

VICTORIAN INSTITUTE OF TEACHING

DECISION AND REASONS OF THE FORMAL HEARING

NUMBER: 092

REGISTERED TEACHER: Robyn Christine GORDON

PANEL MEMBERS: Kevin Moloney, Chairperson
Marilyn Mooney, Registered Teacher
Jenny Wajsenberg, Registered Teacher

ATTENDANCE: The teacher was represented by Mr Edward Johnson, Industrial Officer, Australian Education Union
Mr Andrew Flower, Counsel Assisting, with Ms K Galanos and Ms K Magnussen instructing

DATE OF HEARING: 9 and 10 November 2009

DETERMINATION UNDER SECTION 2.6.46(2) OF THE EDUCATION AND TRAINING REFORM ACT 2006:

On 20 November 2009 the Panel decided to suspend the registration of the teacher until at least 20 November 2010 and impose the following conditions:

- (1.) That during the period of suspension the teacher undertake the following professional development activities conducted by the Teacher Learning Network, which are scheduled to run in Term 1 of 2010:
 - The First Weeks – What Effective Teachers Do
 - Beyond Telling Off
 - Positive Classroom Management
- (2.) That the teacher provide to the Panel evidence of participation in and completion of the professional development activities outlined in (1).
- (3.) That the teacher present to the Panel a written submission outlining:

- The knowledge gained from the prescribed professional development activities
 - Strategies that the teacher intends to employ in order to engage students in the learning process
 - An understanding of Section 3 of the Victorian Institute of Teaching's Code of Conduct regarding Professional Competence.
- (4.) That the teacher is responsible for the costs associated with undertaking the professional learning activities outlined in (1).
- (5.) That the suspension will not be lifted until conditions (1), (2) and (3) are complied with.
- (6.) When the teacher regains registration as a teacher:
- She is to organise a registered secondary teacher of at least 5 years experience to act as her professional mentor throughout the first year of her next teaching appointment. Such a mentor may be either internal or external to the teacher's workplace. The mentor will through peer support and collegial advice assist the teacher to reflect on her professional practice including classroom management strategies and engagement of students.
 - Following the completion of the first 12 months of her next teaching appointment, she is to provide to the Panel reports from her mentor and from her School Principal that describe the teacher's professional competence, including, but not limited to:
 - The teacher's range of strategies employed in classroom management
 - The teacher's ability to establish her presence and authority in the classroom
 - The teacher's repertoire of lesson presentation strategies
 - The teacher's ability to develop a relationship with students in her care.
 - If the reports from the mentor and the School Principal are not satisfactory, the teacher will be required to complete a further 6 months of mentoring.

REASONS

BACKGROUND

The teacher has been a registered teacher with the Victorian Institute of Teaching (the Institute) since 31 December 2002.

By letter dated 10 July 2008, the employer notified the Institute that they had taken action in relation to the alleged serious incompetence of the teacher. As a result of these allegations, the teacher's employment was terminated by the employer.

The matter was referred to the Disciplinary Proceedings Committee (the Committee) of the Institute on 21 January 2009 and the Committee decided to refer the matter to an investigation.

On 24 June 2009, the Committee considered the investigator's report and decided to refer the matter to a formal hearing.

A Notice of Formal Hearing dated 23 September 2009 was served upon the teacher's representative by Express Post on 24 September 2009.

The following exhibits were accepted by the Panel:

- A.** Page 001 of Formal Hearing Book: Registration Details of the teacher
- B.** Pages 27 – 34 (inclusive) of Formal Hearing Book being part of Witness Statement of principal 1
- C.** Pages 37 – 52 (inclusive) of Formal Hearing Book: Various Diary Notes and Letters of Complaints from students and parents attached to Witness Statement of principal 1
- D.** Pages 35 and 36 of Formal Hearing Book: Survey attached to Witness Statement of principal 1
- E.** Pages 55 – 56 a) (inclusive) of Formal Hearing Book being part of Witness Statement of principal 2
- F.** Page 57 of Formal Hearing Book: Report of Observation of Year 11 Health & Human Development class run by the teacher, attached to Witness Statement of principal 2
- G.** Witness Statement of teacher 1
- H.** Witness Statement of principal 3

