

VICTORIAN INSTITUTE OF TEACHING
DECISION AND REASONS OF THE FORMAL HEARING

NUMBER: 149

REGISTERED TEACHER: George STEELE

PANEL MEMBERS: Terry Hayes, Chairperson
Jenny Wajsenberg, Registered Teacher
Rowland Richardson, Registered Teacher

ATTENDANCE: The teacher did not attend the Formal Hearing
Mr Rodney Hepburn, Counsel Assisting with Mr Damien Cricchiola, Instructing Solicitor on behalf of the Victorian Institute of Teaching

DATE OF HEARING: 17 November 2014

DATE OF FINDINGS: 26 January 2015

DATE OF DECISION: 11 March 2015

FINDINGS AND DETERMINATION:

Pursuant to section 2.6.46 of the *Education and Training Reform Act 2006*, on 26 January 2015, the Panel found the teacher guilty of serious incompetence and not fit to teach. The Panel also found that the teacher has engaged in misconduct.

The Panel determined to cancel the teacher's registration, effective from 11 March 2015.

REASONS

BACKGROUND

The teacher has been a registered teacher with the Victorian Institute of Teaching (the Institute) since 30 May 2007 and was granted full registration on 18 June 2008.

By letter dated 23 September 2013 and further information received on 19 November 2013, the employer notified the Institute that it had taken action in relation to the alleged serious incompetence of the teacher. The employer advised that the teacher's probationary employment was annulled following this inquiry and he was not permitted to seek employment in any capacity in any Victorian Government School unless otherwise advised.

The matter was referred to the Professional Conduct Committee (the Committee) of the Institute on 23 April 2014 and the Committee decided to conduct an investigation into the allegations.

Following the investigation, the matter was referred back to the Committee on 8 October 2014 and the Committee decided to refer the matter to a Formal Hearing.

A Notice of Formal Hearing dated 9 October 2014 was served upon the teacher by both express post and registered post on 9 October 2014 and an Amended Notice of Formal Hearing dated 14 October 2014 was delivered to the teacher by courier on 16 October 2014.

Charges

A. *The Institute charges that whilst employed as a registered teacher at the school during 2013 ('the school'), it is alleged that you committed acts of misconduct by:*

1. *Failing in your duty of care towards students under your direct supervision and authority:*

Particulars

- a. *on or about 5 March 2013, you allowed students to play a knife game in class where they used a fork to stab between their fingers as quickly as possible;*
- b. *on or about 5 March 2013, you allowed students to swing a broom around the classroom;*
- c. *on or around 19 March 2013, you allowed a student to carry a glass bowl containing boiling water, using only the apron she was wearing;*
- d. *on or around 19 March 2013, you absented yourself from class;*
- e. *on or around 19 March 2013, you allowed students who were not cooking to sit outside the classroom;*

- f. *on or around 28 March 2013, during a train trip for a Year 12 Food Technology excursion, you pulled your baseball cap down covering your face and did not supervise students;*
 - g. *on or around including 29 April 2014 and 30 April 2013, you allowed students to leave class before the end of the lesson; and*
 - h. *on or around 2 August 2013, you failed to supervise student, student 1, resulting in him setting another student's workbook on fire in the classroom.*
2. *Failing to be respectful and courteous when communicating with parents, students and colleagues:*

Particulars

- a. *during term 1, 2013, you treated student, student 2, unfairly in that you segregated her in class;*
 - b. *on or around 18 March 2013, you were rude and aggressive to parent, parent of student 2, during a telephone conversation concerning an incident with her daughter in class;*
 - c. *on or around 30 April 2013, you made a comment to two students, student 3 and student 4, to the effect 'you are not cooking anymore, you are both done, clean this up and get out' after the students spilt some food on the floor;*
 - d. *on or around 28 May 2013, you approached colleague, teacher 1, in a confrontational manner when she attended your class to follow up a complaint she had received from a parent concerning an incident that was occurring in that class around that time;*
 - e. *on or around 19 June 2013, you made a comment to student 5, to the effect that he 'would need to break it down for an amateur like you' and 'drink a cup of concrete and harden up' and 'other students need my help, especially student 6 because she's my favourite student';*
 - f. *on or around 27 August 2013, you made a comment to female student, student 7, to the effect that 'do you have your period', in response to a request by the student to use the bathroom; and*
 - g. *on or around 29 August 2013, you called student 8 a 'liar' in class.*
3. *Failing to undertake your duties as a teacher in a professional and responsible way:*

Particulars

- a. *on an occasion in term 1, 2013, you allowed students in your Year 12 Food Technology class to watch videos of 'Border Security';*
- b. *on a number of occasions in 2013, you indicated to female students in your classes that they were required to clean up after the male students and do their dishes;*

- c. *on or around 25 February 2013 and 21 June 2013, you ate school store supplies;*
 - d. *on or around 1 March 2013, 18 March 2013 and 15 May 2013, you misplaced students' work that had been submitted for correction;*
 - e. *on or around 4 March 2013, 19 March 2013 and during week three and four of term 1, you sampled students' food beyond what was required for marking purposes;*
 - f. *on or around 6 March 2013, your marks for eight student SAC's demonstrated a correlation with extra marks for wrong answers given to students you appeared to like;*
 - g. *on or around 12 March 2013, you stored six bottles of beer in a refrigerator that students had access to;*
 - h. *on or around 27 March 2013, you left the School to run errands during a time block scheduled for Parent Teacher Interviews;*
 - i. *on or around 23 April 2013, you showed students how to prepare components of a SAC when students were to complete this on their own;*
 - j. *on or around 29 April 2013, you marked student, student 9, as present in your class when he was not;*
 - k. *on or around 5 May 2013 and 8 August 2013, you failed to ensure the school food kitchen was hygienically clean for use by other classes after your lessons;*
 - l. *on or around 24 May 2013, you allowed students to turn on hotplates and ovens to heat the classroom;*
 - m. *on or around 5 June 2013, you posted a photograph on the school Staff Portal depicting two of your students, one holding a knife and pointing it at the other;*
 - n. *on or around 9 August 2013, you left the school and left two laptop cupboards containing laptops unlocked and left two ovens on at 200 degrees in your classroom;*
 - o. *on or around 13 August 2013, you failed to provide students with instructions on how to use an electric stove, when some students would be using this in their cooking during the lesson; and*
 - p. *on or around 13 August 2013, you failed to provide students with instructions on hygiene or clean kitchen practices.*
- B. *The Institute charges that whilst employed as a registered teacher at school 1, school 2, school 3, school 4 and the school, it is alleged that you have been seriously incompetent in that you failed to:*
1. *Demonstrate knowledge of relevant curriculum areas, student learning processes and resources, and the application of these principles in educational programs;*
 2. *Demonstrate quality classroom teaching skills and successfully employ flexible and adaptive approaches and constructive strategies to allow students to reach their full potential;*

3. *Successfully apply assessment and reporting strategies that take account of the relationship between teaching, learning and assessment;*
4. *Implement applicable school Instructional Models;*
5. *Demonstrate professional communication skills and behaviour when interacting with parents, students and colleagues;*
6. *Demonstrate improved teaching and performance skills through critical evaluation of professional practices; and*
7. *Undertake your duties in a professional, responsible and thorough way.*

THE EVIDENCE

Teacher 2 gave written and oral evidence by affirmation.

Teacher 2 is a Food Technology teacher and worked at the school from 2001- 2013. During that time she was promoted to Senior Food Technology Teacher. In 2013 she was on leave from the school.

Teacher 2 stated that she had held various positions of responsibility in the school including those of Years 10, 11 and 12 Coordinator. As the Senior Food Technology Teacher she had been responsible for teaching, mentoring and supervising less experienced teachers in the department. She had mentored other staff, helped them plan and deliver lessons and given feedback. She had made herself available to help with any questions or concerns they might have had.

Teacher 2 stated that she was a member of the panel that appointed the teacher to the school and had been aware of his resume and industry experience prior to his becoming a registered teacher. She said that she recalled the teacher being given a very positive reference by the Campus Principal at school 5 who described him as being a great staff member and having great rapport with students. This reference had been crucial in appointing the teacher, as his responses to the Key Selection Criteria and during the interview, she believed, were not of a high quality.

Teacher 2 stated that during the teacher's induction in December 2012 she had met with him and provided him with comprehensive resources and documentation to assist him with his teaching. This included copies of her own teaching materials, procedures for how the Food Technology department operated, procedures for conducting practical classes and guidance with assessment tasks. In 2013 she had supplemented this material with other documentation related to Years 11 and 12 assessments.

Teacher 2 stated that, in early February 2012, she had been asked by the Principal and Principal 1, to return to work during her family leave to work with both the teacher as his classroom mentor and teacher 3, who was also new to teaching Year 12 Food Technology. She had met with both of them throughout 2013 to assist them with preparation and planning for classes.

Teacher 2 stated that the Year 10 -12 students who did Food Technology were of mixed ability. Most students enjoyed the subject especially the practical component. She did not believe that there were difficult students doing Food Technology but she and the teacher had different perspectives on this. She found most students cooperative and organised; he found many students useless and difficult to teach. She said, however, that the teacher connected well with boys who were not highly engaged and who were what she considered typical VCAL students, that is, those interested in working in the food industry. Regarding the two students, student 10 and student 5 (who provided witness statements which made complaints about the teacher's teaching - see below) she said that student 10 was a polite, high achieving student who had participated in the school's extension program and student 5 was also a high achieving student of whom the teacher had said 'she's not as good as you think she is'.

Teacher 2 stated that, as part of her responsibilities as the teacher's mentor, she had provided ongoing curriculum, assessment and classroom management support. She had observed approximately twelve of the teacher's classes, and provided quick extensive feedback, either verbally or via email. She felt that on some occasions the teacher was reluctant to accept the strategies she suggested. On other occasions, she said that, while he was receptive to feedback and did attempt to put her suggested strategies into practice, the implementation of them was the problem.

Teacher 2 stated that she believed that the teacher had good technical expertise because of his previous work as a chef. By this she meant he could demonstrate and model how to prepare a recipe and cook, but had difficulty relating practice to theory. For example, she said that he could show how to aerate, but struggled to explain why one might need to aerate, which was necessary in the learning process. However, she said, the main problems with his approach to teaching were that he went about it in a 'somewhat haphazard, disorganized way' and without having regard for how adolescents learn or how they should be taught. She said he displayed a limited understanding of the school's Instructional Model, particularly the need to develop and set learning intentions for students in class. On a number of occasions students (including student 5) emailed her with questions about how they should complete certain tasks because the teacher had provided them with little or no idea how they should go about their work or what they should be working on. She had informed the teacher of this situation.

