

VICTORIAN INSTITUTE OF TEACHING
DECISION AND REASONS OF THE FORMAL HEARING

NUMBER: 110

REGISTERED TEACHER: Siegfried-Erich Angerer

PANEL MEMBERS: Susan Halliday, Chairperson
Paul Wilhelm, Registered Teacher
Jenny Wajsenberg, Registered Teacher

ATTENDANCE: The teacher did not attend the Formal Hearing.
Melinda Richards, Counsel Assisting with Ms Jennifer Sheehan, Instructing Solicitor on behalf of the Victorian Institute of Teaching

DATE OF HEARING: 4 April 2011

DATE OF DECISION: 18 July 2011

FINDING AND DETERMINATION:

Pursuant to section 2.6.46 of the *Education and Training Reform Act 2006*, on 18 July 2011 the Panel found the registered teacher guilty of serious misconduct.

The Panel cancelled the registration of the teacher from 15 August 2011.

REASONS

BACKGROUND

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

By letters dated 12 February and 13 May 2009, the employer notified the Institute that they had taken action in relation to the alleged lack of fitness to teach of the teacher. The teacher resigned prior to the conclusion of an inquiry that was being undertaken by his employer, into unsatisfactory performance, alleged bullying and demeaning behaviour towards staff.

The matter was referred to the Disciplinary Proceedings Committee (the Committee) of the Institute on 22 July 2009 and the Committee decided to refer the matter to an investigation.

On 25 August 2010 the Committee considered the Investigator's report, and noting that the teacher chose not to speak with the Investigator decided to refer the matter to a Formal Hearing.

A Notice of Formal Hearing dated 3 March 2011 was served upon the teacher by registered post on 3 March 2011. An amended Notice of Formal Hearing was served upon the teacher by registered post on 30 March 2011.

ALLEGATIONS

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

Whilst employed as a registered teacher at the school, a school now known as school 1, the teacher:

- *engaged in serious misconduct and/or serious incompetence by engaging in the conduct referred to in paragraphs (1-14) (inclusive) below.*

Further or alternatively:

- *by reason of the acts and/or omissions referred to in paragraphs (1-14) (inclusive) below, is not fit to teach.*

During 2003-2008, whilst employed as a registered teacher at the school, the teacher:

1. Failed to treat colleagues with courtesy, collegiality and respect including:
 - On 16 November 2005, in a typed memorandum to teacher 1, wrote amongst other things:

“Concerning your allegation that I have threatened you on Monday 7th of this month let me make my position perfectly clear.... I hereby inform you that if you do not cease and desist with these clear and deliberate attacks on my professional integrity and character I will consider legal action. If you consider this a threat it isn’t. It’s a promise!”

- In or about December 2006, when a teacher, teacher 2, approached him in his office to see if he could fix her laptop, he told her that she did not understand computers because *“You’re a female”* or words to that effect.

- On 8 June 2007 sent the following email to witness 1, saying amongst other things:

“You have missed a great deal, compromised classes, made changes without informing anyone of changes before you make them, hidden software used in classes, erased the VELS menu structure that took 3 years to build and basically screwed the logical educational rational of the network. In addition you have not fixed all the bits I have requested...since you started employment. I hope the Principal is happy because I am very pissed off.”

- On 31 July 2007 sent the following email to witness 1:

“I am no longer interested in putting up with your deliberate laziness since it is affecting the education progress and development of all students and limiting teaching and learning in all subject areas.”

- On 30 July 2007 told students in Year 8A, IT period 3, that witness 1 was a *“useless, spoilt little boy who had no idea about how to work computers in the school”* or words to that effect.

- On 2 August 2007, when taking teacher 2’s 7B class, described teacher 2 as a *“loser”* and that *“they shouldn’t take any notice of what she tells them”* or words to that effect and made fun of her generally in the class.

- On 23 August 2007, in a written response to complaints made to the Principal, wrote:

“...I do not wish to lower myself to the morass of these gutter practices and therefore advise that I ... intent to appoint legal representation and all further correspondence will be referred to my lawyers unless you choose to desist for such unprofessional practices”.