- I. The employer's Guidelines for Managing Complaints, Unsatisfactory Performance and Serious Misconduct in Relation to Teachers
- J. Witness Statement of teacher 2 & Peer Support Document
- K. Witness Statement of teacher 3
- L. Witness Statement of the teacher

THE EVIDENCE

The allegations of serious incompetence and/or lack of fitness to teach as set out in the Notice of Formal Hearing are:

Whilst employed as a registered teacher at the expert level at the school in 2006, when taking Year 11 and 12 Human Development Classes ("HD") you:

1. Failed to use a range of teaching and learning strategies, technologies, activities and resources in order to engage students in active learning, including:
 - a. Continuously instructed your Year 12 HD class to read and highlight their notes without providing the students the opportunity to explore ideas, develop knowledge and skills through classroom discussion and group activities regarding the content of what they were reading, causing students to feel that they were teaching themselves through the subject textbook.
 - b. Generally conducted your Year 11 and 12 HD classes by writing instructions including textbook/ handout page number references on the board for students to read then answer questions in writing:
 - i. Without explaining course content; or
 - ii. Providing the students the opportunity to explore ideas, develop knowledge and skills through classroom discussion and group activities regarding the content of what they were reading and answering questions about.
 - c. When conducting your Year 11 & 12 HD classes rarely if ever conducted teacher-lead discussions on particular units or topics as a strategy to teach curriculum.
 - i. In the week prior to the 15 May 2007 set no work for the Year 11 HD class and told students "to do what they liked" or words to that effect.
 - d. Not changing or varying teaching strategies even when it was apparent the students in your Year 11 & 12 HD classes were not engaged in learning.
2. Failed to communicate effectively and build rapport with students in order to support their learning in circumstances where:

- a. Students, including but not limited to the following students, complained to principal 2 and other teachers in the school about their negative relationships with you: student 1 (Year 12), student 2 (Year 12), student 3 (Year 12), student 4 (Year 12), student 5 (Year 12), student 6 (Year 11), student 7 (Year 11), student 8 (Year 11), student 9 (Year 11), student 10 (Year 11), student 11 (Year 11), student 12 (Year 11) and student 13 (Year 11).
 - b. Students provided consistent negative feedback about you in a survey which was administered to the Year 12 HD class in April 2006 and to the Year 11 HD Class in April 2006.
 - c. After these complaints were made known to you, you failed and/or refused to change and/or adjust your communication strategies and your method of interaction with students.
3. Failed to exercise appropriate classroom management techniques in circumstances where:
- a. On one occasion in late April 2006, eight Year 12 students left your HD class and went in to principal 1's office to complain saying that they 'were fed up with the class, that it was a waste of time and they were not learning anything' or words to that effect.
 - b. You did not implement appropriate strategies in the classroom when students who were disengaged with the work in your Year 11 & 12 HD classes listened to iPods and chatted amongst themselves instead of working.
 - c. You yelled at or ignored students as a form of managing students who were not cooperating in class.
 - d. You would start and escalate conflict with students in class.
 - e. On 30 August 2006 wrote instructions on the board for approximately 10 minutes relating to work to be done in class when many students were not paying attention.
 - f. On 30 August 2006 students who turned up late to class were not asked to explain why or face any consequences for their lateness.
4. Failed to accommodate individual learning needs of students including where you:
- a. On 10 July 2006 ignored students when they had their hands up for assistance during class while other students had to wait for a long time to have their questions answered.
 - b. Regularly told students to put their hands down and would not follow through with answering their questions at a later time.