Teacher 2 stated that this disorganisation was reflected in the teacher's use of the Edmodo online educational tool for communication and sharing information between students and teachers. While some of the materials the teacher had posted were not irrelevant to the curriculum they had not been presented in a timely fashion so that they connected to what the students were being taught in class.

Teacher 2 stated that about half way through the year, she became particularly concerned that the teacher's Year 12 students were falling behind on their classwork because he was not working to an effective timeline. They should have been up to chapters 10 -12 in the text book, but were not even through chapters 1- 2. Consequently she assisted him to organize what tasks needed to be completed over which weeks to enable students to complete the course. She also ran an extra class with the teacher in the holidays to assist his students to catch up.

Teacher 2 stated that the teacher's classes were generally disorganized with students often not knowing what was required of them. His classroom management was also poor with students turning up without equipment and students using mobile phones in class. Procedures for latecomers were not followed and work was not provided for students who were not participating in practical classes. She said she had advised the teacher about various classroom management strategies, some of which he accepted, some of which he did not. She recalled that on one occasion she suggested to him that he could try standing at the classroom door at the start of the lesson to meet students, check for hats and aprons and help them to settle and find their way, as an assistance to classroom organisation. The teacher trialled the strategy once and then informed her that 'he would not take it up again as it is ineffective and didn't make any difference.' On another occasion she had to get the attention of the students because the class was 'chaotic and out of control' with students hanging out of doors, walking in and out of class and disrupting other classes (she described one Year 10 class as being 'like a zoo'). While this was occurring, the teacher was working on his laptop and seemed oblivious to what was taking place in the class. Later, when they discussed her observations, the teacher had said that 'he was not sure what he could do about these students and they are useless'.

Teacher 2 stated that, as well as classroom order, hygiene was also a problem in the teacher's classes. He would eat and drink in front of students, including their own food (Allegation A3(e)). There were several occasions where she observed the teacher's failure to follow proper hygiene practices which made it difficult for him to ask students to follow proper practices.

Teacher 2 stated that she had given the teacher advice on how to structure practical classes and to develop questions to help him determine the students' understanding of products. Despite this, she still observed classes where irrelevant information was provided to students and authentication requirements for VCE classes were not being met.

Teacher 2 stated that she believed that the teacher failed to understand the relationship between teaching, learning and assessment. There was no regular feedback for students while working in his class, nor did he use success criteria as a measure of assessment despite this being part of the school's Instructional Model. On one occasion, when she was assisting him with cross marking SACs, he was unable to comment on why one particular male student's awarded mark was appropriate. When she asked him about this, his reply was that 'I must have been drunk when I was marking this', though she was not aware of anything which suggested the teacher was drunk when marking. Teacher 2 said she believed the grades were out 5 -10% in eight of the SACs she cross marked but The teacher told her that, when it came to marking SACs, she was not an 'expert', citing pages in a text book that she considered were not relevant, to justify other possible answers. She said that she subsequently had a conversation with Principal 1 because it became evident to her that the teacher's assessments were inaccurate and/or affected by his personal biases and how much he liked students personally (Allegation A3(f)).

Teacher 2 stated that she saw no evidence that the teacher followed the school's Instructional Model to enable him to cater for students with differing learning abilities. He did not appear to have any appreciation of how to extend the more capable students or

work effectively with those students who were less able or had learning difficulties. He did not understand the Food Technology curriculum sufficiently well to adapt the curriculum to meet different learning capabilities.

Teacher 2 stated that she believed that the teacher did not like working with women but got on well with 'matesy blokes', that is, other practical teachers in wood technology and electronics. He was resistant to feedback from female coordinators and severely stressed one female Food Technology Assistant by complaining aggressively to her about her failure to carry out her duties effectively.

Teacher 2 concluded by stating: 'Based on her professional experience as a teacher I do not believe that the teacher has the professional knowledge, practice and engagement skills necessary to teach in a school. I believe that, while he may be suited to teaching adults in the vocational sector, he does not appear to understand and be able to grasp the skills necessary to teach children and adolescents in a school environment'.

Principal 1 gave written and oral evidence by affirmation.

Principal 1 is the Senior Campus Principal at the school. She has been teaching since 1986 and was appointed Senior Campus Principal in 2011.

As Campus Principal and the convenor of the teacher's support group, she provided the bulk of the documentation related to the incidents, reports, observations and complaints from parents, students and staff that form the basis of Allegations A1, A2 and A3.

As well, Principal 1 stated that she had made one direct observation of the teacher's teaching. On 25 July 2013, she had attended his Year 10 elective, Junior Bakers class. She thought that although his class material looked well prepared, he did not give clear instructions about either safety procedures, the learning intention and its relation to either knowledge, skills or understanding, or steps to follow as the lesson progressed. At no time did he follow the school's Instructional Model. She believed he would have had trouble providing an assessment for students because he did not assess the produced products nor check their production plans. She said he did not follow up on latecomers or respond to a student who was on her mobile phone.

Principal 1 stated that she was the chairperson of the panel that recruited the teacher to the School in 2012. In that role she had contacted the Campus Principal at school 5, Principal 2, regarding a reference for the teacher. Principal 2 had indicated that he would be disappointed to be losing the teacher from staff; that he would have loved to keep him at the school; and that he was worth an interview.

Principal 1 said she had first become aware of issues concerning the teacher's teaching practice when she was approached at lunchtime by three Year 12 students who expressed their concerns that he provided limited explanations to the class about work, had limited understanding of topic content, failed to make due dates for homework clear to students, and failed to assess students' cooking products.

Principal 1 said that, during February and March 2013, she had received three emails from teacher 2 which raised concerns about a number of matters related to the teacher's teaching practice, including his lack of clear communication in explaining learning intentions and cooking concepts correctly, his failure to ensure all students' attention, his poor time management, his habit of sampling food and eating chocolate at the back of the classroom, his lack of preparation for practical classes, his unwarranted expectation that the Food Technology Assistants explain matters to the class and, in one instance, discipline a student, the absence of any grading of Year 10 practicals, general student management, including processes for dealing with latecomers and those students not properly equipped for practical classes and a need to improve his hygiene practices and to ensure that stoves were cleaned for use by the next class. She also stated that in March, that while the teacher was definitely trying lots of strategies, he was doing so in a 'somewhat haphazard and disorganised way'.

Principal 1 stated that teacher 2 informed her that, after she had provided feedback on a Year 10 elective Junior Bakers class on 19 March 2013 to the teacher, he had responded by saying that he did not think the lesson was that bad. Teacher 2 had said that the teacher was reluctant to adopt any strategies or improvements and that he had failed to take responsibility for managing disruptive students, indicating that he was not sure what he could do other than continue to report them to coordinators.

In her written evidence, Principal 1 cited sixteen separate communications, mainly via email, dated from 25 February 2013 to 6 August 2013 from teacher 2 in her role as the teacher's mentor. The communication contained lengthy comments based on direct observations of the teacher's teaching practice, including feedback she had given him about strategies for improving his practice.

As well, in her written evidence, Principal 1 cited five separate communications dated from 16 March 2013 from the other Year 12 Food Technology teacher (teacher 3) related directly to the teacher's teaching of Year 12 Food Technology. These included: her providing him with the school's Food Technology Assessment and Marking Requirements, including the scheduling and marking of SACs and SAC resits and authentication requirements; her providing him with the Victorian Curriculum and Assessment Authority Year 12 Study Design, while stressing the importance of the key knowledge and use of the prescribed text book; her praise of some of the information he had loaded on to Edmodo, while expressing her concern that some of the sources referred to extension work rather than the core course content; and her concern that he was not following the correct process for assessing SACs. (Some of these concerns about authentication and assessment processes complemented those expressed by teacher 2). As well, teacher 3 said, she had been approached by six of the teacher's students, on various occasions, for assistance with preparing their folio/design briefs because they were not sure of what they should be doing.

Principal 1 stated that in March 2013, Year 12 student, student 11, made a complaint about the teacher for the following reasons. He responded to her plate decorating skills by saying 'you waste too much effort, you should go back to kindergarten'. He had called a student in class a 'pyromaniac'. He had asked for the submission of all her chapter work in one week rather than week by week as was normal practice with other teachers. He

had asked students for time plans in Week 6, including plans for food that had already been cooked, instead of preparing/requesting time plans prior to cooking. He had handed out her lemon tarts to other students in class to eat without her permission. Student 11 had said that the teacher should be more aware of students' personal space and provide explicit instructions to students as to what they should be doing.

Principal 1 stated that in March 2013, Year 10 Coordinator, teacher 4, emailed her regarding a number of concerns regarding the teacher, including his behaviour in a mediation session with student 12, a student with 'documented learning difficulties and behavioural issues', where he had been angry and aggressive towards the student who had complained about the teacher's treatment of her. Teacher 4 said the student became upset when the teacher said he had taught students 'with learning difficulties before'.

Principal 1 stated that teacher 4 also said that the teacher expected her to attend his class and remove all the students' phones, called coordinators saying 'I need a coordinator up her immediately' and then hung up and regularly kept the same students behind after class to do things that were not expected of other students. She said that there had been numerous complaints from students that he 'eats all of their food, beyond testing it for marking purposes' (Allegation A3(e)); and that there were numerous complaints from students about the marks they were receiving from the teacher.

Principal 1 stated that in March 2013, Assistant Principal 1 had advised her that the parent of student 2 had made a complaint related to the teacher's treatment of student 2 in class, his accusation that student 2 did not hand in work and his aggressive tone and arrogant phone manner towards her when discussing the matter. (Allegations A2(a) and (b)). Principal 1 stated that she had subsequently interviewed student 2, who informed her that she had submitted the work in the teacher's box designated for submission and when she complained that it had not been marked and returned, he accused her of not submitting it, a fact which he would report to her parents. Student 2 said that she and the teacher had subsequently argued and she had left the classroom. Principal 1 said she considered student 2 to be a good hard working student who achieved good academic grades and had only ever been reported once for a student management issue. In her interim report in March 2013, her five VCE teachers, other than the teacher, graded her 'very good' or higher for her 'effort' and 'behaviour', whereas the teacher had graded her as 'acceptable' and 'needs attention'.

Principal 1 stated that, on/around 20 March 2013, she had received an email from Year 12 Coordinator, teacher 5, advising her of student complaints made to Year 10 Coordinator teacher 1 (mother of Year 12 student, student 13) in relation to the teacher. Two students were distressed about their pending SACs that week, which were based on Chapters 1 and 2 of their text book and the class had not even started on Chapter 2. The students were also concerned that they had not been asked to submit any work for correction and claimed that all they did in class was watch videos of *Border Security*. (Allegation A3(a)). They were also concerned about the amount of work they had done compared to the other Year 12 Food Technology class (teacher 3's).