- Threatened to lodge a report about the school’s performance from 2003 onwards which was intended to discourage or deter the Principal from inquiring into complaints against him stating *“a report detailing your administration’s performance from 2003 is in draft form and will be delivered to the Regional Office upon completion.”*

- On 31 October 2007, during the first meeting of the first monitoring period said to teacher 3 and the Assistant Principal “I will not be belittled by pathetic process of this nature” or words of similar effect.
- In early to mid 2008, said to the Year 8A IT class that learning coach teacher 4 was “a big fat lying hypocrite, take no notice of her” or words to that effect when teacher 4 left the classroom after having to enter the classroom because of the noise the students were making in the teacher’s absence.
- On 7 February 2008, in the presence of students and fellow teacher, teacher 5, called fellow teacher, teacher 6, “a jerk”.
- On 5 March 2008, in a written response to the Principal regarding a complaint from student 1, stated amongst other things:

“...What is far more disconcerting to me is the knowledge that as Principal you entertain such ridiculous assertions. In my opinion this waste of my time epitomizes your poor leadership and lack of judgment that continues to highlight the malicious attempts to create unfounded and nonsensical allegations against individuals who question your management and leadership competence”.

“ ... If as Principal you cannot comprehend the nature of the clients serviced by the school and you wish to waste people’s time on this nonsense then you should make an effort to get a clearer understanding of the student body....because I am in possession of documents that demonstrate your maladministration since 2003.”

- On 5 June 2008, wrote an email to the Principal stating amongst other things:

“I continue to regard your ignorant comments and demands as affront and deliberate attempt to harass me into delivering materials that you have already demonstrated you do not have the capacity to comprehend ...I remind you that I have spent a great deal of time in executive meetings with you and that your deliberate manipulation of information to misinform are simply appalling to me. ... You did not inform the school community of your disgraceful report on the school prior to the amalgamation debate. ... Neither you or any else match me in qualifications and depth and breadth of education experience in this school..., please be advised that a full report of administrations negligence is forthcoming and will be delivered to the employer’s representative when completed.”

- In early 2008 during the second monitoring period in front of students and the Assistant Principal, who was present in the class to observe the teacher’s performance, said “this is a stupid process and a waste of time.”

- On 11 June 2008 described fellow teacher, teacher 6, as “big bird” to students in class 9D.
2. Failed to demonstrate collegiality, share expertise and knowledge in circumstances where he:
- Neglected, failed and/or refused to provide professional development training, from 2007, regarding the use of information technology for teaching and learning in accordance with the requirements of a Leading Teacher for which a time allowance of 12 periods per fortnight was provided.
3. Failed to demonstrate collegiality by neglecting or refusing to attend the following meetings without valid reason:
- The staff meeting on 30 October 2007.
 - A meeting with the Principal on 20 July 2007.
 - A meeting with the Principal on 16 October 2007 to discuss his performance.
 - The staff meeting on 12 November 2007.
 - The staff meeting on 20 November 2007.
 - The staff meeting on 11 February 2008.
 - The staff meeting on 26 February 2008.
 - The staff meeting on 3 March 2008.
 - The staff meeting on 8 April 2008.
 - The staff meeting on 15 April 2008.
 - The staff meeting on 5 May 2008.
 - The staff meeting on 11 June 2008 where staff were required to read the reports of their colleagues.
 - The staff meeting on 16 June 2008 where staff were required to read the reports of their colleagues.
4. Did not demonstrate insight into professional knowledge and practice by failing, neglecting and/or refusing to do the following:
- In 2007, refused and/or failed and/or neglected to discuss with the Principal his 2006 performance review and 2007 professional development plan.
 - On 1 August 2007, stated to the Principal and the Assistant Principal that he “did not believe he would be at the school for the rest of 2007 and the school could not provide any professional development that would be useful” or words to that effect and thus refused, failed or neglected to provide a draft performance plan for 2007.
 - In the first monitoring period (from 31 October 2007 – 19 December 2007) refused and/or failed and/or neglected to participate in all weekly

support meetings with the Assistant Principal and teacher 3, with the exception of the first meeting on 31 October 2007.

