

VICTORIAN INSTITUTE OF TEACHING

DECISION AND REASONS OF THE FORMAL HEARING

NUMBER: 0048

REGISTERED TEACHER: William Blair HESSLER

PANEL MEMBERS:

Garry Salisbury	Chairperson
Peter Ryan	Registered Teacher
Christine Holloway	Registered Teacher

ATTENDANCE: The teacher did not attend the Formal Hearing

MS ANNE SHEEHAN Counsel Assisting with MS ANNABEL HASLAM instructing

DATE OF HEARING: 9 May 2007

DETERMINATION UNDER SECTION 42(2):

On 9 May 2007 the Panel decided to cancel the registration of the teacher from that date.

REASONS

BACKGROUND

The teacher has been a registered teacher since 31 December 2002. The teacher is a registered teacher under the Act but has not paid his registration fee for 2007.

This inquiry is a result of notification from the employer of action taken in relation to the serious misconduct and/or lack of fitness to teach of the teacher.

On 18 January 2006, the employer advised the teacher that he could not seek employment in any employer schools following his resignation on 8 December 2005 from the school. An employer inquiry had substantiated allegations that the teacher engaged in an inappropriate and sexually intimate relationship with the student whilst employed as a teacher by the employer.

The matter was first referred to the Disciplinary Proceedings Committee on 3 May 2006, and the Committee referred the matter to a formal hearing.

On 27 July 2006, the Institute arranged for an investigator to investigate the allegations and interview witnesses in preparation for the formal hearing. The investigator completed her investigation and supplied the Institute with her report and witness statements in November 2006.

On 24 January 2007, the Disciplinary Proceedings Committee determined that the inquiry proceed to a formal hearing.

A panel was constituted in accordance with section 39 of the Act.

A Notice of Formal Hearing, dated 28 March 2007, was served upon the registered teacher by registered post.

Nature of allegations:

The allegations of possible serious misconduct and/or lack of fitness to teach are:

Failure to maintain a professional relationship with a student, by initiating a sexual relationship.

- In or around mid 2004, whilst a teacher at the school, the teacher drove a female year 11 student, the student, home from sports training. Whilst parked in his car with the student outside her parents' house, the teacher:
 - a. kissed the student on the lips
 - b. put his hand on the student's thigh
 - c. digitally penetrated the student's vagina
 - d. allowed the student to masturbate his penis with her hand and/or touch his erect penis through his pants.

In her opening statement, Counsel Assisting the Panel indicated that the Institute wished to amend the final allegation, now to read:

- d. allowed the student to touch his erect penis through his pants.

The panel accepted the amendment.

THE LAW

Section 27 of the Act states:

27. Employer to notify Institute of action against teacher

(1) The employer of a registered teacher must inform the Institute if the employer has taken any action against the registered teacher in response to allegations of serious incompetence of the registered teacher, serious misconduct of the registered teacher or that the registered teacher is unfit to be a teacher or any other actions that may be relevant to the registered teacher's fitness to teach.

The terms *serious misconduct* and *unfit to be a teacher* are not defined in the Act. The panel was referred to case law regarding disciplinary proceedings in other jurisdictions.

According to the High Court in *Ziems v The Prothonotary of the Supreme Court of NSW* (1957) 97 CLR 279 the purposes of disciplinary proceedings in relation to a profession are:

- to protect the public
- to maintain proper standards of conduct for the profession, and
- to protect the reputation of the profession.

These procedures are not meant to punish the teacher although this may be an unintended consequence (see *New South Wales Bar Association v Evatt* (1968) 117 CLR 177). The purpose of these proceedings is to protect students in Victorian schools. A decision to deregister a teacher is very serious and requires great care (see *Victorian Lawyers RPA Ltd v Vodicka* (2000) VSC 272).

The standard of proof that applies in disciplinary proceedings is the *balance of probabilities*. The appropriate standard of proof that applies in civil matters was considered in *Briginshaw v Briginshaw* (1938) 60 CLR 336 where the High Court said that the ordinary standard of proof applied *subject only to the rule of prudence that any tribunal should act with much care and caution before finding that a serious allegation ... is established*.