Principal 1 stated that, on/around 21 March 2013, she had received an email from teacher 1 advising her of a complaint her daughter, student 13 made in relation to the teacher.

Student 13 had said that the teacher had given her permission to put her headphones on and listen to music because she had finished her work. She had fallen asleep and thirty five minutes later was awoken by the teacher throwing popcorn at her head. Student 13 had also said that the teacher allowed students to wander in and out of the class at any time to go to their lockers or to get a drink. She had also not received her graded first SAC from the teacher. Principal 1 said that, on 28 March 2013, she had received an email from teacher 1 requesting that student 13 be moved out of the teacher's class, stating that she did not want him near student 13. Student 13 subsequently transferred to teacher 3's class where she performed successfully.

Principal 1 stated that on 27 March 2013, she had received an email from teacher 3 informing her that the teacher had left the parent-teacher interviews at 5.15pm to run some personal errands, thereby keeping a parent (who had not booked) waiting for ten minutes. (Allegation A3(h)). Principal 1 stated that earlier that day she had informed all School staff that the break times for parent-teacher interviews were 2.50 - 3.10pm and 5.30 - 6.20pm. Staff were expected to be present during non-break time to accommodate parents who did not book an appointment.

Principal 1 stated that on 19 April 2013 she had received an email from teacher 3 in relation to the teacher's supervision of a Year 12 Food Technology excursion to Museum Victoria. Teacher 3 said that, on boarding the train, the teacher sat down, pulled his baseball cap over his head and proceeded to snooze from the train station to the second last stop into the city. She overheard the teacher say to a student words to the effect 'I was tired from yesterday, as the parents gave me a headache'.

Principal 1 stated that on 29 April 2013, she had received an email from Food Technology Assistant, assistant 1, about an issue in the teacher's Year 12 Food Technology class where student were completing a SAC. Assistant 1 said the SAC was not completed in silence and the students seemed confused as to what the component of the practical SAC was. Some were shown how to prepare this component (Allegation A3(l)). When she approached one student at the end of the lesson to see what he was going to do with his finished product, The teacher intervened and said 'don't worry about him, he is failing'.

Principal 1 stated that on 29 April 2013, Senior Campus Assistant Principal, Assistant Principal 2, had advised her that he had found some of the teacher's students wandering the yard without a diary entry indicating they had the teacher's permission to leave the classroom. One of the students, student 14, subsequently told her that 'there was no work for me to do in class because the servers were down so the teacher let me and two other students draw on the whiteboard. Eventually the teacher told us to go for a walk. At first we didn't, but then the teacher said "I thought you were going for a walk?" and so we left class'. (Allegation A1(d)).

Principal 1 stated that on 29 April 2013, she received an email from teacher 3 outlining concerns raised with her about the teacher's Year 10 elective Junior Bakers class, by assistant 1. Assistant 1 had said that students were sitting in the dark with the air conditioning on, even though it had been a cool morning, while the teacher busied himself with a small group of female students about how to use the ice cream machine. The rest of the class were 'running riot', writing on the whiteboard, using their mobile

phones and chatting amongst themselves. Teacher 3 stated that she had gone into the classroom and directly observed the students' behaviour.

Principal 1 stated that on 29 April 2013, she had received an email from School Library Coordinator, teacher 6, in relation to an incident concerning the teacher's remarks to VCAL students, who were running a coffee shop, which visibly upset them. She said she had heard him say that he 'thought the coffee shop looked ugly, no effort had gone into setting up the room, the tablecloths were ugly and no one would want to sit down and eat in the room'.

Principal 1 stated that on 30 April 2013, two students from the teacher's Year 10 class, student 3 and student 4, had approached her to report they had been exited from the teacher's class that day. Student 3 said that she had accidentally bumped a saucepan handle on the stove and it had fallen to the floor along with its contents. The students claimed that the teacher had yelled at them that 'You two are not cooking anymore, you are both done, clean this stuff up and get out'. Principal 1 said she had gone to the teacher's class where he said 'I thought the girls were behaving dangerously'. She subsequently arranged for the students to return to the room to finish their cleaning and to eat their food. (Allegation A2(c))

Principal 1 stated that on 30 April 2013, she had received an email from Senior Campus Assistant Principal, Assistant Principal 1, informing her that, as he was returning to the School from an excursion, he saw student 9 at the train station around 2.30pm. Assistant Principal 1 said that he had then checked with the office and found that student 9 had not signed out as an early leaver. Following that, he had checked the school's electronic roll system and discovered that, according to the teacher's roll, student 9 was present in class until the end of the day (Allegation A3(j)).

Principal 1 stated that on 2 May 2013, she had received an email from Year 12 Coordinator, teacher 5, in relation to a parent of two students, one in Year 10, the other in Year 12, regarding the teacher. The parent's email stated that the teacher had made negative remarks ('backstabbed') to each sister about the other and that he had not prepared the Year 12 student properly for the set tasks by setting homework for foundation knowledge which had not been taught.

Principal 1 stated that on 24 May 2013, she had received an email from Senior Campus Food Assistant, assistant 2, reporting an incident concerning the teacher where she had been asked to watch the teacher's Year 10 Junior Chefs class while he went to the staffroom to get something. She noticed the hotplates and ovens were on even though it was a theory lesson. The students informed her that the teacher had let them turn them on to keep warm. The teacher had confirmed this when he returned (Allegation A3(l)).

Principal 1 stated that on 28 May 2013, she had received an email from Year 10 Coordinator, teacher 1, concerning an incident with the teacher when she went to his class after receiving a telephone call from a parent about her son who was in class but had not been allowed to cook again. Teacher 1 said she had gone to the class and found the student sitting on a stool at the side of the classroom. The teacher had approached

her in an 'angry and confrontational manner' demanding to know why she was there. (Allegation A2(d)).

Principal 1 stated that on 29 May 2013, she had received two emails from Middle Years Campus Assistant Principal, Assistant Principal 3 - the first being a forwarded one from Year 7 Coordinator, teacher 7 - in relation to the teacher. Teacher 7's email referred to the state of hygiene in the classroom for her Year 8 practical session which had been used previously by the teacher. The floors had not been swept, equipment was missing from a number of benches, stove tops were dirty, the sinks wet and a whisk had been pulled to pieces and left under a sink. It had taken her and Middle Years Campus Food Assistant, assistant 3, ten minutes to get the classroom in a presentable state before the lesson could proceed (different date but similar complaint to Allegation A3(k)).

Principal 1 stated that the second email contained an incident report involving a confrontation between the teacher, teacher 7 and assistant 3. Teacher 7 noted that the teacher had approached her in front of students in her class and complained that one of the stove tops in his room was dirty. She had apologized and offered to clean it but he became annoyed stating that 'the room was always dirty' and 'whose responsibility was it to clean it?' When she replied it was the students' responsibility, with the teacher then performing the necessary checks, he replied it was the Food Technology Assistant's responsibility to clean up the classroom. Assistant 3 intervened to say the conversation should not take place in front of students, whereupon the teacher left the room and returned with a document outlining the Food Technology Assistant's responsibilities which he placed in front of assistant 3. In accompanying documentation other teachers said the teacher continued the argument with assistant 3 after school, with one (teacher 8) stating he was 'bombarding (assistant 3) with accusations that she was not doing her job and so forth and waving a piece of paper about, claiming it was her job description'.

Principal 1 stated that on 19 June 2013, student 5 approached her to make a complaint about the teacher. (Student 5's complaint is contained in her witness statement -see below), (Allegation A2(e)). Principal 1 said she considered student 5 to be a diligent student with no student management issues. She worked hard in all her classes, was polite and achieved good academic marks.

Principal 1 stated that in or around June /July 2013, Year 8 Level Coordinator, teacher 9, provided her with support materials related to student management that she had given the teacher when he had attended an in-school professional development session conducted by her.

Principal 1 stated that on 9 August 2013, she had received an email from teacher 3 informing her that, prior to leaving the school for the weekend, she had checked the food classrooms and discovered that the laptop cupboard had been left unlocked and two ovens had been left on at 200 degrees. Principal 1 said that, as the teacher was the only other Food Technology teacher on the campus, she assumed the room teacher 3 had checked was the teacher's (Allegation A3(n)).

Principal 1 stated that on 16 August 2013, she had had a conversation with student 15 about her dislike of being in the teacher's Junior Bakers class because she found the

subject confusing. Student 15 had said that there was no plan provided on the semester program; she had not received any feedback on her work and no homework tasks had been set. Principal 1 said on 27 August 2013 a further three students from the class reported that the teacher was not providing adequate instructions to them on classwork.

Principal 1 stated that on 27 August 2013, she had called parent of student 16 to follow up a complaint she had made regarding the teacher who, parent of student 16 said, had told her daughter, student 16, that 'girls need to clean up after the boys' (Allegation A3(b)); that 'she wouldn't get a job' and that she would 'need to clean up other peoples' messes, otherwise she would receive a detention'. Principal 1 stated that on 29 August 2013, she had received an email from Human Resources Manager, manager 1, to inform her that parent of student 16 had called to advise her that student 16 had exited herself from the teacher's class after he called her a liar (Allegation A2(g)).

Principal 1 stated that on 28 August 2013, she had received an email, with two complaints attached, from Human Resources Manager, manager 2, which manager 2 had, in turn, received from teacher 9. The complaints were from two year 8 students in the teacher's class. One student had complained that the teacher made her clean other people's dirty dishes and said she would not be able to cook next class if she did not do as ordered. The other student had said that, when she asked the teacher if she could go to the bathroom, he said 'do you have your period?' (Allegation A2(f)).

Principal 1 stated that she received emails from the teacher, on 11 and 12 August 2013, which she believed contained unprofessional remarks about his fellow teachers and negative comments about standards at the school. In the first email the teacher referred to a student at the school who said her mother, who was also a teacher at the school, was a 'crack smoking junkie' and that 'within the school there are a number of men haters who are in positions of power.' In the second email he implied that the Principal's poor (in his opinion) staff presentations reflected the school's educational standards.

Principal 1 rejected any suggestion that she was spying on the teacher, or encouraging other staff and students to spy on him. She said it was appropriate that a school monitor a teacher on probation. In an email exchange, dated 12-13 August 2013, she specifically rejected the teacher's assertion that she had a 'political objective' in dealing with him 'because I have criticized your methods of doing things and you don't like it'. She continued: 'As you will recall, I was the Chairperson of the panel that appointed you to the current position you have within the school. As such it is in my own personal and professional interests to have you succeed at the school, otherwise my reputation as a panel member would be in question'.

The Principal gave written and oral evidence under oath.

