

**VICTORIAN INSTITUTE OF TEACHING**

**DECISION AND REASONS OF THE FORMAL HEARING**

**NUMBER:** 040

**REGISTERED TEACHER:** Vahe SARGSYAN

**PANEL MEMBERS** Susan Halliday, Chairperson  
Terry Hayes, Registered Teacher  
Jeanette Barclay, Panel Member

**ATTENDANCE:** Mr Vahe SARGSYAN was represented by Mr Ian FRECKELTON of Counsel, with instructing solicitor Mr Gerard LETHBRIDGE of Lethbridges Barristers & Solicitors  
Ms Anne SHEEHAN Counsel Assisting, with Ms Annabel HASLAM solicitor instructing

**DATE OF HEARING:** 20 November 2006

**DETERMINATION UNDER SECTION 42(2):**

On 1 February 2007, the Panel suspended the registration of Vahe Sargsyan from the date of this decision until at least 1 February 2008.

1. The teacher must attend at least 10 sessions of treatment with a psychologist between 1 February 2007 and 1 February 2008.
2. The teacher must provide evidence, by way of a detailed psychologist's report which addressed the following issues:
  - differentiating between personal and professional relationships (adolescent / student and adult)

- power relationships between students (be they male or female) and teachers / tutors ensuring a non-sexist analysis of the issues is progressed and understood
- development and maintenance of professional standards when working with young people, and actively determining and implementing professional boundaries with individual students,
- risk assessment and early issue identification of potentially problematic situations and venues, and the importance of progressing credible mature responses as well as initiating realistic solutions for all parties
- an in depth examination of the extent and nature of student, colleague, parental and community trust inherently invested in a teacher / tutor
- personal and social behaviour that could compromise the professional standing of a teacher, the profession of teaching and those who tutor
- appropriate ways in which to affirm and develop student self esteem, devoid of stereotypes, and probing what it might be like to experience life from the student's perspective (irrespective of gender)
- what constitutes flirtation, mixed messages and inappropriate communication
- the legal obligations of teachers / tutors,
- understanding and full adherence to the Victorian Institute Code of Ethics and the Code of Conduct (to be published mid 2007)

3. The suspension of the Mr Sargsyan's registration will not be lifted until the Panel is satisfied that the report of the psychologist adequately addresses each of the dot points set out in paragraph 2. The Panel requires a detailed paragraph on each of the 10 dot points identified above and comment on the teacher's progress and his evolution of personal insight on each of the 10 points. Comment on the likelihood of the teacher re-offending is also required in the report.

## REASONS

### BACKGROUND

On 31 December 2002 the teacher was deemed registered pursuant to section 91(3) of the *Victorian Institute of Teaching Act 2001* (the Act) because he was a person who was employed as a teacher in a State school in an ongoing position within the period of two years before the commencement of the Act.

This inquiry is the result of a complaint about the teacher lodged by the principal of the school. The principal provided the Institute with handwritten copies of SMS text messages between Year 12 student, the student who attended the school, and the teacher. While working as a teacher at another Victorian school, the teacher was also employed as the student's private maths tutor after hours. The handwritten copies of the SMS text messages were provided to the principal by the student's concerned friends, student 1 and student 2.

The complaint was referred to the Disciplinary Proceedings Committee on 9 December 2005 and the Committee determined pursuant to section 29 to conduct a preliminary investigation into the complaint.

On 17 March 2006, the Institute delegated to a consultant the conduct of a preliminary investigation into the complaint against the teacher. On 18 May 2006 the Disciplinary Proceedings Committee acted on the recommendation of the consultant, and determined that the inquiry proceed to a formal hearing.

A Panel was constituted in accordance with section 39 of the Act and a notice of formal hearing dated 11 August 2006 was served upon the registered teacher by registered post on 12 August 2006.