And later:-

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal.

The observations of the High Court have been followed in numerous cases and in particular in relation to disciplinary proceedings (see *Barwick v Law Society of New South Wales* [2000] HCA 2, and *Murphy v The Bar Association of NSW* [2001] NSWSC 1191). Whether misconduct is serious will depend upon the facts of each case. Conduct would not be serious if it was trivial or of momentary effect at the time. To be serious, conduct must be a substantial departure from the accepted standards for the teaching profession, and the departure must be the fault of the teacher (see *Parr v Nurses Board of Victoria* decided VCAT 2 December 1998)

If the act or omission that constitutes the misconduct is within the will, power or control of the teacher it is more likely to be serious misconduct. If the act was done wilfully or recklessly without regard for the consequences, then it is more likely to be serious misconduct (see *Re: Christine Trigger and The Australian Telecommunications Commission* (1984) 4 FCR 242).

A failure by the teacher to understand that the conduct complained of was serious misconduct will indicate the teacher's unfitness to teach.

The **test** set out in the case law is conduct:

which would be reasonably regarded as disgraceful or dishonourable by his professional brethren of good repute and competency. *Allinson v General Medical Council* [1891-4] All ER 768

The conduct the subject of the inquiry may indicate a character defect incompatible with a self respecting profession. Or the conduct may illustrate that the teacher would not be able to work satisfactorily in a school environment. Whether conduct amounts to serious misconduct will depend on the minimum standards demanded by the teaching profession. Conduct that deserves disapproval may not be serious misconduct (see *Ziems*).

The degree of remoteness of the conduct in question from professional practice must also be considered according to *A Solicitor v The Council of the Law Society of New South Wales* (2004) **HCA 11** which it is stated at paragraph 34:

...the nature of the trust, and the circumstances of the breach, were so remote from anything to do with professional practice that the characterisation of the appellant's personal misconduct as professional misconduct was erroneous.

A teacher's position is one of power and influence in relation to the student - a position of trust. The misconduct must reflect in a significant way on the suitability of the person to work as a teacher. It must illustrate attitudes or characteristics inconsistent with the moral qualities required of a teacher (see *Yelds v Nurses Tribunal & Ors* (2000) NSWSC 755; *New South Wales Bar association v Cummins* (2001) NSWCA 284.

The term *fit and proper person* is intended to cover conduct other than dishonesty and include significant impropriety, lack of integrity or bad faith. Persistent failure to meet a teacher's obligations to the education community shows a disregard for these obligations and not just carelessness, incompetence or lack of organisation. A failure by the teacher to understand that the conduct complained of was serious misconduct will indicate the teacher's unfitness to teach (see *Cameron v Bar Association of NSW* [2002]

NSWSC 191 and *Marten v Disciplinary Committee of the Royal College of Veterinary Surgeons* [1965] 1 All ER 949).

A continuing lack of moral responsibility and an absence of insight and understanding of right and wrong in the context of ethical fitness would be a strong indication of unfitness (see *New South Wales Bar Association v Cummins* (2001) NSWCA 284 and *Siguenza v Secretary, Department of Infrastructure* [2002] VSC 46).

DOCUMENTS CONSIDERED

The Panel was provided with the following documentary evidence:

- Notice of Formal Hearing dated 28 March 2007
- Witness statement of the Principal dated 10 November 2006 (3 pages) **001-003** and attachments
 - P 01 - Statement of student 1 (1 page) **004**
 - P 02 - Witness Statement of the Assistant Principal (4 pages) **005-008**
 - P 03 - Witness Statement of student 1 dated 5 August 2005 (3 pages) **009-011**
 - P 04 - Letter to the Principal from the employer (1 page) **012**
 - P 05 - Letter to the teacher from the Principal dated 12 August 2005 (2 pages) **013-014**
 - P 06 - Witness Statement of teacher 1 dated 16 August 2005 (3 pages) **015-017**
 - P 07 - Witness Statement of the student dated 23 August 2005 (1 page) **018**
 - P 08 - Notes of events which occurred between 19 August 2005 – 30 August 2005 prepared by the Assistant Principal (3 pages) **019-021**
 - P 09 - Notes of interview with the student prepared by teacher 2 dated 13 August 2005 (2 pages) **022-023**
 - P 10 - Witness Statement of the Assistant Principal dated 18 September 2005 (10 pages) **024-033**
 - P 11 - Witness Statement of student 1 dated 20 September 2005 (6 pages) **034-039**
 - P 12 - Letter to the teacher from the Principal (5 pages) **040-044**
 - P 13 - Notes of meeting between the Principal, the teacher and the school welfare co-ordinator on 6 October 2005 (1 page) **045**
 - P 14 - Letter the teacher to the Principal dated 19 October 2005 (2 pages) **046-047**
 - P 15 - Notes of meeting held with the teacher on 29 November 2005 dated 1 December 2005 (1 page) **048**
 - P 16 - Letter the Principal to the teacher, attaching Investigator's Report, dated 6 December 2005 (7 pages) **049-055**
 - P 17 - Letter the teacher to the Principal, advising of resignation, dated 7 December 2005 (1 page) **056**

- Witness statement of the Assistant Principal dated 9 November 2006 (1 page) **057** and attachments
 - AP 01 - Witness Statement of the Assistant Principal dated 2 August 2005 (4 pages) **058-061**
 - AP 02 - Notes of events which occurred between 19 August 2005 – 30 August 2005 prepared by the Assistant Principal (3 pages) **062-064**
 - AP 03 - Witness Statement of the Assistant Principal dated 18 September 2005 (10 pages) **065-074**
- Witness statement of the student dated 16 November 2006 (4 pages) **075-078** and attachment
 - S 01 - Witness Statement of the student dated 23 August 2005 (1 page) **079**
- Witness statement of student 1 dated 27 September 2006 (4 pages) **080-083** and attachments
 - S1 01 - Notes of events from student 1 (1 page) **084**
 - S1 02 - Draft witness statement of student 1 (3 pages) **085-087**
 - S1 03 - Witness statement of student 1 (6 pages) **088-093**
- Witness statement of the teacher dated 11 November 2006 (3 pages) **094-096** and attachments
 - T 01 - Letter from the teacher to the Principal dated 19 October 2005 (2 pages) **097-098**
 - T 02 - Letter from the teacher to the Principal dated 7 December 2005 (1 page) **099**
- Typed summary of comments of student 1 dated 5 August including handwritten notes (1page) **100**

The following documents were tendered as exhibits to the Panel:

- A. Witness Statement of the Principal
- B. Witness Statement of the Assistant Principal
- C. Witness Statement of student 1

THE EVIDENCE

The Panel heard evidence under oath or affirmation from:

- The Principal
- The Assistant Principal
- The student
- Student 1

The teacher had been served with requisite papers by registered mail and although delivery of those papers had been confirmed by Australia Post, the teacher was not present at the hearing, nor was he represented. While the panel draws no conclusion from his absence, it is noted that it was not possible to cross-examine any of the witnesses, to have the teacher swear his own written and signed statement, or for the panel to have the benefit of a contradictory presence.

The student

The student was not asked to swear her written and signed statement as she indicated that she wished to change significant details contained in that statement.

The student testified, under affirmation, that she first met the teacher when she was in Year 8 (2001) at the school. While she was not in any of the teacher's classes, the teacher assisted her teacher in her class on occasions. As a result of this, she, along with a number of other students, considered the teacher to be an approachable and competent teacher and established an informal, out-of-class tutoring relationship with him.

In 2002, she continued the tutoring relationship. The teacher would tutor her, sometimes alone, sometimes with one or two others, at lunchtimes in an empty classroom. The sessions were informal and *ad hoc*.