The Principal is the Principal of the school. She stated that she has been a teacher since 1979 and Principal of the school since 2007.

The Principal stated that she was not on the panel which appointed the teacher to the school in December 2012, but had become aware of his previous employment on short

term contracts at five schools in the state and Catholic system from July 2009 until January 2013.

The Principal stated that on 13 August 2013, she had personally observed one of the teacher's classes, a Year 8 Food Technology class, where the students were making pancakes. She said that the teacher failed to follow both the school's Instructional Model and its Student Management Procedures. As well, he failed to ensure that students followed the Operating Procedures for a Practical Class and did not provide students with appropriate and relevant learning opportunities during the lesson. Specifically, the Principal noted that the teacher failed to provide students with instructions on how to use an electric stove which some students would be using during the lesson (Allegation A3(o)) and failed to provide students with instructions on hygiene or clean kitchen practice (Allegation A3(p)).

The Principal stated that she first met the teacher in December 2012 when she conducted a school induction program for new staff, at which the teacher was provided with the school's 'Starter Guide'.

The Principal stated that she had been made aware by Senior Campus Principal, Principal 1, very early in the teacher's employment at the school of problems concerning his competence and practice. These concerns had been brought to the school's attention by students, parents and staff (over the course of his employment the teacher was the subject of forty-nine formal complaints). Several meetings were then held between the teacher and Principal 1 to alert him of the numerous verbal complaints made against him and to put in place a process which would address the substance of the complaints, as well as enable the school to work with him to build his capacity and professional practice.

The Principal stated that, subsequent to further complaints, in May 2013 she met with the teacher to explain that she had commenced and would follow a formal complaints process as outlined in the employer's *Guidelines for Managing Complaints, Misconduct, and Unsatisfactory Performance*. After investigating fifteen complaints, she then wrote to the teacher in June 2013 to inform him that she had uncovered information which partially or fully supported each complaint and as a consequence, the school would be providing him with support to assist him to build his professional practice, knowledge and management skills. This included fortnightly meetings, involving the teacher, his support person (teacher 10) and Principal 1.

The Principal stated that, during Terms Two and Three, as part of the teacher's support process, his performance was monitored and he was provided with regular feedback based on numerous observations of his lessons, many of which were conducted by teacher 2. The Principal said that, having reviewed all the observation notes, the following trends were apparent with respect to the teacher's competence and practice: lack of demonstrated curriculum knowledge in VCE Food Technology and Years 8 and 10 Food Technology electives; poor planning and unimaginative teaching activities that showed little variety to cater for varying teaching needs; an inability to implement appropriate management techniques in accordance with school policy; ineffective or non-existent assessment within junior Food Technology classes; limited and inaccurate assessment of senior Food Technology classes; inappropriate feedback in reports

regarding VELS levels, VCE outcomes and descriptive comments; ineffective communication with students in class; inability to carry out his professional requirements regarding the provision of a safe environment and lack of classroom management.

In her written evidence, the Principal provided documentation related to several of the allegations. This documentation included:

- (a) information provided by Senior Campus Food Assistant, assistant 1, on 20 March 2013, based on observations of six of the teacher's classes. In these classes assistant 1 observed the following:
- on 5 March some boys were playing a game on the bench where a fork was used to hit between their fingers as quickly as possible. The teacher had seen the boys playing the game but ignored them (Allegation A1(a)).
 - on 5 March some boys were balancing and swinging a broom in a situation that was 'dangerous, inappropriate and unmanaged' (Allegation A1(b)).
 - on 12 March, while cleaning the students' fridge in Room 4A, she found a cooler bag with half a dozen unopened stubbies of beer (Allegation A3(g)). On 19 March she found half a dozen stubbies in a cooler bag in the fridge but it had been removed prior to the class and placed under the demonstration bench.
 - on 19 March she saw a girl using the apron she was wearing removing a glass bowl from the top of a saucepan of boiling water. She immediately stopped the student due to the many safety concerns whereupon she said, 'Sir told me'. The teacher came over and said to her (assistant 1) that that is how it is done in industry (Allegation A1(c)).

Assistant 1 concluded her observations by stating: 'The teacher often eats in class and even samples students' food without their permission' (Allegation A3(e)).

- (b) email, dated 5 June 2013, from Business Manager and Education Support Staff Manager, manager 3, accompanied by two photos, in which both students were smiling, of a female student playfully 'threatening' a male student with a kitchen knife. The email stated: 'This is the photo on the staff portal that assistant 3 and teacher 7 were concerned about' (Allegation A3(m)).

The Principal explained that the school staff portal had been developed for staff to upload curriculum documents and new materials on to a common site accessed by staff only. In the process of uploading Year 8 resources 'heaps and heaps' of photos of the teacher's students in the kitchen appeared on the site, including the 'staged' photos in question.

- (c) email, dated 22 August 2013, from Middle Years Campus Food Technology teacher, teacher 11, which stated 'I have on several occasions gone into (the teacher's) room to help assistant 3, teacher 7 and teacher 12 clean up his dirty and disorganised room' (Allegation A3(k)).

- (d) email, dated 22 August 2013, from teacher 11 which stated: 'At the end of Period 1, I could smell smoke in the corridor. I asked assistant 3 where the smell was coming from. Assistant 3 went into the teacher's room and asked him was anything on fire. Seconds later, he came into the prep room and confirmed that student 1 set a student's workbook on fire. Assistant 3 told him that she would hold onto the book and then advised him to report the incident to coordinators. Later, he came back to collect the workbook and told us student 1 was suspended' (Allegation A1(h)).

In her written evidence the Principal enumerated the comprehensive support, assistance and training that the school and his colleagues had provided the teacher. This included induction programs for new teachers and the establishment of a support group, curriculum resources including teaching notes from previous Food Technology teachers, timelines and unit outlines, exam preparation and assessment (including VCE authentication) guidelines and criteria, attendance at after school professional development workshops on matters such as student management, individual learning plans, report and rubric writing and opportunities to observe other Food Technology classes. Specifically, the Principal noted that the school had, at the teacher's request, replaced his first campus 'buddy' with teacher 10 and also employed teacher 2 as his classroom mentor. She also noted that the teacher attended Year 8 Coordinator, teacher 9's workshop on Christine Redmond's (sic) *Teach More, Manage Less*. In addition to the workshop, teacher 9 observed some of the teacher's senior classes and provided him with support post the workshop. However, the Principal said, she did not see signs in the teacher's classes of any of the strategies suggested in that workshop being used effectively to improve his student management. The basis of the Redmond approach was the importance of fairness; instead, in the class she observed she said there were inconsistencies in the way the teacher disciplined students.

In her oral evidence, the Principal said she could understand why a parent might ask if the teacher had 'a problem with girls and women?' because of his behaviour and demeanour towards them. Many good conscientious female students had self-exited his classes, often in tears, because of his inappropriate, sarcastic and derogatory 'throwaway lines' and comments. Parents had made complaints about him expecting the girls to clean up after the boys. His relationship with members of the Food Technology department, both teachers and assistants, all female, was characterized by an attitude they found aggressive, hostile and intimidating. On one occasion he threw a job description at Senior Campus Food Assistant, assistant 3, when he belligerently accused her of not undertaking her duties responsibly. He made disparaging remarks about the school being run by 'power crazed women', or words to that effect. He complained about the lack of support from coordinators, again all female, yet he did not fill out clear incident reports in terms of what had occurred or what he expected coordinators to do. The advice the coordinators did give was often ignored and he failed to accept the fact that a coordinator's role was to assist teachers in matters of student management, not subsume their responsibility for such. She, herself, had to write to the teacher to request him to stop sending emails to her and Principal 1 that she considered inappropriate and disrespectful and in which, among other things, he questioned the quality of her staff presentations and her school leadership in general and referred to 'man haters' running the school. She had concluded one support group meeting prematurely because of the

teacher's belligerence and hostility. Attempts to deal with him about issues of concern or to provide feedback were usually met with an attitude of 'deny, deflect, dismiss or devalue' any acceptance of responsibility for his actions or suggestions for improvement.

The Principal said that in 2012, the staff had collectively developed the school Instructional Model, a compendium of, not so much teaching strategies, as a series of expectations about learning which would allow students of all abilities to achieve their potential. The model was also intended to develop a consistency of approach across all classes. The school was not inimical to different teaching strategies but, the Principal believed, the teacher's advocacy of the 'flipped classroom', with its emphasis on students working independently and at home, failed to take into account the low socio-economic background of many of the students and required a more trusting relationship with students than he displayed. Instead, the teacher was conspicuous in his refusal to implement the strategies outlined in the school Instructional Model, with his basic problem being his inability to pace a lesson to allow for feedback and review. There was little connection from one lesson to the next.

In response to questions from the Panel, the Principal said that she doubted the teacher had the attributes to make a good VCAL teacher. She said, in many ways, the VCAL program was more rigorous than VCE in its demands on teachers, and the deficiencies the teacher displayed in teaching VCE would have shown up in VCAL as well. VCAL, she said, was a competencies based program, yet the teacher was incapable of noting and keeping records of students' competencies in VCE and junior classes. His disrespect towards students and his inconsistencies in his expectations of them, his inability to differentiate to allow learning for different abilities, his inability to explain clearly - all these would have impeded any attempt to assist students with their personal development skills. And she said, while he might have had a technical competence for demonstrating work related skills, his cavalier attitude to OHS issues would have worked against one of the school's VCAL program's aims, which was to make students work ready.

In response to questions from Counsel Assisting regarding former school colleagues whom the teacher requested to appear at the Institute hearing, (as he had done at the Merit Protection Board hearing) the Principal said, she believed, given the nature of their professional relationships with the teacher, they could throw little light on the proceedings or the allegations before the Panel. Furthermore, she believed, if they were to appear, their evidence would be more adverse than favourable. She believed this to be true even of teacher 9, given his failure to follow through with the support she offered post her workshop on student management. She informed the Panel that the teacher had requested that she provide school time and a room at school to interview the teachers, which she had declined. She also stated that the staff cited by the teacher declined his request for interviews, believing the documents which purported to be seeking answers to questions regarding the school's procedures and operations and their role in, and attitude to, them, were more accusations than they were questions. She said she believed that the teacher had a habit of latching onto things and taking comments and situations out of context.

In relation to Allegation A1(f), in response to Counsel Assisting asking her whether she had interviewed any of the students involved, the Principal replied that her investigations

had led her to believe that the teacher had not exercised the required supervision of the excursion.

Teacher 3 gave written evidence, but did not attend the hearing in person.

Teacher 3 stated that she was a Food Technology teacher at the Senior Campus of the school where she taught Years 11-12. She said that she had been a teacher for 11 years and had taught at the school since 2004.