- From 16 April – 20 June 2008, (the second monitoring period) refused and/or failed and/or neglected to participate in support meetings with the Assistant Principal and teacher 7 held on:
 - 23 April 2008
 - 21 May 2008
 - 12 June 2008
 - 18 June 2008
 - In a meeting with the Principal and teacher 7 on 5 June 2008 when it was requested that he attend staff meetings, replied “*staff meetings are not worthwhile and they are inefficient*”, or words to that effect.
5. Failed to maintain objectivity in his relationships with students by drawing students into his personal agendas in the following circumstances:
- On or about 26 July 2007 dictated and wrote letters of complaints regarding the school’s information technology facilities and instructed several students to type, sign and approve the same to be submitted to the School.
 - On or about 8 August 2007 , whilst teaching a Year 10 class, told students to see witness 1 about the computers and told them ‘ to kick the door down’ or words to a similar effect if witness 1 didn’t answer.
6. Failed to treat students with courtesy and respect in circumstances where:
- On or about 14 August 2007, told student 2 of Class 9B that “whoever did your hair was shit” and “its crap”, or words to that effect.
 - On 20 August 2007, in the presence of other students, openly disparaged student 3 describing his haircut as “gay” and calling him “a girl”, or words to that effect.
 - On or about 4 February 2008 said to Year 7 student, student 1 in the presence of the Year 7 music class: “you may need the exercise, but in my classroom you don’t walk around” or words to a similar effect that were likely cause humiliation, offence and insult to student 1.
 - On or about 15 February 2008 said to student 1 in the presence of the Year 7 woodwork class: “Yes, I know that you are standing up because you need the exercise, but this is why we have an oval,” or words to the effect that were likely to cause humiliation, offence and insult to student 1.

7. On or about 5 March 2008 failed to demonstrate courtesy, respect and professional insight towards student 1 when providing the following written response to the Principal to address the complaints of student 1 about the comments referred to in allegations 6 c) and d): *“If the Boy wants to use his poor body image and subsequent low self esteem as a justification for his disgraceful classroom behaviourthen it may be possible to conclude that an improvement in body image and self esteem may yield equal improvements in behaviour...”*
8. In relation to the reporting of students’ progress:
 - Failed to demonstrate the ability to communicate respectfully and courteously with students’ parents (guardians or caregivers) in circumstances where:
 - In 2003, he prepared a report for Semester 1 in 2003 regarding student 4, stating among other things: “[student 4’s] infrequent attendance and lateness and lack of submitted work warrant no further comment”, in circumstances where the context and tone of the report were intended to be offensive.
 - In mid 2007 and late 2007, he prepared student reports which were offensive and required amendments which the Assistant Principal had to prepare.
9. Allegation 9 was withdrawn.
10. Used inappropriate language, held inappropriate discussions and used inappropriate material with students including:
 - On 2 November 2006, during period 2A in discussions with students about the school Rock Eisteddfod said that “everyone on stage looks like poofers” and that the students involved with the Rock Eisteddfod “fucked up the drama room,” or words to that effect.
 - In 2007 instructed students to watch inappropriate DVDs including:
 - DVD 1 rated MA in a Year 9 multimedia class ; and
 - DVD 2 rated MA in Spanish in a Year 9 Intensive English class.
 - On 4 February 2008 in the presence of the Year 7 class said “I can’t be in two places at once, that’s bullshit” or words to that effect in reference to a note a student delivered him that he was supposed to be taking another class.