### Nature of Allegations

The information the Institute has received as evidence of possible serious misconduct and/or lack of fitness to teach is as follows:

1. That the teacher, when acting as a private mathematics tutor to the student, a female Year 12 student at the school in 2005, communicated inappropriately with the student via mobile telephone SMS text messaging, including:
  - a. 'isn't much fun without u!.....I am stiff....'
  - b. 'Do you like wearing a g-string?'
  - c. 'underage hottie'
  - d. 'Have u ever touched yourself longer than u should have?'
  - e. 'I don't need to, I'm married'
  - f. 'send my ur pic in your g'
  - g. 'Do u trust me?'
  - h. 'Were u hot? What did u wear'
  - i. 'are you horney'

- j. 'send me one more last pic - legs wide spread...is that ok?'
- k. 'I don't hate you I still love you'

## THE LAW

The Disciplinary Proceedings are set out in Part 4 of the Act. Section 26 of that Part provides:

### 26. Powers of inquiry

*(1) The Institute may in accordance with this Part inquire into any information it receives under section 27 or 28 or any complaint that provides evidence of the serious incompetence of a registered teacher, serious misconduct of a registered teacher or that a registered teacher is unfit to be a teacher.*

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:

- Witness statement of the principal dated 7/04/2006 & attachments **01-04**
  - 1 – Copy handwritten notes **05-13**
  - 2 – Copy letter from the student’s parents 11/10/2005 **14-15**
  - 3 – Copy letter to the teacher from the student’s parents 10/10/2005 **16-17**
  - 4 – Copy complaint form 7/12/2005 **18-20**
  - 5 – Copy notes of events re complaint 8/10/2005 **21-24**
- Witness statement of teacher 1 dated 6 April 2006 **25-26**
- Witness statement of student 2 dated 17 April 2006 **27-28**
- Witness statement of student 1 dated 28 April 2006 **29-30**
- Witness statement of the student dated 21/04/2006 & attachments **31-32**
  - 1 – Copy email from the teacher 4/07/2006 **33-34**
  - 2 – Copy email from the teacher 19/07/2005 **35-36**

The Panel was further provided with the following documentation:

- Reference from teacher 2 dated 30 October 2006
- Reference from a relative of the teacher dated 8 November 2006
- Reference from the teacher’s spouse dated 3 November 2006
- Reference from principal 2, dated 26 October 2006
- Psychological Report from the psychologist (Clinical & Forensic Psychologist) dated 16 November 2006

The following exhibit was presented to the Panel:

- A.** Statement of the teacher

## THE EVIDENCE

The registered teacher submitted a written statement of admission prior to the Hearing. The statement of the teacher admitted that when acting as a private maths tutor to the student, a Year 12 student at the school in 2005, he communicated inappropriately with the student via mobile telephone SMS text messaging. The teacher's legal counsel called two witnesses, namely the psychologist and teacher 2. The teacher himself also testified. All three provided evidence under oath or affirmation.

Given the circumstances, and the admissions made by the teacher prior to the Hearing, the Institute decided it unnecessary to call witnesses.

**The teacher** testified that the information in his statement of admission was true and accurate. The Panel was informed that the teacher held a Bachelor of Applied Mathematics and a degree in Mechanical Engineering and commenced teaching maths and physics in the country of his birth in 1990. The teacher arrived in Australia in 1995, and in 1998 obtained a Diploma of Education from Melbourne University. From 1999 onwards the teacher had taught secondary students ranging from Years 8 to 12. He taught in a government school in 1999 and had been employed by an independent school since 2000.

The teacher commenced private tutoring in 1996 and over a ten year period had tutored roughly 80 students. The teacher started to tutor the student in 2003, when she was in Year 10 at the school. The teacher was not employed at the same school that the student attended. The teacher also tutored the student in Year 11 in 2004, and Year 12 in 2005.

Email addresses had been exchanged between the student and tutor in order to send extra revision materials and examples of examination questions. Mobile phone numbers were also exchanged in order to deal with cancellation of, or changes to, tutoring times.