Teacher 3 stated that she knew the teacher as a teacher of Food Technology in 2013, where he taught basically the same load as herself, one Year 8 class, two Year 10 electives, one Year 11 and one Year 12 class. She said that she believed this was a challenging load for someone new to the School but, given that the teacher had prior food experience and had taught VCE before, she believed the teacher should have been able to cope with his teaching load.

Teacher 3 stated that she was surprised that the teacher had not brought any resources from his previous schools and from the very first day, displayed a very relaxed attitude to his teaching. She said she had suggested to him that he get himself organized and had provided him with a considerable range of resources to assist him with his planning and assessment. She stated that she had 'provided this documentation to the teacher to ensure that he had a strong baseline for the subjects he would be teaching'. However, to the very end of his employment, the teacher failed to develop a database of resources to enable him to deliver curriculum properly despite the fact that she had 'spoon fed' him and provided him with copious resources. As well, despite the teacher undertaking professional development, related to Food Technology and teaching in general, she stated that she had not seen any improvement in his professional practice or implementation of the advice that was provided to him.

Teacher 3 stated that, within the first three weeks of teaching, the teacher raised a number of grievances that he had about the school at a meeting which included herself and Senior Campus Principal, Principal 1. One of the grievances related to Senior Campus Food Assistant, assistant 1, not assisting him in class. Teacher 3 said she had taken offence at this complaint, having worked with assistant 1 for a number of years and having high respect for her professionalism and the support she offered to staff.

Teacher 3 stated that she had been aware that the teacher had developed a practice early on for handing back work to students. This had also involved students submitting work to be marked by placing it in a designated box. She said that, while this was acceptable practice, it was also important to keep a record of which students had submitted work. On one occasion, she said, one of the teacher's academic Year VCE students had been very upset because their work had been misplaced. She said that she was requested by Principal 1 to sort out the situation and had subsequently advised the teacher that he needed to be more rigorous in terms of collecting students' work.

Teacher 3 stated that by the third week of Term One, problems with the teacher's classes had begun to develop on a weekly basis. These included students in distress; students

complaining to coordinators about his classes; students self-exiting from his classes and students emailing her directly seeking guidance about School Assessed Tasks.

Teacher 3 stated that, by the end of 2013, it was apparent that there were divergent results between the teacher's and her Year 11 and 12 classes which were being taught the same curriculum, a divergence which she put down to 'the substantial differences in teaching between the classes'.

Teacher 3 stated that she believed the ongoing issues with the teacher were that he was very resistant to modifying his teaching style; that he had a fixed notion that students should be independent learners and helping themselves, whereas in reality he needed to be driving the learning in class; that he did not use a variety of teaching modalities, being heavily reliant on laptops and he continued to have issues managing his classes.

Teacher 3 stated that she believed that the teacher was severely deficient in the following areas: knowing his students, knowing how to control classes, adapting his teaching to match the levels of students, organizing and planning lessons in advance which resulted in student conflict, favouring certain students over others (notably boys), undertaking his duties in a professional manner and providing adequate supervision on excursions.

Teacher 10 gave written evidence but did not attend the hearing in person.

Teacher 10 stated that he was a Maths and Science teacher who had been teaching since 1983. He taught at the school from 1995 to 2013. In 2013 he had been appointed the teacher's 'mentor/buddy' to assist him in 'understanding the way the school worked, including the software that was used, which staff were responsible for certain things, how to use the library, how to complete paperwork, etc'.

Teacher 10 stated that, in Term Two, his mentoring role increased to include supporting the teacher through the complaints process which had been initiated by the school. This role also involved him in attending support group meetings (five in all) with the teacher, not as an advocate, but as his support person.

The teacher stated that his two roles regarding the teacher overlapped on some occasions as he tried to assist the teacher to improve his classroom performance. He said that he also assisted the teacher to rewrite some of his half yearly reports which the school had not been happy with. The teacher, he said, had been angry with the school's criticism and was resistant to making changes, suggested at one support group meeting. Teacher 10 said that, given the teacher's 'anger, reluctance and lack of interest with respect to rewriting these reports', he had rewritten them for him. He said that he got the sense that the teacher was resisting rewriting the reports because he was reluctant to accept criticism regarding areas in which he needed improvement. Teacher 10 said that, having reviewed the reports, he believed the school's criticism was warranted and the reports needed to be rewritten.

Teacher 10 stated that his role had not included formal observations of the teacher's teaching and he did not feel as if he was in a position to comment on his competence as a teacher.

Teacher 10 stated, that during Terms Two and Three, he had spoken to about ten of the teacher's students while he was on yard duty. All of the students indicated that the teacher was not returning work in a timely fashion. About half of them thought he was a lazy teacher, while the other half indicated he was a more helpful teacher than teacher 3.

Teacher 10 stated that, at the teacher's third support group meeting on 22 August 2013, the teacher raised issues about the lack of support provided by the school. Teacher 10 stated that he had challenged this comment, giving as an example the fact that the school had engaged teacher 2, who was on family leave, to return to provide support for both the teacher and teacher 3 and to assist them to build their working relationship. He said he could recall one meeting, which he facilitated, where teacher 2 had provided advice about how to properly structure practical classes.

Teacher 10 stated that he had often provided the teacher with advice to assist his performance but he felt that the teacher did not often listen to, or take on board, much of his advice, which he found frustrating given that his intention was to build the teacher's capability as a teacher. Despite the proffered advice, he said, the teacher continued to be a fairly disorganized teacher and one who kept very poor records.

Teacher 10 stated that, at one point, he had advised the teacher to maintain a diary of incidents where he felt he was being treated unfairly by the school. The teacher had responded in words to the effect that he 'didn't see the point of diarising trivial matters as this wasn't the way he operates'.

Student 5 provided written evidence particularly in relation to Allegation A2(e), but did not attend the hearing in person.

Student 5 stated that the teacher was her Year 12 Food Technology and home group teacher in 2013.

Student 5 stated that on 19 June 2013, she had made a formal complaint to Senior Campus Principal, Principal 1, concerning an incident in class where the teacher had made nasty comments to her when she had requested help from him regarding a recipe she was preparing for a SAC. She said he had said to her that the recipe was too hard and he would 'need to break it down for an amateur like me'. When the teacher eventually provided assistance, after about half an hour of her waiting, on seeing she was upset, said that she should 'drink some concrete and harden up'. When she had enquired as to why the teacher was not helping her, the teacher said 'other students need my help, especially student 6 because she is my favourite student'. Student 5 said she could not tell whether the teacher was joking or not.

Student 5 stated that, on the same day, the teacher denied giving her permission to finish her practice SAT in her study period and that 'it needed to be completed in the double (period)'. They had argued and teacher 3, the other Food Technology teacher, came in from an adjoining room. Seeing that she was upset, teacher 3 took her to see Principal 1. When she returned to class the teacher had asked her 'did you go and dob me in?'

Student 5 stated that she felt confused and lost in the teacher's class and that he treated students that he liked more favourably than others. She stated that she would often have to ask teacher 3 questions relating to her work because she was not getting answers from the teacher.

Student 5 stated that she had had teacher 2 as her Food Technology teacher in Years 10 and 11. She said that teacher 2 took the classes more seriously and was much more organised than the teacher. She said that 'everyone listened in teacher 2's class but there was no discipline in the teacher's class'.

Student 10 gave written evidence, but did not attend the hearing in person.

Student 10 stated that the teacher was her Year 11 Food Technology teacher in 2013.

She stated that the main issue she had with the teacher was 'that he was very condescending. He treated us as if we were inferior, that he was the chef and we were just students and he knew better.' She said that she could rarely get any response from him when asking questions and he never voluntarily gave her any feedback, either positive or negative. She would have to force him to do so, and when she did, he would tell her to go back and read the text book.

Student 10 said that, at a parent-teacher interview in Term One, the teacher, had informed her mother that the school had told him that he was to teach to the lowest level in the class, whereas at other schools he was allowed to teach students at differing levels matching student ability.

Student 10 stated she was aware that her mother had complained to Senior Campus Assistant Principal, Assistant Principal 2, about the teacher's remarks. After that she said 'the teacher's approach to the class just dropped'. It got to the point where he would not teach the class and left students to do their own thing. Sometimes he would ask the class to read a chapter of the text but it was pretty much like students were left to do whatever they wanted to do. She said she did her own independent learning.

Student 10 stated that the teacher rarely came to the class organized, with no work prepared or handouts to cover what the class was meant to be doing. There was, she said, no real structure to lessons.

Student 10 stated that there was no discipline in the class as no one did the work in practical classes. Students would walk out, use their mobile phones, eat, listen to music, play cricket with aluminium balls made of kitchen foil and frying pans as bats. She said the teacher would attempt to stop these things happening but normally nothing changed.

Student 10 stated that she considered herself 'quite academic' and would have expected in Year 11 to be able to learn. Instead, she said, she was unable to learn anything from the teacher.

Principal 3 gave written evidence, but did not attend the hearing in person.

Principal 3 is Principal of school 4 which employed the teacher for Term One 2012.

Principal 3 stated that she appointed the teacher to teach VET Hospitality and Food and Technology even though, as he was a recently accredited teacher, she realised his depth of knowledge and understanding would be limited. She stated that one referee had said that the teacher had 'grown into the role' required of him at their school.

Principal 3 stated that the teacher had constantly blamed others for his lack of class preparation, including that he had not been given adequate course documentation or resources by the teacher he was replacing, which, she said, was not the case. She said that students had raised questions about his lack of direction and instruction, as had support staff about his inability to support less able students.

Principal 3 stated that it was evident early on that the teacher used a more TAFE/vocational approach to his management of students. He needed to be reminded on a number of occasions that the students in his charge were not adults but secondary school aged students and that this meant he needed to give very structured instructions and place restrictions and safety procedures in a practical class at the forefront of students' attention in each lesson. Principal 3 stated that the educational support staff, the Food Technology Assistants who had been assigned to support the teacher and students in his classes, had raised concerns about his level of instruction and attention when conducting a practical class.

Principal 3 stated that, on more than one occasion, the teacher did not adequately supervise classes. One incident involved him leaving the class in the care of a sessional chef and a kitchen assistant while he, himself, was found in another room drinking alcohol and working on his computer. She stated that his Head of Department had raised concerns about the teacher's classroom management and safety awareness, especially after a minor fire in the kitchen when he was leading a practical class activity.

Principal 3 stated that the teacher seemed to find it a challenge to adapt to some students that had learning challenges and on numerous occasions, had failed to follow the department guidelines about the operation of practical classes. She said he constantly referred to his years of industry experience and tried to have the same expectations of school students, many of whom often felt intimidated by him.