In 2003, when the student was in Year 10, the teacher established and coached a girls' sports team at the school. About 20 girls from Years 10, 11 and 12 regularly attended training sessions after school. The student was among them.

During 2003, the student became a regular baby-sitter for the teacher's baby. She was frequently at his home in this capacity over a number of years. During 2003, the tutorials continued, although now often after school hours and the conversations became more personal. The student was interested in studying midwifery at the time and talk often turned to the teacher's baby and to other family matters. The teacher and the student often had lunch together at school and she told the panel that the two would "confide in each other."

She also told the panel that the teacher had been to her home a few times and that she addressed him by his first name at school. While this practice was not unknown at the school, it was unusual she said and was known to be disapproved of by school administration.

In 2004, the teacher suggested to a number of the girls in the school sports team that they should join a club. He accompanied a group to a sports club that was approximately 10 minutes' walk from the student's home. The teacher coached the team that the group joined.

On one occasion, the student developed blisters on her feet during training and asked the teacher to drive her home. She testified that they spoke for a while about a teacher whom she claimed was touching her inappropriately, with the administration

apparently taking no action against him. She said that she trusted the teacher and found him easy to talk to about such matters.

She told that panel that the two had kissed and that “one of us took my top off. . . and he fingered me.” She confirmed that by this she meant that the teacher had digitally penetrated her vagina. Further, she told the panel that he had touched her leg and that she had put her hand on his penis, which was erect and exposed. She said that the two were in the car together for approximately an hour.

Immediately afterwards, they agreed that “it should not have happened.” The teacher apologised to the student and suggested that they should wait until she completed Year 12 before they sought to further develop their relationship. He expressed concern for her welfare and for the future of his employment as a teacher.

The student told the panel that the following day the teacher suggested to her that he would change schools so that she would not be uncomfortable in his presence at school. She told him that this was not necessary. They continued to see each other most days, especially at sports training, but their relationship returned to that of a normal student/teacher fairly quickly. She also saw him in her continuing role as family baby-sitter and on one occasion, had dinner with him and another student after sports training. She also had lunch with him (and his baby) before school opened in 2005, soon after his divorce.

During her final year at school (2005) she continued to have a romantic attachment to the teacher and they agreed that they would re-establish their relationship after she left school at the end of 2005.

The student told the panel that she told her friend student 1 about her relationship with the teacher and the incident in the car after sports training. After some time, student 1 informed school authorities of the relationship and the student was questioned about it. At that time, she denied that anything untoward had occurred. She said that she then spoke to the teacher and they agreed that they should tell the Principal only that they had kissed and that he had touched her thigh, so that any investigation would be limited.

She told the panel that the teacher wanted to tell the full truth but that she suggested to him that they limit the story so that he would not lose his job.

Student 1’s decision to inform school authorities caused a serious breach of their friendship, the student said. She told the panel that “student 1 made sure the whole school knew about the situation.” The student said that, as a result, the rumours and gossip around the school had made life very difficult for her. She told the panel that student 1 only knew about what happened in the car. She did not know about “anything else” that had happened that year.

She agreed that none of the formal statements she made to the school or to the Institute’s investigator were correct in that they did not reveal the full extent of what occurred in the teacher’s car.

The student said that she had not felt any romantic attachment to the teacher since mid-2005, though she still spoke to him quite regularly on the telephone after he left the school. She did not meet him again until just prior to her Year 12 exams when they arranged to meet three or four times for tutoring sessions. She said that there was no romantic attachment at that time. She has had sporadic contact since.

Her final contact with the teacher was some few weeks prior to this hearing when she told the teacher that she was considering admitting to the full story, as she was increasingly uncomfortable maintaining their agreed version of events. The teacher's response was that, if he knew she was eventually going to tell the truth, he would have done the same from the beginning.

In finalising her evidence, the student told the panel that the teacher was a good teacher who was caring and enthusiastic. She said that she believed that he was under stress at the time and made a mistake. She did not believe that he was in any way a predator, "waiting in the car for some girl to walk past."