The student completed Year 11 with good results and decided to do Maths Methods in Year 12. The tutor was asked to continue his work with the student by her parents, and the teacher agreed.

The teacher informed the student that in late June 2005 he would be travelling overseas with his wife and children for a holiday. Email was considered a good way to maintain contact in order to continue with tutoring support. Email contact was made about four times.

The teacher returned to Australia after four weeks holiday, and continued on with his teaching and tutoring duties. He stated that his wife and children remained overseas for four months and that as a parent and husband he was concerned about situations they faced overseas without his support. The teacher stated that he became depressed and lonely and informed the Panel that his downturn in mood led to him consuming escalating amounts of alcohol.

During his family's absence the teacher's contact with the student via SMS text messaging increased and altered in content. While maths and administrative information was relayed, discussion of social engagements, personal experiences, television programs and DVDs, including conversation about pornography, took place. The teacher indicated to the Panel that he became involved in an inappropriate on-going pattern of communication that crossed boundaries. He acknowledged that it was his responsibility to refrain from being involved in such communications, some of which were highly sexual in nature, but failed to do so. The teacher stated that his inappropriate SMS text messaging behaviour took place over a period of time, when he was intoxicated. The teacher indicated that he had not contemplated or fully understood the nature of the power he had in the relationship.

The teacher stated that when at a friend's place in Sydney in late September 2005 he drank heavily. He informed the Panel that it was on this occasion that he engaged in the most inappropriate of behaviour, having requested after an ongoing SMS text conversation, that the student forward sexuality explicit photographic material of herself. The student did so. The teacher stated that the next morning when sober he realised what had taken place and deleted the picture. The teacher stated that he made contact via a SMS text message and apologised. The teacher said he was very sorry for what he had done and was appalled by his own behaviour which was inexcusable.

The teacher stated that he had not thought about the potential of sending mixed messages when SMS texting in the earlier stages. He stated that he had tried to help with the student's self esteem as she seemed to be concerned about her appearance. He stated that the student was excited about her formal and he said she looked like a princess to help with her self esteem.

The teacher stated that he tutored the student in her bedroom and did not think that this could or would be viewed as a problem. He indicated that he had not really thought about it, or generally where it was appropriate to tutor students.

The teacher stated that he told his wife and brother-in-law what had happened. He stated he promised such a mistake would never happen again.

The teacher stated that after what had happened while he was in Sydney, the student asked on several occasions if she could accompany him on a rural trip. The teacher stated that he remained adamant that she could not. He stated that the student continued to contact him.

The Panel was informed that after matters had come to light the student apologised repeatedly to the teacher. The teacher stated that he accepted full responsibility for what had happened and believed that he had engaged in serious misconduct, violating the trust that a student should be able to have in a tutor, teacher and adult.

The teacher said he was remorseful, ashamed, embarrassed and upset that he was not in charge of his own behaviour and what had eventuated. He stated that he was the one who spoke to others about the need for teachers to work properly with students at school. He told the Panel that he realised that his behaviour had let a lot of people down

and could have been damaging to the student. The teacher also said that the behaviour was out of character and that he had since been abstaining for excessive use of alcohol.

The teacher stated that he did not seek help with his depression and alcohol consumption when his family was away because he considered that it would be a weak thing to do. He stated that he did not cope well when his family was away. Mindful that the Panel could not prevent the teacher from conducting private tutoring sessions, the teacher stated that he was prepared to make a commitment not to tutor female students (excluding relatives) for three years in order to demonstrate that he was serious.

**The psychologist**, consulting clinical and forensic psychologist, testified that the material contained in his report dated 16 November 2006, forwarded to the Institute, was true and accurate. The psychologist stated that he had run a series of psychological and behavioural assessments with the teacher, starting with his initial consultation on 18 September 2006. He stated that he met with the teacher a further five times prior to the Hearing, progressing his assessments and treatment of the teacher.

The psychologist confirmed that he had reviewed the same material available to the Panel that detailed the specific actions of the teacher in question, the content of his SMS text messages and the witness statements.