Principal 3 stated that the school had received complaints from a couple of parents regarding the teacher's assessment of their daughters' work - or rather lack of it. He had lost some student work that should have been assessed and consequently no grades/results could be awarded to these students. The problem was, she said, that, whenever the teacher's Head of Department raised concerns with him about his performance or parents' complaints, he regularly stated that this was how he taught in his previous school and there had never been any complaints. Principal 3 said that when she contacted one of the teacher's referees she had been told that he had found interacting with parents challenging but this had been a 'one off experience' and no further issues had arisen.

Principal 3 stated that, on a couple of occasions, the teacher had taken mobile phone calls while in class and on one occasion, he had left the school premises during school time for, he said, a job interview, without informing the school.

Principal 4 gave written evidence, but did not attend the hearing in person.

Principal 4 is the Principal of school 1, which employed the teacher for one day per week during July - November 2009.

Principal 4 stated that he had consulted with staff who worked with the teacher in Food Technology who informed him that, while the teacher was 'personable', he lacked teaching skills to a serious extent. He had very little knowledge of the VELS and had most of his preparation done for him. His ability to manage and supervise students was poor and he showed little aptitude, knowledge or skills in relation to effectively working with adolescents. Implementing an instructional model of teaching seemed to be beyond him and appropriate reporting and assessment skills were not evident.

Principal 4 stated that the teacher had not followed advice and kept having the same problems, especially with student management, over and over again. No improvement was shown and some members of the Food Technology Department recalled a sense of relief when he left the school.

Assistant Principal 4 gave written evidence, but did not attend the hearing in person.

Assistant Principal 4 is Assistant Principal at school 2 which employed the teacher on a short term contract between March and December 2010.

Assistant Principal 4 stated that the teacher had very little knowledge of the curriculum requirements, despite having a school appointed mentor and having been given copies of the relevant curriculum documents. He showed little interest in familiarising himself with these documents to improve his teaching or student learning outcomes.

Assistant Principal 4 stated that the teacher had regularly started a class with very little or no preparation. Instead he would quite often have to make up classes on the spot and then use supplies ordered for other classes. Students had little respect for the teacher's authority due to him not following the school's agreed classroom management procedures, which resulted in students damaging school property, stealing food and a generally chaotic classroom environment.

Assistant Principal 4 stated that, because of the teacher's lack of structure in his teaching and his lack of knowledge of curriculum requirements, he was generally unaware of the level at which his students were at and what their potential may have been. He kept no records and was unable to demonstrate where his students were up to. Instead he would erratically mark students based on his relationship with them rather than what they had achieved. He struggled in his interactions with parents because of this lack of record keeping. At parent - teacher interviews he was unable to justify grades given and failed to

send out early warning notices about students' performances, which resulted in parents being shocked when reports of poor performance were received.

Assistant Principal 4 stated that, despite the assistance of school staff appointed to work directly with him, the teacher made no real effort to improve his teaching, or to learn and implement the school's instructional model. Instead, he would agree to take on advice and then not implement it.

Assistant Principal 4 concluded that the teacher, because of his lack of preparation, curriculum knowledge and record keeping, was unable to act in the professional manner expected of teachers at the school.

The Director gave written evidence, but did not attend the hearing in person.

The Director is Director of Administrative and Professional Services, and was also Acting K Campus Director in Term Two 2011, at school 3 which employed the teacher on a one year contract to teach Food Technology in 2011.

The Director stated that the teacher, because of his TAFE and industry experience, had found it difficult to understand the boundaries of the secondary teacher - student relationship, particularly in relation to transporting and speaking to students. When confronted or challenged by students he could be volatile and exhibited limited emotional intelligence. Some students complained that he did not provide clear and detailed tasks, course outlines, criteria or rubrics.

The Director stated that the teacher, when dealing with parents or persons in authority in the school, would become defensive and angry when questioned about issues.

The Director stated that the teacher was offered guidance and support to enable him to follow the VCE course and administer SACs in a timely and appropriate manner when it became apparent that this was not happening. He was also offered support to assist him with his planning and teaching in general and with his management of students.

The Director stated that it was unfortunate that the teacher was unable to form strong professional relationships with other staff and to develop mentoring relationships which might have seen him improve his teaching. Given the amount of support the school had provided to the teacher and the fact that there had been no discernible improvement in his performance, the School did not consider him for a further contract.

The teacher provided written evidence (but did not attend the hearing in person) in the form of a submission to the Merit Protection Board, a response (7 May 2013) to the Principal of the school, in relation to fifteen complaints made against him, an email (11 August 2013) to the school's Senior Campus Principal, Principal 1 and an email to the Principal (5 September 2013) resigning from the school.

The teacher stated that he had been a teacher within the TAFE and private school system for sixteen years. He had received his teacher education at Hawthorn Institute and Latrobe University where his average score for the majority of subjects was an A grade. During his

training he had been assessed by numerous teachers and had been highly praised for his depth of knowledge, practical skills and teaching methods. As well, he believed that he had '35 years of accumulated knowledge of the Hospitality Industry and knowledge of food which is second to none'. At no time during his teaching career, he said, had he ever had a complaint about his standard of teaching; instead, he said, 'At my previous school which was school 5, I was highly praised by the Principal, Principal 2 and my fellow teachers, teacher 13 and teacher 14, for my standard of teaching and the level to which I had managed to take motivated students'.

The teacher stated that he had an in-depth knowledge of VELs and VCE. He had, at the school, introduced the concept of design briefs in Years 10, 11 and 12 Food Technology, which the school students had not been taught previously. He understood the process of Creativity and Thinking, which was a requirement of VELS, but was not implemented at the school. The teacher said that suggestions he had made about curriculum changes and improvements and resource choices were paid lip service to at the school, but were basically ignored. He was aware of current education trends and teaching strategies, such as 'differentiated learning' and the 'flipped classroom' and his methods of teaching were modern compared to those at the school which relied on the 'outdated Classical method' and 'Rote system'. He did not think that the school students were encouraged to become independent learners, to participate in class discussions and to think for themselves, but, instead, were very dependent on the teacher.

The teacher stated that the majority of the complaints against him came from students who were simply passed and pushed through the system at the school. The classes at the school had students with numerous problems and their ability to understand was questionable. The teacher said that he believed he was misled by the Principal, Principal 1 and Food Technology teacher, teacher 2, into believing that the students in his Year 12 class were of A grade quality and in his opinion, would be responsive to his strategies of 'flipping the class' and 'self-paced' learning. Instead, after a few weeks he had realized that the types of students who chose Food Technology 'lack motivation, are unbelievably lazy and will not do any work within class or as homework'. He had been told by one teacher that staff were expected to teach to the lowest common denominator in classes. One student, he stated, had said to him, 'why don't you just tell us the answers the same as other teachers do'.

The teacher stated that he did not believe he had been highly critical of students or made 'derogatory comments' about them. His intention was always to ensure that his students created a product which was acceptable and of industry standard and that they had learnt something within his class. He considered it 'ludicrous' that the administration 'took on board the comments of students about (his) professional competency'.

The teacher stated that he had developed constructive relationships with many students at the school. He had been involved with Welfare staff on two occasions where he had worked to achieve a successful outcome with difficult students. As evidence of this, the teacher cited two reports from a staff member in the Student Welfare Department. In the first, the staff member said that he 'had worked generously toward a positive outcome with the student' and in the second, that 'the student and (the teacher) agreed to treat each other with respect and to listen to each other'.

The teacher stated that the 'so called discipline system within the school is completely ineffective'. It was based on an approach to student discipline which was to form a relationship with students and hope that they will not turn on you. He said that when he first arrived at the school there were new teacher meetings where issues, including discipline, were discussed. All the new teachers present experienced the same problems. They would report delinquent students but receive no feedback.

The teacher stated that he was not only not supported at the school but was actively undermined by the administration, coordinators, particular teachers who were appointed to support him, and kitchen assistants. Many of them were either intimidated by, or ignored, his industrial expertise and curriculum and pedagogical knowledge. He believed that the Principal and Principal 1 had 'orchestrated a campaign against me because I had dared to question the way things are done the school' and had had teachers and students spy on him. He considered the so-called support process little more than a 'witch hunt'. Coordinators, he said, completely ignored his requests for help with delinquent students and his reported OHS issues. Instead, he said, they gave him the 'run around' and 'tried to make me believe that the reason why students were misbehaving was because it was my fault'. He had been threatened by a student in front of a coordinator and had used the management system to inform a coordinator of another such incident.

The teacher stated of fellow Year 12 Food Technology teacher and 'Head of Technology' (the teacher's term) teacher 3, she 'went out of her way to try and undermine me with students, make me look disorganised and generally create a negative environment for me to work in while trying to adjust to a new school'. She refused to share resources with him, stating 'when she arrived at the school no one had given her any resources and why should I share mine with you'. Of teacher 2, the mentor appointed to assist him with his Food Technology classes, he informed Principal 1 in an email (12 August 2013) that he did not consider her to be 'the so called authority that you might like her to be' and that he had 'a number of issues with her technical knowledge as I have had to retrain some of her past students who are now in Year 12'. He said that she often turned up to his classes with her new baby and spent more time chatting to the kitchen assistants than she did in observing him. Her observations he considered to be consistently negative with very little positive to say about his teaching or his attempts at improvement. Of teacher 10 - the mentor/'buddy' appointed after the teacher requested a change because the previous one had been unable to help him with the student management system - he said that he never came to his class to offer him advice about what to do with delinquent students. The teacher said that, when he did seek teacher 10 out in his office, the latter told him that he was too busy preparing classes to assist, when actually he was playing Patience on his computer. Teacher 10 did, however, tell him that 'he was doing everything that can be expected of a new teacher' and in fact, had reported this to Principal 1. In the final support group meeting, the teacher said that teacher 10 had informed management that he thought that 'I was being held to a higher standard than most staff within the school could achieve.' Of the kitchen assistants, the teacher said, 'The ladies were not following their job description which was affecting my classes and how it operated'. He said they refused to clean the kitchens, to set up demonstrations or to be within the class when running to assist the teacher.