Indeed, throughout her evidence, she continued to express positive regard for him, as a professional and as a person she believed showed concern for her wellbeing. She found it difficult to articulate the critical elements of the evidence she gave and it appeared to the panel that doing so caused her significant pain.

The Principal

The Principal gave evidence under oath that she had been a teacher since 1966 and had been Principal at the school for the past 14 years. She agreed that her signed statement was true and correct. It was submitted as Exhibit A.

She told the panel that three or four staff had mentioned to her that the teacher appeared to be placing himself in a problematic situation by spending so much time, often alone, with the student. The Principal was particularly concerned for his welfare, as the student had made an apparently vexatious complaint against another male teacher in the recent past. While, in the Principal's view, this latter teacher had committed minor indiscretions in patting the student, it appeared to be of no real concern. She was concerned, however, that the student had insisted that the teacher be firmly disciplined and that a record of the incident be placed on his file. She warned the teacher about placing himself in a situation where he might be placed at risk.

The Principal described the teacher as a good teacher, competent, conscientious and well liked by students and parents. She expressed some concern, however, that he was sometimes too familiar with the students and seemed to want too much to be friends with them.

She described the student as being very enthusiastic and keen, with a strong social conscience. She was prone to challenge authority when she perceived that authority to be wrong. On occasions, that challenge became very angry and inappropriate. She was further concerned by the seemingly vindictive approach the student took to the minor indiscretions of the teacher mentioned above.

When asked about the discrepancy between the version of events portrayed by the teacher and the student and that of student 1, the Principal told the panel that she believed that the student “sometimes had trouble with reality.” On occasions, the Principal told the panel, that the student indulged in a fantasy life, not being, herself, quite sure where the lines of reality lay.

The Principal did have full confidence in the integrity of student 1 and her own investigation led her firmly to believe that the allegations were substantiated (Document EB 16).

The panel found the Principal to be a clear, articulate and highly credible witness.

The Assistant Principal

The Assistant Principal testified under oath that she had been, and continued to be, Assistant Principal at the school since 1999.

She attested that her written, signed statement was true and correct as it stood. Her statement was submitted as Exhibit B.

Student 1

Student 1 testified under affirmation that her written and signed statement was true and correct. It was submitted as Exhibit C.

She told the panel that, while she acknowledged that the teacher was very good as a tutor, she was uncomfortable with him. She described him as a “sleaze” who invaded personal space. She suggested to the panel that there had been some rumours about his relationships with other students before the situation with the student came to light.

She denied that she had ever been “fond” of him, as the teacher had claimed in his letter of 19 October 2005 to the Principal. She agreed that she may have told him that she had been bullied at her previous school overseas.

Student 1 strongly denied spreading rumours through the school about the relationship between the teacher and the student. To the contrary, she claimed to have been very discrete about the matter and that the student had, herself, told many other students at a party.

The panel had no reason to doubt student 1’s credibility.

Closure of Hearing

The teacher chose not to attend the hearing and was not represented. At the request of Counsel Assisting, the Panel closed the hearing pursuant to section 41(d) of the *Victorian Institute of Teaching Act 2001*. The orders were as follows:

The proceedings are to be closed to the public while the evidence of the following witnesses is being taken because of the intimate and personal nature of the evidence:

the student

student 1

Pursuant to section 41(e) of the *Victorian Institute of Teaching Act 2001*:

The identities of the above witnesses are not to be published or broadcast.

As a consequence of these orders, pursuant to section 49(b) of the *Victorian Institute of Teaching Act 2001*:

A person must not publish or broadcast or cause to be published or broadcast any report of this formal hearing which contains information which would enable the above witnesses to be identified, including but not limited to, information which would identify the witnesses' and the teacher's former school, the school, the Principal and the Assistant Principal.

DISCUSSION OF EVIDENCE

In ordinary circumstances, it is the character and behaviour of the teacher that is the focus of the Panel's deliberations, but the dramatic change in the evidence of the student between her written and oral statements meant that the Panel spent a considerable period of time assessing her evidence and character.