- c. Refused or failed to listen to student concerns regarding their work.
 - d. At times when students would ask questions relating to work avoided answering them by talking about something else.
 - e. Responded unreasonably to student concerns such as not being able to see writing on the classroom board or asking to leave the class to have a drink of water.
 - f. Failed to treat students equally and promptly respond to questions in class instead of focusing on students who weren't critical of you and did not ask all the questions in class.
 - g. Became frustrated with students who asked questions.
 - h. Instead of engaging with students who asked for help or asked questions, would instead respond by saying things like "*I have done 4 years of uni and Masters degree*" or words to that effect.
5. Failed to assess the progress of students appropriately, including where you:
- a. Failed to provide adequate or sufficiently clear instructions to students in relation to the dates and topics covered in relation to their School Assessed Coursework (SACs) causing the students to be unprepared and have no clear understanding of what was expected of them in their SACs.
 - b. Penalised Year 11 student, student 8, when correcting her SAC because she had numbered her answers incorrectly when there was no clear instruction by you as to how to number the answers to the questions in the SAC.
6. Failed to adequately translate your knowledge and the content of the curriculum to students in circumstances where you:
- a. Did not to actually 'teach' or rarely if ever, gave any explanation of the content or topics the students were meant to be learning, expecting students to gain knowledge and understanding of content and topics by reading, summarising and answering questions on material supplied. The particulars of which are referred to in allegations 1a) – d) (inclusive) hereof.
 - b. Failed to monitor student engagement and failed to plan for a range of activities, resources and materials to provide meaningful learning opportunities for students, which caused serious concerns from parents and Year 12 students alike, that their VCE results would be jeopardized if you remained as their teacher.

At the outset, Counsel Assisting indicated that Allegations 4e and 4h would not be pursued.

The Panel heard evidence either under oath or affirmation from the following witnesses:

For the Institute -

- Principal 1
- Principal 2
- Teacher 1
- Principal 3

For the teacher -

- Teacher 2
- Teacher 3
- The teacher

Principal 1

Principal 1 gave evidence under oath and affirmed her witness statement as correct. She told the Panel that she has been a teacher since 1975 and had taught at a variety of schools in both the State and Catholic systems. She is currently Principal of school 1 and in 2006 she was Campus Principal at the school's senior campus.

The Panel heard that principal 1 first became aware that students were dissatisfied with the teacher's teaching when several Year 12 students came to her in March 2006 to complain "that they didn't understand her and that she was not teaching them." Principal 1 said that she listened to the students and asked them to write down their issues. Principal 1 told the Panel that she spoke to the teacher about the students' comments and arranged to visit her class to observe and provide feedback from those observations. Initially this was agreed to but then the teacher suggested she be given the opportunity to work through the issues with the students. Principal 1 agreed and told the Panel that she arranged for the teacher to observe the class of one of the school's leading teachers; she discussed varying teaching strategies with her and offered to release the teacher so that she could attend a behaviour management professional development activity. Principal 1 said that later in March further verbal and written complaints were received from the students. She arranged with the teacher to administer a survey with each of the teacher's classes to ascertain what the exact issues were. The survey is part of the school's performance and development culture. The survey results were tallied by the teacher and principal 1. Principal 1 told the Panel that the results from both classes were "overwhelmingly negative on all questions." Principal 1 said that she met with the teacher to discuss the results and from this developed six strategies for the teacher to use in her classes to try to improve the teaching and learning.

Principal 1 told the Panel that over a period of time she attended several of the teacher's classes, observing and discussing improved teaching strategies with her after each class. She observed that the teacher's approach was to have students work through either worksheets or textbook activities. The Panel heard that the teacher's instructions and answers to questions were unclear, confusing, contradictory, and often incorrect. She said that the teacher tended to focus on students who weren't

critical of her and who didn't ask all the questions. Principal 1 said that from her observations the teacher did not deal with the discontent amongst the students well. In May, 2006, following further complaints from students and parents the school commenced formal unsatisfactory performance procedures with the teacher and an initial monitoring period began. In July, as part of the monitoring period principal 1 said she attended several of the teacher's classes and found it obvious that the teacher did not have the confidence of the students. Instructions were unclear, students were confused and some were continuing to be ignored.