In his response to the Principal's complaints, regarding incidents which form the basis of a number of the Institute's allegations, the teacher stated that:

- in relation to Allegation A1(c) he had instructed a student to carry a bowl of hot liquid with the apron she was wearing because the kitchen assistant had not provided oven mittens. Given his years of industrial experience and his work in TAFE, he was a specialist in the field (where the use of an apron for carrying bowls is common practice) and would not ask a student to do anything dangerous.
- in relation to Allegations A1(d) and (e), he had placed misbehaving disruptive students outside the classroom but, after discussions with teacher 10, had resorted to placing them in other teacher's classes. He had not absented himself from class but was in the storeroom sourcing ingredients.
- in relation to Allegation A1(f), he had caught a train with four students, who had missed the train which the main body of students, supervised by teacher 3, had caught. While the four students sat opposite him he had pulled his cap down over his eyes as he had a stress headache made worse by sunlight and to allow the students some privacy. At no stage was he asleep which can be attested to by the fact that he had a conversation with teacher 3 (when she and the main body of students joined his train at a station further down the line). He had continued to supervise the students responsibly, both going to and at the museum.
- in relation to Allegations A2(a) and (b), he had not been aggressive or hostile in his interview with the parent of student 2; rather, she had been agitated, making unsubstantiated allegations and accusing him of being a new teacher who did not know what he was doing. The teacher stated that he had invited the parent of student 2 to school to discuss the matter but informed her that, if she were to pursue her hardline approach, she might be embarrassed to realise that her daughter was not an angel. He said that he had tried to explain to the parent of student 2 that student 2 had refused to follow the department procedures in a practical class and told him that 'she would not be doing the cleaning of her area and that (he) should clean her area', which he subsequently did.

The teacher stated that, on one occasion in class, student 2 refused to wear her hat because it would mess up her hair. When he offered her a hairnet she put on her hat for a short time then removed it and refused to put it back on for the rest of the class. On another occasion he had told student 2 and her partner to use the down time while preparing a dish to start preparing for an upcoming SAC. Instead they sat and chatted. On another occasion she and her friend talked continually while doing a SAC, despite repeated requests to be quiet.

- in relation to Allegation A3(d), he stated that he rejected the allegation that he had lost students' work. Regarding student 2, he said she had failed to keep a copy of her work as requested, which is common practice in other schools and universities. Had she done so, he said, the situation he now found himself in (of being accused of misplacing/losing her work) would have been avoided.

- in relation to Allegation A3(h), he stated that he was in attendance for every person who booked to see him on that day. He said he now recognized that he should have been in attendance up until 5.30pm for anyone who wished to see him.

In his submission to the Merit Protection Board, the teacher made reference to several of the incidents which form the basis of allegations before the Institute. He stated that:

- in relation to A3(b), the Year 8 girls were asked to check the boys' work area as the boys were well known for shirking their cleaning duties. Every student was expected to perform certain tasks in order to clean the kitchen after cooking. Students were asked to do what was necessary but, unfortunately, they have been allowed to refuse to do what was necessary and to disrespect teachers.
- in relation to A2(f), he did not ridicule students and would not have asked a girl if she had her period. Girls in his class regularly told him that they had their periods and asked to rest or leave class to go to the toilet.
- in relation to Allegation A3(e), part of the course was to evaluate the products which were made in the class. The recipes provided by the kitchen assistants were substandard so he would regularly taste students' food to establish a qualitative and quantitative analysis. He refuted the allegation that he ate more than necessary and considered it a vexatious claim by a malicious student.
- in relation to A3(f), teacher 2, on cross marking the SACs, made numerous errors which he had to explain to her. She had limited knowledge of the Food Standards Code and lacking industry experience, could only refer to text books for her knowledge.
- in relation to A3(i), he offered assistance to all his Year 12 students in their practical exams because he was told to do so, even though he knew that it was 'in contradiction of VCAA guidelines'. He added, 'When I asked what I should do about students who were cheating, etc., I was told to ignore it and just accept their work submissions as authentic'.
- in relation to Allegation A3(j), student 9 was a student who had been thrown out of the school for his lack of performance and attitude to his studies, though he was a member of the school band and played at school functions. On one occasion he came to class and was marked off on the electronic roll system. He then sneaked out for a cigarette and was caught by teacher 3. He had forgotten to place student 3's behaviour on the student management system.
- in relation to A3(l), the students had told him that they were allowed to warm the room with hotplates and ovens by other teachers, including teacher 2, and at the Middle Years campus, the practice was engaged in by the kitchen assistants.
- in relation to Allegation A3(m), he did not post any pictures of students pointing knives at each other, nor did he have any knowledge of such occurring. He recognized that students had used 'my computer on occasions for various reasons'.

The teacher provided written character references from teacher 13 and student 17.

Teacher 13 is a teacher at the B campus of school 5 and taught with the teacher during 2012.

Teacher 13 stated that the teacher was very knowledgeable about the VET Hospitality curriculum. When he took over the class it had been behind with the course work but the teacher kept contact with the Registered Training Organization Manager and brought the students up to speed with their course work and assessment tasks.

Teacher 13 stated that the teacher was very encouraging when it came to students' learning. He often stayed back at lunchtime, or after school, to give students opportunities to develop new cooking techniques or to perfect their skills.

Teacher 13 stated that the teacher had a great relationship with other staff members who, aware of his vast cooking knowledge, constantly visited his kitchen to either seek assistance with cooking recipes, or to learn new baking techniques from him.

Teacher 13 stated that the teacher was a very generous person who had given much of his personal time to the school. He had catered for several school functions including Open Night, Senior Information Night, Year 7 Opening Night and the dinner for the cast of the school musical.

Student 17 was a student of the teacher's at school 5 and is currently employed as an apprentice at a professional company which supplies cakes and pastries to many well-known food industries.

Student 17 stated that the teacher had done all he possibly could to assist him with his studies to ensure that he reached his full potential. As well, the teacher had gone out of his way to provide him with the skills, knowledge and advice he would possibly require for his future endeavours. He had given up his lunch time and attended school a little earlier to give him extra lessons in baking.

DISCUSSION OF THE EVIDENCE

The Panel found teacher 2, the Principal and Principal 1 to be credible witnesses. Far from being members of some sort of feminist cabal engaged in a political conspiracy to discredit the teacher, as he claimed, they impressed the Panel as dedicated professionals motivated by both a concern for the students in the teacher's care and for improving his capability as a teacher. Their increasing exasperation with the teacher's almost wilful and increasingly belligerent refusal to recognise that he needed to improve his performance was almost palpable. It did not prevent them, however, from performing their responsibilities in a thorough, punctilious and well documented manner.

This was also true, to a lesser extent, of teacher 3 who, as with teacher 2, seemed motivated by a concern, not only for the wellbeing of the Year 12 students, but for the reputation of the Food Technology Department which had achieved excellent VCE results

in previous years. The Panel found no evidence to suggest that she had worked to undermine the teacher, though it did recognize a personal tension between them based on their different 'approaches' to teaching and his flouting of basic expectations of professional behaviour. Despite that, she had provided him with the appropriate resources and information, especially when it came to assessment, to enable him to keep the students on task and to deliver the VCE curriculum. Conscientious students in the teacher's class came to teacher 3 with their anxieties about his haphazard teaching; she did not seek them out.

By contrast, the Panel felt that the evidence provided by the teacher was characterized by broad generalisations and assertions about the school's learning culture and unsubstantiated accusations against school personnel.

The teacher's major complaint seemed to be that the school was inimical to his innovative teaching style which encouraged students to become independent learners; and he was subsequently punished for not implementing what he considered to be a rigid school Instructional Model focused on explicit instruction, 'spoon feeding' and rote learning. However, it was plainly obvious to the Panel that it would have been difficult for any teaching style or pedagogical practice, either innovative or traditional, to be effective in the chaotic environment the teacher's 'disorganised, haphazard' teaching, as teacher 2 described it, created in his classroom. He was simply unable to provide a safe and supportive environment, either physically or psychologically, for effective learning to occur. Teacher 2 likened the atmosphere in one Year 10 class to a 'zoo'. Student 10 described the dynamics of her Year 11 practical classes thus: 'Students would walk out, use their mobile phones, eat, listen to music, play cricket with aluminium balls made of kitchen foil and frying pans as bats'. She did not say the teacher condoned such behaviour but he was ineffectual to prevent it. Year 7 Coordinator, teacher 7 and fellow Food Technology teacher may have been diplomatic when she emailed the teacher (7 May 2013) that 'the school Food tech staff are pedantic about the level of hygiene in the rooms' but, the Panel felt, she had every right to complain about unswept floors, dirty benches, missing or broken equipment and the onus on other teachers and support staff to make the teacher's classroom ready for following classes because of his negligence. They are common expectations of a teacher working in an area of the school where issues of safety and hygiene are paramount. Similarly, the Panel felt that teacher 7 and assistant 3 had every professional right not to be personally abused by the teacher for drawing his attention to the state of his room.

As an aside, the Panel wondered why this example of the teacher's professional behaviour was not included in the allegations, given that it was a clear breach of professional conduct in relation to the Code of Conduct's expectation that a teacher treat colleagues with courtesy and respect. The Panel felt that it was clearly a more serious allegation than those related to leaving a parent-interview session early, or of inadequate supervision of Year 12 students on an excursion. Then again, as the Panel read the accumulated evidence in the documentation accompanying witness statements, it became evident to it that the allegations were a sample of the teacher's unprofessional behaviour, not the full gamut of the 49 complaints made against him.

The Panel noted another of the teacher's complaints was that the students who made complaints about him, or 'spied' on him, were those 'who were simply passed and pushed through the system at the school' and that the types of students who chose Food Technology (at senior levels) 'lack motivation, are unbelievably lazy and will not do any work within class or as homework'. This was hardly true of student 5 or student 10, the students who provided written statements. The teachers who gave oral evidence considered them both to be conscientious, hardworking students. The Panel felt that, even though these students were different in temperament, their concerns about the teacher's teaching complemented one another in their sense of his deficiencies. Student 5 had, in teacher 2, who taught her in Years 10 and 11, a role model for what she expected of a senior Food Technology teacher, that is, someone who was organised, clear in her expectations and instructions and to whom students listened. By contrast, the teacher was disorganised and inconsistent and when she expressed her anxieties, dismissed her with derogatory comments. Student 10 considered herself to be quite academic and capable of independent thinking, the ideal student one might have thought for the teacher's 'flipped learning' pedagogy. Instead, his idea of independent learning was to tell her to read a text book and whatever she did, she received no feedback, a crucial component of any teaching style. The Panel noted that some witnesses (teacher 2, Principal 3) were prepared to give the teacher the benefit of the doubt and concede that he had a technical competence and industrial experience that might have made him a competent teacher of adults and/or vocational education. Indeed, the reference from student 17 attested to the teacher's ability to model and demonstrate cooking skills on a one on one basis, (significantly to a very motivated male student). The Panel, however, believed that the Principal was closer to the mark when she was asked about the teacher's potential capability as a VCAL teacher. She believed that whatever program a teacher worked in required attention to structure and organisation, consistency of expectations, the ability to give clear instructions, the capacity to build constructive relationships with students and an attention to ongoing assessment and record keeping. She said the teacher revealed none of these capabilities.