The psychologist informed the Panel that on the basis of his assessments and interactions with the teacher, he was satisfied that the teacher genuinely felt ashamed, embarrassed remorseful and regretful of his behaviour. The psychologist stated “in my opinion he does clearly understand he engaged in serious and repeated boundary violations with the student.” He indicated in his written report that in his view the teacher now has insight into how his behaviour could have confused and distressed The student.

The psychologist provided the Panel with specific details drawn from the personality tests and sexuality questionnaires he had run with the teacher, as well as his opinion on the mental state of the teacher. In conclusion the psychologist stated that the teacher was in his opinion an intelligent man who had experienced depressive symptomatology as part of an acute Adjustment Disorder with Mixed Disturbance of Emotions (depression with some anxiety). He stated that he assessed the teacher as a guarded person, with an intense interpersonal style. While presenting as rigidly moralistic, and overly sensitive to criticism and rejection, and demonstrating a tendency to lack trust, the psychologist assessed that the teacher did not present with any personality disorder, and in particular he did not present with an anti-social personality disorder. He indicated that in his opinion the teacher would not be diagnosed as a paedophile or hebephile and further that he did not believe that the teacher posed any on-going risk to students in his care.

The psychologist noted that at the time of the unacceptable behaviour the teacher was also suffering from Alcohol Dependence. The psychologist informed the Panel that he believed that the teacher was now drinking in moderation.

The psychologist stated that he considered that on-going psychological sessions would be helpful to the teacher so as to develop more comprehensive insights into the wrongfulness of his inappropriate behaviour. The psychologist noted that while the teacher had showed multiple gross errors of judgement, he had made some progress gaining a widened understanding, albeit an unsophisticated understanding, of the given circumstances and how they impacted on a range of parties. The psychologist indicated that the teacher was confused by the fact that he received on-going SMS text messages from the student, and that the teacher needed to better understand the issues of power involved with student – tutor / teacher relationships.

**Teacher 2**, a good friend and former colleague of the teacher testified that the statement that he had drafted for the Panel was true and accurate. Teacher 2, himself a registered teacher, stated that the teacher was an excellent maths teacher who inspired students, ran enrichment programs and took a range of initiatives to engage students in learning. Teacher 2 said that he was very familiar with the teacher's work and how he interacted with students. He stated that he believed that the teacher felt he had betrayed teacher colleagues and the profession. Teacher 2 said it was hard to get teachers like the teacher. He added that the teacher had been transparent with the information provided, and had already suffered personally by not being allowed to teach.

Teacher 2 said he was shocked at what had happened between the teacher and the student. He said he was not surprised however, that the teacher resorted to heavy drinking due to loneliness.

Teacher 2 stated that he also tutored privately, and that he was mindful of where tutoring took place. He said it took place in the lounge room, kitchen and sometimes in the student's bedroom, and on such occasions when he tutored in the student's bedroom he ensured the door was open.

He said that the one-on-one tutoring role at times required that you did help elevate a student's self esteem and address other issues that emerged. He said that when students raised other issues he believed that you needed to guide students, and ask had they talked to their parents.

## **DISCUSSION OF EVIDENCE**

The Panel acknowledged the teacher's preparation for the Hearing included the drafting and presentation of a statement, in which the teacher admitted up front that the allegation put by the Institute was true. Delivered prior to the Hearing, receipt of this statement simplified and shortened proceedings. This action on the part of the teacher is commended and goes some way to demonstrating his remorse and personal progression in relation to the matter before the Panel.

At the outset the teacher stated that he had interacted with the student, to whom he was providing private maths tuition, via SMS text messaging on a number of occasions in 2005. He admitted that several of these interactions moved beyond tuition related

topics, and involved conversation of a sexual nature which clearly crossed boundaries. He also admitted that he requested sexually explicit photographic material of the student, which after the fact he considered to be grossly inappropriate and inexcusable. The Panel, mindful of the particularly serious nature of the teacher's behaviour, acknowledged the teacher's Hearing preparation and forthright admission, noting that the statement of admission ultimately meant that a range of witnesses, including and most importantly student witnesses, did not have to be called to provide evidence at the Hearing.