The teacher started working through the initial monitoring period with the formal support group on 10 July 2006 and continued until 7 September 2006. This group consisted of teacher 1 (Leading Teacher) and teacher 4 (Team Leader) and teacher 2 and their role was to assist the teacher to improve her teaching by meeting regularly and giving her advice and support. Principal 1 told the Panel that she stepped back from this process, only receiving formal minutes, and she also stopped observing the teacher's classes. Principal 3 began observations. Principal 1 said that principal 3 recommended a further monitoring period due to the teacher not satisfactorily improving her performance during the initial monitoring period.

Principal 1 told the Panel that due to increasing concerns about the academic progress of the Year 12 class it was decided that another teacher would take over this class. This was done on 31 July.

Through cross-examination the Panel heard that although the school has a vertical hierarchical structure it was not uncommon for students to bypass the next step and go straight to the top. Principal 1 explained to the Panel that is what happened with the students' complaints in the teacher's classes. She said she was confident that the process was sound and that the teacher's position was not undermined. She acknowledged that induction processes around the time of the teacher's entry to the school were not handled appropriately and stated that a general induction program has since been established. Principal 1 told the Panel that although general induction was not handled appropriately at that time, it would be a general assumption that a teacher is qualified to teach their subject area – that they don't need induction in their subject.

Principal 2

Principal 2 gave evidence under affirmation and confirmed his written statement, with a minor alteration, as true and accurate. He told the Panel that he is currently a Campus Principal of the school at the Junior Campus. In 2006 he was a Campus Principal at the Senior Campus and from June 5th to June 16th he was Acting Principal of the school during principal 3's time of leave.

Principal 2 said that he became aware of complaints concerning the teacher's teaching when principal 1 informed him of the problems. After contacting the employer the school instigated an unsatisfactory performance process. Principal 2 told the Panel that at the suggestion of the teacher's support group he sat in on one of her Year 11 lessons. He said that his observations were of her taking the first 10 minutes of the lesson to write up the lesson and homework and during this time she

was unaware of what students were up to in class and unaware of those who came in late, therefore avoiding the appropriate consequences. The Panel heard that the teacher's verbal instructions were largely ignored or not understood. Principal 2 said that some students attempted the work which was basically a reading comprehension task but were having difficulty as not all the materials necessary for the task were available. The Panel was told that many students were out of their seats, talking, and not on task. Principal 2 said "the teacher seemed to be blinkered to what was going on in the class and continued to act as though the lesson was going to plan." He said that a student was rude and aggressive towards the teacher when she attempted to discipline him and others were smiling and laughing. The teacher just walked away and did nothing about his noncompliance.

Principal 2 told the Panel that during his observations there was no attempt by the teacher to discuss the questions/answers relating to the set work and there was no discussion or teaching of the Health and Human Development curriculum. He said that several students came up to him after the lesson complaining about submitted work not being returned or marked.

In discussing his observations and suggesting teaching strategies with the teacher after the lesson, principal 2 felt that she "did not understand many of the points I was making. She had very little understanding of effective pedagogy and was either unwilling or unable to reflect constructively on her performance as a teacher." He said that the teacher accepted some points but put blame onto the students. Principal 2 said that the students were poorly behaved but this was a result of the teacher's poor management. "I observed much of the lack of respect from the students stemmed from their concern at not being taught or not getting submitted work returned."

Under cross-examination principal 2 outlined the hierarchical structure within the school and outlined positions and their respective responsibilities. He agreed that there were people in place to oversee curriculum delivery and told the Panel that teacher 5 who worked and planned the subject with the teacher had never complained to him about the teacher.

In response to a question about some of the teacher's students displaying entrenched misbehaviour, principal 2 said that he had asked other teachers about these students and discovered that they were not problems in other classes.

Teacher 1

Teacher 1 gave evidence under oath and confirmed his statement, including support group minutes, as true and accurate. Teacher 1 told the Panel that at the time of the teacher's monitoring process he was a Leading Teacher at the school.