The cancelling of a teacher's registration is a serious matter involving as it does, the loss of reputation and livelihood. The Panel was very aware that in hearing and assessing evidence, care and caution needed to be used before deciding whether, on the balance of probabilities, that the allegations were true.

While other witnesses had carefully come to a conclusion that the allegations were true, only the student and the teacher really knew what had transpired. The teacher had chosen not to appear, as was his right. The Panel was faced with the difficulty that the student had shown herself to be unreliable and dishonest in her account of the alleged events over a lengthy period since 2004, but on the day of the hearing, provided evidence clearly at odds with her previous statements. The Panel was left with the task of judging the veracity of her oral evidence given at the hearing against contrary evidence to which she had attested in signed statements on previous occasions.

The student changed her evidence in a number of significant ways since her first interview with the Principal. In her initial meeting with the Principal on the 16th June 2005, the student denied that anything inappropriate had happened. In her signed statement of 16 November 2006, the student said that "...the teacher briefly kissed me on the lips and at the same time, put his hand briefly on my thigh just up from my knee." In her sworn evidence to the Panel on 9 May 2007, she agreed that they had kissed and that he had touched her leg. She then went on to say that "...one of us took my top off, and he fingered me...I touched him intimately, I put my hand on his penis." This evidence was given slowly with significant pauses and the Panel formed the view that after nearly two years of deception, the student was now, finally, telling the truth.

The additional information regarding her top being removed and the obviously painful manner in which the evidence was delivered led the Panel to believe that her evidence was authentic and truthful on this occasion. When asked by Counsel Assisting why she had wanted to tell the truth on the day of the hearing, the student said that she was not good at lying; she didn't like it (ie the lying); she had changed her view of the events; and she had experienced panic attacks.

The Panel also had the written and oral evidence from the Principal who was an impressive, reliable and objective witness. Her evidence to the Panel was invaluable and came in two forms. The first was the report of the investigation she conducted as the delegate of the employer. In it she came to the conclusion that Allegations 1(a) and 1(b) were substantiated, on the admissions of both the student and the teacher. The Principal then carefully examined all of the circumstances surrounding allegations 1(c) and 1(d) and came to the conclusion that these allegations were also substantiated. She based these conclusions partly on her assessment of the relative characters of student 1 and the student. She said that student 1 was "generally held in high esteem". She found student 1 to be "...a sensible, mature and well respected young woman, contrary to the views of the teacher." The Principal found the student "...evasive...not forthcoming...guarded and resistant and I (ie the Principal) formed the view that she was withholding information."

The Principal's conclusions were not only based on her assessment of the character of the student and student 1, but also the nature and changes in the student's evidence. The Principal outlined the contradictions in the student's accounts of events. Rather than student 1 spreading stories, in fact it was the student who had been indiscreet in public forums about her relationship with the teacher. Further, after initially accusing student 1 of lying, the student then confessed that Allegations 1(a) and 1(b) were true. There were a number of other contradictions in the student's account of events. She came to the conclusion that allegations 1(c) and 1(d) had occurred based on the credibility of student 1 and the "evasive and protective behaviour (of the teacher) of the student." The written evidence of the Principal (which had been written well before the student's oral testimony) provided further corroboration of the Panel's view that the student had changed her story over the 2004-06 period, that her written statements were not true and that her oral testimony was essentially accurate.

The further value of the Principal's evidence came in her testimony to the Hearing regarding the character of both the student and the teacher. She described the student as a student with a number of challenging behaviours who was subject to losing her temper, moodiness and sometimes not grasping the reality of situations. She described the student as a person who liked to be the centre of attention, but didn't like the consequences that occurred as the result of her publicly revealing some of the events around her relationship with the teacher.