The available evidence demonstrates clearly that the teacher viewed his behaviour as serious misconduct. The teacher acknowledged that without reservation his conduct was seriously unprofessional, unjustified and unjustifiable.

Highly emotive and embarrassed when giving evidence, the teacher did convince the Panel that he was generally remorseful and had been honest with his extended family about his gross indiscretions. Further the Panel having heard the evidence of the treating psychologist and the teacher, deemed that the teacher was well aware of right and wrong, and further, that having reflected on what had transpired he fully understood the likely ramifications of his conduct for himself.

That said the Panel were of the view that the highly emotive and embarrassed state projected by the teacher during the Hearing, had less to do with specific student related remorse and a sophisticated understanding of the potential risks he posed to the student personally and academically, than it did with his potential loss of career and the shame and humiliation he had experienced having had his behaviour exposed.

The Panel based on the available evidence considered that the teacher still had some distance to travel in order to achieve the degree of foresight and insight that the Panel expected of him, given his role working with adolescents. In addition the Panel considered the evidence demonstrated the teacher continued to portray a limited ability to differentiate between appropriate self esteem support mechanisms for adolescent students, compared to what may be extended to family members and adults.

In discussion of the evidence the Panel considers it important to note the reason that the teacher's behaviour came to light, had nothing to do with any action taken, or initiative shown, by the teacher. The Panel commends however the Head of Maths at the student's school, who acted on his feeling that the student and her tutor were too close, reporting the matter to his principal. The Panel also commends the two friends of the student who initiated contact with the same principal in order to share their concerns about the nature of SMS text messaging between the tutor and the student. These two friends of the student not only acted maturely, they had the foresight to retain and further present a handwritten copy of the SMS text messages they found troubling. The swift and thorough action of the principal is also acknowledged as part of the review of the evidence.

The evidence shows that all parties, excluding the offending teacher, acted in the interests of the student, and additionally did so in a timely manner.

The available evidence portrayed the teacher as a competent and inspirational educator who was generally well respected by students, colleagues and parents. The teacher stressed to the Panel that he wanted to continue on, in his chosen profession of teaching, and would undertake whatever was necessary in order to do so.

Mindful that the Panel have no means by which to determine or influence the teacher's private tutoring work, it was acknowledged by the Panel that the teacher in attempting to demonstrate his remorse and willingness not to re-offend, stated that he would refrain from tutoring female students one-on-one for a period of three years (excluding family members). The Panel accepts that this gesture was one made in good faith, and having deemed it mature and cautionary in nature on the part of the teacher, expects that the teacher adheres to it for the full period of three years, thus resuming one-on-one tutoring of female students in 2010.

Based on the balance of probabilities, all of the available evidence and the teacher's admission, the Panel concludes that the allegation that the registered teacher, when acting as a private mathematics tutor to the student, a Year 12 student at the school in 2005, communicated inappropriately with the student via mobile telephone SMS text messaging.

## **FINDINGS UNDER SECTION 42(2)**

- That the teacher was a registered teacher.
- That whilst acting as a private mathematics tutor to the student, a Year 12 student at the school in 2005, the teacher communicated inappropriately with the student via mobile telephone SMS text messaging, including -
  - (a) discussion about adult pornography
  - (b) general conversation of a sexual nature
  - (c) conversation of a sexual nature specific to the student
  - (d) requesting sexually explicit photographic material of the student
- That the teacher is guilty of serious misconduct.
- That the teacher is not fit to teach at this time.

## **CONCLUSION**

Disciplinary proceedings are established to protect the public interest. The Panel when making its determinations in relation to this matter considered that the public interest would be best served if the teacher, having been found guilty of serious misconduct, was removed from the teaching profession until he had demonstrated to the Panel that he is fit to teach. At a minimum the teacher will be suspended with conditions for one year.