Teacher 1 said that he and another teacher, teacher 4, were asked by the Campus Principal, principal 1, to manage a support group for the teacher. Another teacher, teacher 2 was the teacher's support person at the meetings. They were asked to particularly focus on strategies to improve teaching in her subject area, organisation, student management and relationships with students. The Panel was told that at support group meetings strategies concerning all of these areas were discussed and

plans made for the teacher to implement what was discussed. He said that initially the support group focused on planning but when asked for her term planner the teacher did not have one. Eventually she produced one but only after extensive assistance had been given in what a plan should look like.

Teacher 1 told the Panel that throughout the two monitoring periods the support group provided the teacher with ample advice on planning, delivery and classroom management. His observations from the support group meetings and other teachers' observations were that although the teacher responded positively in the support meetings and had a clear passion for her subject; she was unable to translate this passion into effective classroom teaching. However, teacher 1 also said in his written statement that "I am not in a position to say if the strategies discussed had an impact on her teaching ... I never had the opportunity to observe her class ..."

Teacher 1 said that on two occasions he observed the teacher interacting with students. One was in the classroom where students were disputing processes relating to a common SAC and the other was in the yard when the teacher was haranguing students for missing work. On neither occasion did the teacher use or attempt to use the positive strategies that had been discussed and explored during support group meetings. He said that the teacher was "ranting and raving at the students about the issue, not speaking to them productively or trying to resolve the issue."

Teacher 1 told the Panel that teacher 2 was observing the teacher's classes as part of her role on the support panel and, although he didn't know who, someone from the Principal class would have been observing.

Principal 3

Principal 3 gave evidence under affirmation and confirmed his statement as true and accurate. He told the Panel that he has been teaching since 1976 and is currently Principal of the school.

Principal 3 told the Panel that the Unsatisfactory Performance process was managed by the two Campus Principals and he also relied on the support group reports. He said that during the second monitoring period the teacher asked him to view some of her classes. He viewed parts of four of her lessons.

He told the Panel that during his observations of the teacher's class it was clear that she did not vary the way she was teaching in response to student distraction. He said that the teacher did not spend time actually 'teaching' or explaining concepts or ideas to students. He stated that there was no real class discussion of the course material. Principal 3 said that his investigations provided no evidence that the teacher was able to deliver her knowledge of the curriculum to her students. Nor was there any evidence that the class was engaged and effectively taught. Principal 3 said that the teacher was never able to consistently provide him with detailed lesson or unit plans which would be expected of a teacher in the Expert classification who is teaching at VCE level.

Principal 3 stated that the teacher did make attempts to deal with inappropriate behaviour by reporting to a Team Leader; however, he found no evidence of adequate follow up, nor indications that the teacher took responsibility for the actions of the students in her classroom. He said that the teacher did not follow school procedure in regards to students using ipods in class. Instead of confiscating them she allowed students to 'put them away' only to discover they had taken them out later and used them during class. Principal 3 told the Panel that the teacher could not demonstrate to him that she understood her role as a teacher in building rapport with students as an important classroom management tool nor did he believe that she had the capability to build such a rapport with her students.

Principal 3 said that his own observations were that the teacher ignored some students, didn't get back to them to answer questions, and treated their concerns superficially.

Under cross-examination, Principal 3 explained to the Panel that the role of the Support Group was to support the teacher, not to make judgments. Their role was not to observe her classes but to provide intense support and advice.

Principal 3 stated that when he observed the teacher's classes he didn't ask for lesson plans as he understood the scope of the lesson. He was observing curriculum delivery issues and student behaviour, and was aware of the nature of the complaints.

He explained the induction process for new teachers as being a package of materials – 'survival' type of material. He said that with the teacher in 2006 there would have been considerable opportunity for each learning area to organise planning together.

Principal 3 said that he based his decision on support group minutes, other teachers' observations, and four observations of his own. He said he noted that improvements in the teacher's practice had been minuted in PSG meetings and so he expected to see - class discussion, student management, student engagement and curriculum delivery through teaching. Instead he observed no such improvements.

Teacher 2

Teacher 2 gave evidence under affirmation and confirmed her statement. She told the Panel that she is a secondary school teacher of some 20 years experience and is currently on leave from the school. Teacher 2 said in 2006 she was the teacher's support person during the unsatisfactory performance process.