The Panel came to the view that the student's oral evidence given at the Formal Hearing regarding allegations 1(c) and 1(d) were true. The Panel however, found that although the student was a victim, she was also dishonest in her dealings with the Principal and with student 1, who by all accounts, had been a good friend. The Panel discussed the possibility that the student's new evidence was an attempt on her part to discredit the

teacher after he ended their relationship in June 2005. The Panel came to the view that this was unlikely because the student went to some lengths to describe the teacher as not being a predator. She said he was a teacher who was friendly, helpful, approachable and she provided further evidence that he was a very good teacher who genuinely cared for her, even though, in the Panel's view, this care was seriously misplaced.

Counsel Assisting described student 1 as a "whistleblower", acting in the public interest and without whom the matters may have never become public. The Panel agreed and formed the view that student 1's character and behaviour were impeccable and that she should be commended for the role she played. The Panel found her honesty and strong ethical stance in a difficult situation over a significant period of time admirable and deserving of the highest praise. She had no motive to lie and showed great strength of character under the sustained attack on her honesty and integrity by the student and the teacher.

As indicated above, the Panel found the allegations against the teacher proved. His behaviour was a serious departure from the accepted standards of the teaching profession and was clearly his fault. He was approachable and friendly with students and assisted them with extra tutoring. This personal assistance then extended into using the student for babysitting, the teacher visiting the student at home on a number of occasions, their having lunch together at school, their mutual involvement in a local sports competition and an increasing level of personal discussion and confiding in each other.

It was clear from the student's evidence that in addition to her evidence pointing to the truth of the allegations, her relationship with the teacher continued for a considerable period of time after the events which are the subject of the allegations. At some point in his relationship with the student commencing in year 8, the teacher crossed the appropriate professional boundaries with her. His serious misconduct clearly arose out of his professional practice.

The Panel viewed the teacher's behaviour as a serious departure from professional standards and while the allegations refer only to one, perhaps isolated event, of approximately one hour's duration, they involve sexual intimacy and can only be regarded as serious offences. The public needs to be protected from this type of behaviour and the teacher's behaviour brings disgrace upon the teaching profession.

The Panel came to the view that the teacher and the student discussed and agreed on a story which significantly varied from the actual events. That the teacher agreed to this concocted story compounds his breach of trust because he has allowed the student to assist to maintain the falsehood.

The Panel was of the view that the teacher fully understood the seriousness of his actions because he confided to the student that he was concerned about his job in the future if the truth were to be revealed. It is in this context that in the letter to the Principal on 19 October 2005 he described student 1 variously as attention seeking, unpopular, a liar, fond of the teacher and jealous of the student.

In his signed statement of 11 November 2006 in which he reiterates the concocted story, he repeats these views while expressing his remorse for the elements of the story to which he admitted in order to reduce any punishment. The Panel found it impossible to accept that the teacher was genuinely remorseful while he continued to lie.

In the Panel's view, these statements indicate that the teacher is not fit to teach. He was guilty of serious misconduct in having a sexual relationship with one of his students and his unsubstantiated attacks on student 1 reveal a person whose character is not one that can be trusted with the duties and responsibilities of a teacher.

This abuse of his power and his dishonesty and willingness to attack the integrity of student 1 do not meet the high standards of honesty and ethical behaviour expected of a teacher or the standard of trust the community is entitled to place in teachers. He showed a disregard for his professional obligations in a way that was not carelessness, but showed a ruthless willingness to lie and blacken the character of an innocent student witness.

The Panel found all the allegations against the teacher proven.

FINDINGS UNDER SECTION 42(2) OF THE ACT

The Panel found that the teacher was guilty of serious misconduct and unfit to teach.

DETERMINATION UNDER SECTION 42(2) OF THE ACT

The Panel decided to cancel the registration of the teacher.

A handwritten signature in black ink, appearing to read "Peter Ryan".

CHAIRPERSON

A handwritten signature in black ink, appearing to read "Peter Ryan".

per:
Peter Ryan, REGISTERED TEACHER

Christine Holloway

**per:
Christine Holloway, REGISTERED TEACHER**