11. Did not provide adequate learning opportunities to students when undertaking extra classes for other teachers by failing to ensure students undertook the learning activities of their permanent teachers including:
- In around mid-to-late July 2007, took an extra class for teacher 8 who assigned work but instead let the students listen to their iPods.
 - On 14 April 2008 refused, failed and/or neglected to teach work left for students during extra period 2.
 - On 16 April 2008 refused, failed and/or neglected to collect the Maths test left for students during extra period 2A and 2B.
 - On 18 April 2008 refused, failed and/or neglected to collect or teach work left for the students.
 - On 22 April 2008 refused, failed and/or neglected to collect or teach work left for the students.
 - On 26 May 2008 refused, failed and/or neglected to collect work prepared by teacher 9 for her extra period 2AB.
 - On 28 May 2008 refused, failed and/or neglected to collect work prepared by teacher 10 for his year 10 maths extra period 1B and year 7 science class in period 3.
 - On 29 May 2008 refused, failed and/or neglected to collect work prepared by teacher 6 for his period 3 Year 9 maths extra and work left by teacher 11 for his year 7 SOSE extra class in period 4.
12. Failed to comply with various requests to produce lesson plans, curriculum documents and course outlines for classes consistent with the Victorian Essential Learning Standards (VELS), including:
- On 31 October 2007, did not produce course outlines following a request from the Principal and the Assistant Principal, saying that to do so “would be a breach of copyright” or words to that effect.
 - On 13 December 2007, did not produce a lesson plan for a Year 7 to 8 transition class following a request from the Assistant Principal, saying “ all plans are the same and therefore not necessary” or words to that effect.
 - On 20 May 2008, in relation to a Literacy Class 2A did not produce a lesson plan following a request from the Assistant Principal, saying it “is a standard plan and the notes are on the board” or words to similar effect.
 - On 26 May 2008, did not produce a lesson plan for a Business Application Class following a request from the Assistant Principal, saying “someone

with my experience doesn't need to have a lesson plan" or words to that effect.

- On 28 May 2008, did not produce a lesson plan or write curriculum materials for a Year 10 Engineering class taught in period 1A following a request from the Assistant Principal saying, "This is a practical lesson, the plan is always the same" and "I am not going to write curriculum materials unless I get paid for it like in TAFE" or words to that effect.
- On 5 June 2008, did not produce lesson plans following a request from the Principal and colleague, teacher 7, saying "I do not need to document my lesson plans... I have provided 3 million dollars worth of programs in 2003. My current plans are based on educational criteria. I have been in the classroom for over 20 years and I am able to cater for individual differences. If the school wants me to write curriculum, the school will have to provide me with time and money" or words to that effect.
- On 11 June 2008, did not produce lesson plans or documentation recording what he was teaching for engineering class 1A following a request from the Principal, saying he did not have any lesson plans there was no assessment criteria because the students are "not up to it". The lesson and course outlines "are all in my head" and all "lessons are standard" or words to that effect.

13. Failure to prepare and maintain assessment and attendance records, despite receiving instructions to do so on the following occasions:

- On 1 August 2007 at a meeting with the Principal and the Assistant Principal.
- During each of the first monitoring period and second mentoring period pursuant to direction provided in the document entitled "Record of Support Provided During Monitoring Period".
- On 11 December 2007 via email from the Assistant Principal.
- On 28 April 2007 during the Assistant Principal's observation of his class.
- On 29 April 2008 during the Assistant Principal's observation of his class.
- On 20 May 2008 during the Assistant Principal's observation of his class.
- On 5 June 2008 during a meeting with the Principal and teacher 7 and said he did not have any assessment records with him and that "they were in progress and standard". "All tasks are project based" and "therefore there are no assessment tasks" or words of similar effect.

- On 11 June 2008 on request from the Principal in relation to Class 1A engineering class.
14. Failed to provide adequate learning opportunities to students by arriving late or being absent from classes including:
- On 13 November 2007 arrived late for class.
 - On 14 December 2007 arrived late for period 1.
 - On 4 February 2008, did not attend class until 11.20 am.
 - On 7 February 2008, arrived 10 minutes late to the extra class he was scheduled to take for fellow teacher, teacher 6.
 - On 12 February 2008, arrived late to period 1A by 15 minutes.
 - On 3 March 2008, failed to take an extra class for period 2B (VCAL) foundation English.
 - On 15 April 2008 failed to attend his extra class.
 - On 28 April was late to period 1 class.
 - On 29 April was late to period 1 class.
 - On 28 May 2008, arrived 20 minutes late for the Year 7 extra science class.
 - On 11 June 2008, arrived late to engineering class 1A.