Teacher 2 told the Panel that principal 3 had informed her of the support group process set up in response to complaints about the teacher's teaching performance and classroom management. She said that it was not uncommon for students to go straight to the Campus Principal with complaints but she was surprised that the students were not referred back to the VCE coordinator. Teacher 2 said that at the same time she was aware that the teacher had approached principal 1 for support in relation to the behaviour of a few students in her Year 12 class. She said that the teacher felt that principal 1 did not support her appropriately.

Teacher 2 told the Panel that some of the students causing behaviour issues in the teacher's classes also caused similar problems in other VCE classes including her own. She said that they were sometimes difficult to engage and teach effectively. The Panel heard that Teacher 2 had observed the teacher's classes on several occasions and it was clear to her that she was utilising suggestions and strategies made by the support group. She said that the teacher had taken time to self reflect, her lessons had improved and she appeared to be traveling well. Teacher 2 said the monitoring process and support group process was positive and working well. She was very surprised with the final outcome and that the support group had not been included in the final decision.

Teacher 3

Teacher 3 gave evidence under oath and confirmed his statement as true and accurate. He told the Panel that he is currently a VCE co-ordinator at school 2 and has over 20 years experience in the teaching of Health Education in secondary schools. Teacher 3 said that he taught with the teacher at school 2 when she was coordinator of "the small, but dynamic, Health faculty at the school."

Teacher 3 told the Panel that the teacher's responsibilities at school 2 included running meetings, inservicing staff, curriculum delivery, developing courses, and resourcing and mentoring staff. He said he taught in an adjoining room with glass panels in between each room and if the teacher had problems with student management he would have been aware of it. He said he knew her to be a capable, conscientious and enthusiastic teacher, who related well to her students, and who promoted a positive learning environment within the classroom, through the delivery of interesting and well-prepared lessons.

Teacher 3 told the Panel that throughout her period of service at school 2, he neither saw nor heard anything that would give him cause for concern with respect to the teacher's capabilities as a teacher.

The teacher

The teacher gave evidence under oath and confirmed her statement as true and accurate. She said that although not currently teaching she has been a secondary school teacher for some 15 years. She taught Junior Home Economics and Senior Health Education at school 2 for 10 years and was an educational consultant for approximately 1 year. As a consultant she has written units of work and developed curriculum documents with VCAA, DEET and the Australian Drug Foundation.

She told the Panel that at the end of 2005 whilst still on Study Leave she received notice to return to teaching duties. She returned to the school in 2006 and received an induction manual containing maps, timetabling, and other resources but no curriculum documents or information regarding allotments. The teacher said that she was allotted a .5 position spread over 5 days but that was altered to 4 days after the teacher requested the change.

The teacher told the Panel that she refutes all allegations. She said that she engaged in any number of different approaches to learning, including individual, small groups,

interactive and partnership learning, besides the more commonplace formal reading and note-taking activities.

Under cross-examination the teacher disputed or challenged the evidence that had been presented by witnesses. She told the Panel that principal 2's and principal 1's evidence that she did not use a variety of teaching strategies, discuss the curriculum content, or respond appropriately to students' questions was inaccurate. She said that if she was ignoring the students there would have been more of a problem.

The teacher told the Panel that she had no recollection of principal 1 discussing specific students' complaints about the SAC requirements being confusing and unclear. She said that principal 1's evidence of her giving two dates for the SAC was inaccurate, as there wouldn't have been two dates set – "perhaps she confused other dates that were coming up." She agreed that after this incident principal 1 provided a SAC proforma but not just to her but to all staff.

The teacher disputed teacher 2's evidence, telling the Panel that it was inaccurate to say that she ranted and raved at students when they were complaining about the requirements for a SAC. "I don't think it is right" she said. In response to principal 1's evidence that after student 8 and student 14 complained to her about their SACs being marked differently even though they had the same answers but numbered differently, the teacher disputed this. She was definite that principal 1 did not request her to alter the marks but rather student 8 was insistent that it be remarked and after reviewing the SAC she remarked it.

