school, with parents, and are curious about their sexuality which is why teachers are entrusted to guide them, not to prey on them.
- [34] The Complainant has not embellished or exaggerated ■■■ statements to the police. ■■■ has been frank and open. There is also no attempt to vilify the Teacher Leader – ■■■ never suggested force was used against ■■■. There are some mistakes or anomalies in the peripheral details: in the Complainant's original complaint to the Registrar, ■■■ believed the trip took place in 1995, when it took place in 1996. However, what has remained constant is that ■■■ was a ■■■ year old, in grade ■■■, when these events occurred.
- [35] Consent is not a defense to sexual assault or sexual interference where a complainant is younger than ■■■ years (*R. v. CMG*, paragraph 4). While this is not a criminal proceeding where the standard of proof is beyond a reasonable doubt, a similar principle can be applied to the case at hand, that a ■■■ year old cannot consent to sexual acts with a ■■■ year old male, a teacher who has power over ■■■. Moreover the court has held that the time or date of the incident is not usually a central element of the offense for sexual assault when a complainant is incapable of providing consent (paragraphs 44 & 45).
- [36] It is important to be aware of sexual myths or stereotypes that may affect credibility. It is clearly recognized in Canadian law that there is no time limit to report a private and humiliating event, such as this. A complainant should not be any less worthy or credible because a period of time has elapsed. There is no legal requirement to explain why it took the Complainant 22 years to come forward but the evidence is compelling – ■■■ was

embarrassed and felt shame. ■■■ hoped to put events aside and go on with ■■■ life, and outwardly ■■■ was successful. However these events did not fade away. The Complainant started seeking counselling in 2014, and ■■■ was encouraged by ■■■ counsellor and husband to come forward in 2018 even with ■■■ knowledge as a ■■■ of the difficulties and emotions involved in testifying as a witness in the criminal justice system or an administrative disciplinary hearing such as this one.

[37] The Complainant's evidence is uncontradicted and is sufficient on its own to meet the balance of probabilities standard, and arguably even the more stringent criminal standard of beyond a reasonable doubt. However, in this case, there is other corroborated evidence which is atypical in sexual assault or sexual interference cases, as these usually occur in private without other witness. Here, four other witnesses saw and heard things that support that something untoward happened between the Complainant and the Teacher Leader. Photographs taken at the time were submitted as evidence to support those observations, including a photograph of the Complainant wearing the Teacher Leader's sunglasses, and photographs of the Complainant and the Teacher Leader being beside each other, as described by ■■■

[38] Some details differed slightly between the Complainant and the witnesses, for example:

- a. ■■■ did not see the Complainant and Teacher Leader holding hands on the bus.
- b. ■■■ met the group arriving at the airport in ■■■ truck, not ■■■ van.

This shows that there was no attempt to have witnesses collude in their testimony. There are differences in how people see and remember things. This speaks to the reliability of the evidence.

[39] The statements made voluntarily by the Teacher Leader to ■■■ and ■■■ were inculpatory in nature, and further support an acknowledgment of guilt.

[40] The evidence of unprofessional conduct of the most serious nature is overwhelming in this case and should lead to the Teacher Leader's teaching certificate being cancelled. The Teacher Leader was trusted to use sound judgment to supervise and protect students, not use students for his own sexual gratification. It is tremendously harmful and a gross breach of trust placed by parents, Alberta Education, and the general public for how teachers conduct themselves.

[41] Section 27 of the Regulation provides that the Committee has within its discretion the ability to make a recommendation, finding that his actions constitute unprofessional conduct. The Committee has a range of sanctions from the lowest penalty of a letter of reprimand to the most severe, being cancellation. Cancellation would mean that the Teacher Leader is unable to teach in Alberta (cancellation of teaching certificate) which is the recommendation put forward by the Registrar here.

### **Recommendation for Findings**

- [42] The Registrar asks the Practice Review Hearing Committee, under Section 26 of the *Practice Review of Teachers and Teacher Leaders Regulation*, to find the conduct of the Teacher Leader to have constituted unprofessional conduct, because it was:
- (i) detrimental to the best interests of students, the public, teachers or teacher leaders generally, or
  - (ii) did not meet the professional conduct requirements.

### **Recommendation for Penalty**

- [43] The Registrar asks the Practice Review Hearing Committee to recommend to the Minister, pursuant to Section 27(3)(c) to:
- a. Cancel the teaching certificate of the Teacher Leader.

### **COMMITTEE'S FINDINGS**

- [44] The Committee finds that the Teacher Leader engaged in an inappropriate relationship with a student while supervising a group of students on a school field trip in [REDACTED] including engaging in acts of physical intimacy of a sexual nature with a student which is conduct contrary to the professional conduct requirements of a teacher.
- [45] After careful deliberation and consideration of the evidence and submissions before it, and in accordance with section 26(1)(a)(i) of the Regulation, the Committee finds that the Teacher Leader's actions constitute unprofessional conduct as defined within the Regulation.
- [46] The Committee recommends to the Minister to cancel the teaching certificate of the Teacher Leader.