Deeply concerned that under the auspice of ‘private tutor’ the teacher breached the professional standards of the teaching profession, exploiting the privileged position of power and trust that he had been granted as a registered professional, the Panel has placed a number of conditions on the teacher. These conditions need to be fully met prior to the teacher being considered fit to teach by the Panel.

The unique access a private tutor has to a student, both personally and with respect to physical environment, is something teachers and tutors must fully comprehend and manage proactively, as part of the role they undertake. It appears the teacher on several counts has been particularly naïve to such things, and not cognisant of the fact that the onus rests with him to risk assess the level and nature of contact had with a student, as well as the environment in which he undertakes his tutoring.

It is an understatement to say that the Panel remained unconvinced that the teacher’s limited experience with women and adolescent children was in anyway an excuse or reason for the teacher not understanding adolescent behaviour and not having appropriate mechanisms to deal with adolescent self esteem. Cultural arguments do not extend any licence in this regard. Lack of understanding as presented by the teacher dictates the need for the teacher to come to terms with his significant short comings in this area, an area that should be well understood by all teachers.

The Panel believes that the teacher, up until the Hearing, had not sufficiently focused on the things that would allow a return to his profession. This assessment is made with specific reference to the student and the personal and academic risks she was exposed to during Year 12 and beyond.

The teacher must present as knowledgeable of the need for early issue identification and intervention, as well as demonstrate increased levels of professional maturity with respect to understanding adolescents, and power relationships, if he is to make progress towards being considered fit to teach in the future.

The Panel was also of the view that the teacher had not sufficiently explored the negative impact his behaviour had on the teaching profession as a whole, nor did he articulate to the satisfaction of the Panel an in-depth understanding of the broader consequences for the school community that he was employed within.

Additionally the Panel considered that while the teacher apologised and stated he regretted all that had happened, he had not fully understood the ramifications of his conduct for parents who engaged tutors, nor the likely fall out associated with his behaviour for other teachers who also worked as tutors.

The Victorian teaching profession and the public need to be confident that students placed in the care of a teacher undertaking the duties of a private tutor, are not in any way subjected to, or potentially placed at risk of, any form of deleterious conduct.

## **DETERMINATION UNDER SECTION 42(2):**

On 1 February 2007, the Panel suspended the registration of the teacher from the date of this decision until at least 1 February 2008.

1. The teacher must attend at least 10 sessions of treatment with a psychologist between 1 February 2007 and 1 February 2008.
2. The teacher must provide evidence, by way of a detailed psychologist's report which addressed the following issues:
  - differentiating between personal and professional relationships (adolescent / student and adult)
  - power relationships between students (be they male or female) and teachers / tutors ensuring a non-sexist analysis of the issues is progressed and understood
  - development and maintenance of professional standards when working with young people, and actively determining and implementing professional boundaries with individual students,
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  - appropriate ways in which to affirm and develop student self esteem, devoid of stereotypes, and probing what it might be like to experience life from the student's perspective (irrespective of gender)
  - what constitutes flirtation, mixed messages and inappropriate communication
  - the legal obligations of teachers / tutors,
  - understanding and full adherence to the Victorian Institute Code of Ethics and the Code of Conduct (to be published mid 2007)
3. The suspension of the teacher's registration will not be lifted until the Panel is satisfied that the report of the psychologist adequately addresses each of the dot points set out in paragraph 2. The Panel requires a detailed paragraph on each of the 10 dot points identified above and comment on the teacher's progress and his evolution of personal insight on each of the 10 points. Comment on the likelihood of the teacher re-offending is also required in the report.



**SUSAN HALLIDAY, CHAIRPERSON**



**Per:**  
**TERRY HAYES, REGISTERED TEACHER**



**Per:**  
**JEANETTE BARCLAY, PANEL MEMBER**