In considering the teacher's explanation for incidents that formed the basis of the evidence for Allegation A1, 2 and 3, the Panel was struck by what the Principal described as a mindset characterised by 'deny, deflect, dismiss or devalue' whenever the teacher was confronted with unsatisfactory aspects of his performance, or asked to take responsibility for his actions. The Panel recognised elements of condescension, rationalising and just plain 'buckpassing' (blaming other teachers, food support staff and students) in his explanations. Even when he admitted to specific allegations there was always a 'yes, but...' in his response. He never seemed able to give an answer that did not involve some form of rationalisation of his behaviour. The following examples give some indication of what led the Panel to this conclusion.

According to the teacher:

- his knowledge of industrial experience justified his allowing a Year 8 student to carry a pan of boiling water with the apron she was wearing because kitchen assistants had failed to provide her with oven mittens. There was no recognition of the difference between adults engaged in industry and what might be appropriate for a 13-14 year old student. (Allegation A1(c))

- he left stoves open and hot plates on to warm the room because other teachers, including teacher 2 and kitchen assistants did it. (Allegation A3(l))
- he assisted all his students with their practical SACs because it was a common practice in the school and he had been told to do so. (Allegation A3(i))
- the altercation with student 2 would not have occurred if she had kept a copy of her work as requested by him, whereas the real issue was that he had lost her submitted work, even though she had followed the submission requirements (the box) initiated by him. (Allegations A2(a) and (b))

Most disconcerting for the Panel was his response to Allegation A3(m). The Panel was prepared to accept that the teacher did not personally load the photos on to the staff portal, but he seemed totally oblivious to the implications of the photos. That is, that they showed students playing dangerously with knives while under his supervision; and students having access to his computer to access the staff only portal.

Regarding the range of specific allegations, the Panel felt that there was one incident where there was some shade of grey and the evidence provided was inconclusive, the teacher's supervision of a Year 12 excursion (Allegation A1(f)). The Panel was unable to ascertain from the teacher and teacher 3's differing narratives the exact context of the incident. The teacher stated that he did have his cap over his face, but was not sleeping. He gave the impression that, for much of the journey, he was travelling on a different train from teacher 3, accompanying four stragglers who sat directly opposite him. When teacher 3 and the other students re-joined the train further down the line he spoke to her (as she boarded the train?) thereby suggesting he had not been asleep. Teacher 3's account seemed to suggest that she observed his behaviour for a considerable length of time, from the train station to one close to the city. The Principal, in her oral evidence, stated that, from her investigations, she concluded that the teacher had not been supervising students responsibly.

Regarding Allegation B, the Panel found the witness statements, provided by principals/administrators from four previous schools in which the teacher had worked, a devastating coda to the allegations brought against him at the school. They completely contradict this claim that, prior to the school, there had never been any complaints about his teaching. The Panel felt that it was difficult to see how the more general complaints and judgments about his behaviour and competence in those schools could be blamed on an impoverished and antiquated learning culture, vexatious, lazy and unmotivated students, or politically motivated 'man hating' administrators and teachers - factors which The teacher said had provided the subtext for the specific school allegations. Instead, what struck the Panel was the sustained and persistent similarity of the evidence, which revealed recurring patterns in the teacher's behaviour wherever he taught. These included his assumptions about the value of his industry and TAFE experience while working in a secondary context, his failure to recognize that a teaching approach based on that experience might not be appropriate in a secondary context, his inadequate knowledge of the curriculum, his poor planning and organization, his inadequate communication with students and colleagues, his chaotic student management, his

erratic assessment and lax record keeping, his volatile altercations with students and some parents and his defensiveness, resentment and dismissiveness when it came to criticism of his performance. As the Director said, but which could have been said by any of the other three school administrators, '(the teacher) seemed unable to reflect on the impact of his behaviour, demeanour, language, preparation, etc. with regard to student behaviour and learning'. It was obvious, also, to the Panel, how quickly the problems with the teacher's teaching surfaced at each school, requiring support processes to be put in place relatively early in each term of his employment.

By contrast, the Panel found the references, provided by teacher 13 and student 17, while attesting to the teacher's general personableness and personal helpfulness, provided little insight into his performance as a classroom teacher.

FINDINGS

In making its findings, the Panel noted that due attention was given to ensuring that natural justice was accorded the teacher in the Institute's conduct of the investigation and hearing. In particular, the Panel endorsed the Institute's decision not to accede to the teacher's request that it call any of his colleagues from the school (seven in all) other than teacher 10, to give evidence. The Panel accepted the Principal's evidence that, given their school positions, their professional contact with the teacher had been tenuous and incidental at best and they would have been unable to shed much light on the actual allegations before the Panel.

The Panel found Allegations A1, 2 and 3 proved on the basis of the evidence provided by all witnesses for the Institute of Teaching, especially the Principal, Principal 1 and teacher 2 and the extensive, often cross-referenced, documentation which accompanied the evidence of the latter three witnesses. The Panel also noted that the teacher admitted, fully or partially, to a number of the allegations (Allegations A1(c), (e), (f), (h) and A2 (g), (h), (l)).

The *Education and Training Reform Act 2006* ('the Act') defines misconduct as 'conduct of a teacher occurring in connection with the practice of teaching that is of a lesser standard than a member of the public or members of the teaching profession are entitled to expect from a reasonably proficient teacher'. The evidence clearly demonstrates that this definition is met and the teacher has engaged in misconduct.

The Panel found Allegation B proved on the basis of the witness statements of the administrators in four of the five schools in which the teacher had worked since mid-2009 and prior to his employment at the school. The Panel saw no reason to doubt the veracity of their evidence. While more generalised than the specific allegations in A1, 2, 3 (though Principal 3 cited the teacher's consumption of alcohol while on duty), their evidence offered powerful corroboration of both the teacher's incompetence in all aspects of his teaching, well before he arrived at the school and his inability or unwillingness to learn from the constructive criticism and support offered him.

Furthermore, the Panel found that the teacher's behaviour seriously contravened the standards of professionalism expected of teachers enunciated in the *Victorian Teaching Profession Code of Conduct*. Specifically, the teacher failed to provide opportunities for all students to learn (Principle 1.1); to treat students with courtesy and dignity (Principle 1.2); to communicate and consult with parents in a timely, understandable and sensitive manner (Principle 1.6 (b)); to work collegially by treating fellow teachers and support staff with courtesy and respect (Principle 1.8); to complete his duties in a responsible, thorough and timely way (Principle 3.1); and to exercise his legal responsibilities in relation to matters of occupational health and safety (Principle 3.1).

In considering the allegation of serious incompetence, the Panel noted that this term is not defined in the Act. The Panel concluded that it should give the term its normal natural meaning. The Oxford Dictionary defines incompetence as 'Not having or showing the necessary skills to do something successfully'. The Panel concluded this represents the generally understood meaning of incompetence. The Panel noted a similar approach was taken by the Victorian Civil and Administrative Tribunal in *Moran v Victorian Institute of Teaching* [2007] VCAT 1311. On the basis of the evidence the Panel concluded that the teacher does not demonstrate the necessary skills to carry out the role of a teacher. The evidence also indicates that this shortfall is grievous owing to the potential for it to be detrimental to students' welfare and education.

The Panel found that the teacher is guilty of serious incompetence and is unfit to teach.

In making these findings, the Panel was mindful of the judgment in *Davidson v Victorian Institute of Teaching* (2007) VCAT 920, which articulates a number of criteria when considering fitness to teach:

'We take the view that a finding that a teacher is unfit to teach must carry with it a perception that the conduct complained of is of a continuing and persistent nature. It is conduct which throws doubt on how he would conduct himself in the future in the classroom. A teacher may commit a single act of serious misconduct, or a series of such acts, but those acts may be explicable in context and unlikely to recur. A determination that a teacher is unfit to teach appears to us to be a more severe penalty. It carries with it an assessment that that person should not be in a position of authority and trust with children, because his whole approach to teaching and to the children in his care is profoundly and irretrievably flawed. It would often involve consideration of criminal conduct'.

The Panel believed that the sorts of unprofessional behaviour engaged in by the teacher were of 'a continuing and persistent nature', as evidenced by the similarity of the complaints brought against him in five different school environments dating from mid-2009 to September 2013. Furthermore the Panel believed that the teacher's 'whole approach to teaching and to the children in his care is profoundly and irretrievably flawed'. Despite the enormous amount of support and feedback, both formal and informal, offered him in the various schools, there was little evidence that he had availed himself of it to improve his performance. Instead, the Panel noted, that he was either resentful or dismissive of such advice, or inconsistent or haphazard in his response to it.

DETERMINATION

The Panel asked the Institute to endeavour to contact the teacher to give him the opportunity to submit any matter he considered relevant to the Panel's final decision. This correspondence was returned to the Institute on 12 March 2015, unopened and marked 'NO LONGER AT THIS ADDRESS'.

The Panel determined to cancel the teacher's registration, effective from 11 March 2015. In taking such an extreme step the Panel was aware of the implications for the teacher's future livelihood. Nevertheless, the Panel believes it has a responsibility to balance that consideration against its responsibilities to future students and school communities, the reputation of the profession and the public interest.

The Panel chose this determination rather than other options open to it such as a suspension of registration for a period of time with conditions. Uppermost in the Panel's mind was the cumulative evidence in the teacher's teaching experience to date of how the provision of mentoring and support and the strategies he gleaned from professional development he undertook - all of which a suspension with conditions might involve - never translated into effective practice, resulting instead, in fractious relationships with colleagues and students, complaints from parents, student disengagement and anxiety because of his teaching style, poor student management, a disregard for the safety and health requirements for teaching food technology (often resulting in dangerous practices in the classroom) and excessive demands made on the support of his colleagues, many of whom he treated with contempt and suspicion.

The Panel believes that the community and the profession in general, have a right to expect a registered teacher not to create such problems which have the potential to bring the profession into disrepute. In the teacher's case, these problems occurred with consistent regularity over a considerable period of time while he was receiving a high level of support with no, or little, discernible signs of improvement. The Panel did not believe that it could give a guarantee that the teacher's future conduct as a registered teacher would not bring about a repeat of these problems.

A handwritten signature in cursive script, reading "Terry Hayes". The signature is written in black ink on a white background.

TERRY HAYES, CHAIRPERSON

A handwritten signature in cursive script, appearing to read "Jenny Wajsenberg".

per:
JENNY WAJSENBERG, REGISTERED TEACHER

A handwritten signature in cursive script, appearing to read "Rowland Richardson".

per:
ROWLAND RICHARDSON, PANEL MEMBER