Principal 1's evidence was that the teacher was unable to develop good working relationships with the students in her classes. The teacher told the Panel that this was inaccurate and gave a descriptive overview to the Panel of her relationships with each of the students mentioned including both positive and negative insights into their working relationship. She said that for the majority of time she had good relationships with the students and that she worked hard with the disruptive students. The teacher told the Panel that contrary to teacher 2's view, she did heed the advice from the support group and did implement the ideas and strategies that were discussed. She agreed that perhaps she did become flustered when confronted with rowdy, insistent students because "sometimes they all want to ask questions at the same time."

The teacher said that she felt undermined by principal 1 on the occasions when students left her classroom and went to principal 1 with complaints about her. She said principal 1 should have supported her by sending the students back to class for the teacher to deal with. The teacher said "I later found them in the conference room with principal 3 and principal 1 with the students writing down their accounts in sort of 'gang mentality', i.e. they were bouncing off each other." She explained that this was not in a violent way but rather she felt that through peer pressure the students were colluding. She said that she was not at all happy with this process. The teacher told the Panel that she was unaware of the numerous complaints from parents and students until much later in the process. She felt she may have been able to better deal with the issues if she had known at the time.

In terms of dealing with students who 'backchatted' her, the teacher said that she "didn't get any backchat ... well perhaps some but I would have responded appropriately." She told the Panel that she did not incite the students and that she never argued with them. The teacher said that rather than yell at students she may have raised her voice when necessary, for example, when students were talking or if they were spread around the room. The teacher stated that it was not accurate to say that her inconsistent and contradictory statements to students were the reason for the students' complaints. She told the Panel that a few of her earlier difficulties came about because she had to modify her expectations. She said that teaching at the school was different to what she had experienced before. She stated that there were occasions when it was difficult for her, particularly in terms of the different learning styles rather than discipline issues. She told the Panel "Perhaps I did get a little frustrated. In hindsight I would respond differently and would address issues with the kids." The teacher said that being in a part time position it was difficult to develop and build good working relationships both collegially and with students.

The teacher said that contrary to principal 1's evidence, she never went into to teacher 5's classroom to observe. She said that she was in contact with teacher 5 because one of her students was in one of teacher 5's classes. She also disputed principal 1's evidence that they discussed a complaint from the mother of student 14, concerning the teacher's lack of preparation, class management, and set work for her class. The teacher said that she spoke to student 14 in class but not because of any conversation with principal 1.

The teacher acknowledged that on many occasions during the support group meetings she had received advice on teaching strategies and classroom management. She also agreed that her classes had been observed and that she had observed others' classes and then reflected on all of this at the support meetings.

The teacher conceded that, to a degree, it was possible that her Masters Study was a distraction from her teaching duties. She said that she would have preferred to have completed her studies but they were not necessarily more of a priority.

DISCUSSION OF THE EVIDENCE

The Panel had the task of determining whether the evidence demonstrated that The teacher was seriously incompetent.

There were two overriding conflicts that needed to be resolved by the Panel in their considerations:

- The witnesses appearing for the Institute, who were also members of the school's leadership, gave consistent evidence based either on direct observation of classes or on close management of the support mechanisms put in place by the School. Their evidence indicated an inability by the teacher to be effectual in her classroom practice and also an inability to show any signs of improvement. Yet the teacher denied that there were any issues with her teaching or with her

relationships with students, preferring to challenge the school's processes in handling the behaviour of the students.

- The allegations related to a seven-month period of time for the teacher at the school; yet in a ten year period at her previous school there appeared to be no issues with her teaching and indeed she successfully held a position of leadership in her faculty there. No evidence was submitted relating to the intervening two and a half year period of leave, apart from that it was for study for a Masters degree, that could provide any reasons for such differing accounts of her ability as a teacher.

The Panel, therefore, needed to determine which evidence had greater weight and then, if incompetence were established, to determine whether it was serious incompetence as opposed to mere incompetence. The Panel was also mindful that The teacher was not new to the profession and, given her knowledge and experience, it was reasonable for the school to expect The teacher to have a satisfactory skill set to undertake the classes that she was given.