### **DECISION AND RECOMMENDATION**

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


- [47] 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 evidence presented to the Committee.
- [48] The Committee accepted the facts presented and found the allegation proven on a balance of probabilities. The Committee finds that the Teacher Leader engaged in an inappropriate relationship of a sexual nature, [REDACTED], [REDACTED], who was under his supervision during an [REDACTED] school field trip in 1996.
- [49] The evidence of what had transpired between the Complainant and the Teacher Leader in the hotel room in France was clear and uncontradicted and met the standard of the balance of probabilities. The Complainant's interview with the RCMP constable in May 2018 reporting the incident was credible. Although the Complainant was not able to provide the exact place and date that the incident occurred, this did not negatively impact the

Complainant's credibility for the Committee nor did it affect the ability to find that the allegation was proven on the balance of probabilities. Given that this traumatic event occurred twenty-five years ago while the Complainant was a ■ year old student, it is reasonable that some details are hazy. It is further noted that ■ subsequent interview with the Registrar's investigator was consistent with statements that ■ had provided to the RCMP constable.

- [50] In addition, the Complainant's explanation for why ■ came forward after many years was plausible and credible. The events around the other complaints triggered memories of the incident for the Complainant and caused ■ to come forward to both the RCMP and the Registrar.
- [51] The four witness statements provided further collaboration to support that the allegation was proven. The Committee was persuaded by the interviews given by ■ and ■ of their independent observations of the interactions between the Complainant and the Teacher Leader crossing teacher-student boundaries. The Committee was also persuaded by the Teacher Leader's inculpatory admissions made to ■ and ■ which further demonstrate the Teacher Leader's acknowledgment that he had indeed crossed the teacher-student boundary with the Complainant.
- [52] The evidence is clear that this teacher who was in a position of authority and trust took advantage of that position and exploited a ■ year old student under his supervision for his own sexual gratification. This conduct crossed all boundaries – physical, emotional, and physiological, and was a complete breach of trust of the authoritative role of a teacher, in this student's life.

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


- [53] After having found the facts referenced above, the Committee considered section 26(1)(a)(i) of the Regulation in order to come to the conclusion that the Teacher Leader'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**
- [54] The Committee found that this conduct, being an inappropriate relationship of a sexual nature with a minor student under the care of a teacher, to be profoundly detrimental to the best interests of students.
- [55] In particular, the Teacher Leader's egregious behaviour had a detrimental impact on the student, not only at the time of the event in 1996, but throughout ■ adulthood. The presentation that ■ made to the Committee was emotionally raw and sincere. It is clear that the Complainant holds ■ partially responsible, however, this Committee recognizes that ■ was an underage ■ year old ■ who was incapable of engaging in a consensual sexual relationship with a ■ year old man, a teacher who was in a position of trust and authority over ■.
- [56] 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, the Teacher Leader damaged the reputation of all teachers.

- [57] It is also clear that the conduct was detrimental to the best interests of the general 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, especially in a case like this where the teacher is the sole chaperone on an . When conduct such as this occurs, it damages that relationship of trust between the general public and teachers. The public's perception of teachers generally would suffer if the conduct is not strongly condemned and therefore, the Committee feels that a strong sanction is merited and necessary in order to ensure that the public is aware that this conduct is not condoned or tolerated.
- [58] Finally, this conduct detrimentally affects the best interests of all teachers. Teachers are held to a high standard by the general public, with good reason, because they are tasked with caring for children, who we see as vulnerable members of our society. The reputation of all teachers, in this important role, is affected when one teacher chooses to cross boundaries. It is very important for the Committee to ensure that the perception of teachers to the general public is rehabilitated by a strong condemnation of the actions of the Teacher Leader.

**Part Three -- Recommendation to the Minister**

- [59] The Registrar provided submissions on the penalty being suggested to the Committee, that the Teacher Leader's teaching certificate be cancelled. The Teacher Leader has voluntarily surrendered his teaching certificate to the Minister, which is under consideration by the Minister. However, the Teacher Leader cannot avoid disciplinary proceedings by surrendering the teaching certificate. It is important that serious complaints such as this one be subject to a public hearing in order to have a full and proper record of a complaint of this nature.
- [60] In this case, the Committee feels that a sanction of the highest level is appropriate for this case, and cancellation of the Teacher Leader's teaching certificate 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.
- [61] 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, who are minors and vulnerable to influence, are placed in teachers' care, and in this case, that care was abused by the Teacher Leader. 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.
- [62] Therefore, the Committee recommends the following penalty to the Minister:
- a. Cancel the teaching certificate of the Teacher Leader.

Dated at the City of Edmonton in the Province of Alberta on this 15<sup>th</sup> day of June 2021.






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

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

Or submit via email to:

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