The witnesses appearing for the Institute were credible and consistent. The Panel formed the view that they had acted in good faith in providing significant support by way of classroom observation and feedback in their leadership roles, by setting up a support group over an extended period of time and organising opportunities to observe examples of excellent teaching among The teacher's peers and by allowing The teacher to continue to be remunerated at 0.5 while having only one Year 11 class to concentrate on planning and on working with colleagues to improve. The Panel also noted that for a school Principal, an acting school Principal and a Campus Principal to take the time on several occasions to observe whole lessons of a classroom teacher, given their respective roles and extensive commitments, is a considerable investment of their time. The diary notes, records of observations and minutes of meetings provided extensive evidence for the Panel to consider.

The two witnesses appearing for the teacher were positive in their support. Teacher 3, however, could only attest to his experience of working with the teacher at the previous school and was unable to assist the Panel in shedding any further light on the situation at the school. Teacher 2, as a member of the support group, felt that there was evidence of improvement but the Panel was provided with only one written record of a classroom observation by this witness and the feedback given was more in keeping with the advice one would give to a pre-service teacher or a new graduate rather than that which would be given to an experienced practitioner.

Based on the evidence presented, the Panel is of the view that each of the following allegations is substantiated: 1a, 1b, 1c, 1d, 1e, 2a, 2b, 2c, 3a, 3b, 3c, 3d, 3e, 3f, 4a, 4b, 4c, 4d, 4f, 4g, 5a, and 5b. The substance of Allegations 6a and 6b is covered in 1a to 1d. Allegations 4e and 4h were not pursued.

FINDINGS UNDER SECTION 2.6.46(1) OF THE ACT

Serious incompetence is not specifically defined in the *Education & Training Reform Act 2006*. *Moran v Victorian Institute of Teaching* [2007] VCAT 1311 at 46 asked: "What is serious incompetence? A simple error of judgment, or a simple negligent act, is not sufficient to constitute serious incompetence." For serious incompetence, there needs to be a continual demonstration of incompetence and inability to improve over a significant period of time. While individual instances may not constitute serious incompetence, taken together such acts may be considered to be serious incompetence. Serious incompetence in a teacher needs to be more than shortcomings in performance in an employment sense; it needs to be evident that the teacher has, over an extended period of time, failed to do the most basic requirements of the job, and, when confronted with such, does not demonstrate any acknowledgement of the shortcomings or any willingness to take the opportunity to address the situation.

The Panel has found that allegations 1, 2, 3, 4 and 5 have been made out because most of the particulars have been proved. Within the criteria outlined in the preceding paragraph the Panel finds the teacher demonstrated serious incompetence in the period March 2006 to September 2006. This was not an example of individual instances of incompetence but rather incompetence over an extended period. There were a number of instances of teaching practice that were of a lesser standard than would be expected by the teacher's peers and by students. Together these instances amount to serious incompetence.

In making its determination under Section 2.6.46(2) the Panel notes that the evidence indicates that the teacher's career prior to her time at the school was more successful. As there was insufficient evidence presented which could offer an explanation of the discrepancy between The teacher's earlier ten years as a competent teacher compared with the period covered by these allegations, the Panel could only note the difference but did not feel that there was a reason which could guide it in putting aside the substantial evidence of The teacher's serious incompetence in relation to the Allegations. The Panel has decided to therefore suspend the teacher's registration until at least 20 November 2010 and that the suspension will only be lifted when the Panel is satisfied that the teacher has complied with the conditions outlined at the start of this decision. The conditions have been designed to require the teacher to reconnect with the basics of the craft of teaching and to ensure that appropriate support mechanisms are in place should the teacher re-enter the profession.

A handwritten signature in cursive script that reads "Kevin Moloney".

KEVIN MOLONEY, CHAIRPERSON

Kevin Moloney

per:
MARILYN MOONEY, REGISTERED TEACHER

Kevin Moloney

per:
JENNY WAJSENBERG, PANEL MEMBER