EVIDENCE

Student 1

Student 1, a student at the school, stated that his statement was true and correct. He gave evidence that the teacher made a derogatory remark about his size that upset him in Year 7 in 2008. In front of the woodwork class the teacher had humiliated him and insulted him when he stated “yes I know that you are standing up because you need the exercise, but this is why we have an oval.” The teacher made a similar remark on a second occasion and the student reported what had happened to him to the Principal. The student stated that he was publicly embarrassed and distracted from his work. He told the Panel that he had not experienced any other teacher behave in the same way and it reminded him of how he had felt when he was bullied in primary school, when other students picked on him.

Student 1 also indicated that on one occasion the teacher was in class when a message was delivered. On reading the message the teacher stated words to the effect of “I can’t be at two places at once, that’s bullshit” in front of the class.

The Principal

The retired school Principal gave evidence that her statement and attachments were true and correct, having made a correction to paragraphs 24 and 25. She said that the teacher started as a Casual Relief Teacher and then applied for a permanent role. The Principal noted that the teacher had done a good job setting up the IT infrastructure and had put in many hours, but as a leading teacher he was required to provide support and PD to other staff which he did not do. The teacher's behaviour started to alter further, becoming more negative and unproductive, and he would also use equipment and knowledge to 'make points' or control things. He was spoken to on several occasions but his position was that he could not see that he'd done anything wrong and wouldn't take on board any direction to change his behaviour.

Given that he no longer had her trust nor that of others, the teacher's role and responsibilities were changed. He was required to do more teaching. Further he was moved from the office that housed the IT technical staff into the normal staffroom. This move was in part due to his access to infrastructure, passwords and equipment. There was a legitimate concern on the part of the school administrators that the teacher may interfere with, or sabotage the system.

The Principal stated that a range of complaints surfaced from students and staff, including about the teacher's lack of attendance in class, intimidating behaviour, people unnerved and afraid to ask PD questions of the teacher, and confused students. He was also reported as being aggressive to the women staff members and younger male students. The teacher would not attend school meetings, including those about the amalgamation of the school. Inappropriate comments were also made directly to staff members and students, according to the Principal. In the classroom there were examples of material being used and shown that was not age appropriate and sexually provocative. The Principal indicated that the teacher was not seen as understanding the complexities associated with the diversity of student in the school and was someone who would ask adolescents inappropriate questions about their social activities.

The Principal considered the teacher's behaviour towards some staff and students as behaviour that amounted to bullying. The teacher was spoken with and placed on two periods of behaviour monitoring with support and feedback, but by choice he didn't engage much and didn't improve. The teacher then packed up and left the school. The series of letters from the school about his behaviour were later found unopened in his desk drawer. However the content of each of the letters had been discussed in person with the teacher so he was aware of the school's concerns and what was expected of him.

Other teachers believed that they were treated with disrespect and would not engage or ask for IT or PD help from the teacher; further the Principal stated that this was largely due to how the teacher responded. The Principal stated that she started to try and place him where he'd have limited contact with other teachers to help the situation. The Principal noted that the teacher did not turn up to cover extra periods that were given to him. In addition the Principal was of the view that the teacher did not see himself as accountable for what he was required to do and it was her repeated experience that he wouldn't follow direction. He would not work as a team member

and he seemed to have an attitude or belief that he knew better than all others. The teacher would not take the class roll despite requests, he would not prepare lesson plans despite requests and he wrote disparaging remarks on student reports that he wouldn't alter, and in turn others had to rewrite his reports.

The Principal provided examples of derogatory remarks that the teacher had made about a number of other teachers to students. Further the teacher had the students in his class write up complaint letters that he had dictated /drafted about the school's IT facilities. He then instructed students to type the letters up and sign them so they could be submitted to the school. The Principal saw this as particularly exploitative of the students, in the pursuit of his personal agenda with the school. The Principal noted that they were good students and that they copied the content of the teacher's letters and did as they were told which made the exploitation worse.

The Panel viewed a large amount of documentation provided by the Principal.

Teacher 6

Teacher 6 gave evidence that his written statement was true and correct noting that he was employed at the school and responsible for the timetable and daily organising duties during the same period that the teacher was employed at the school.

Teacher 6 stated that the teacher did not turn up for assigned extra classes he was given. He also provided a number of examples of where the teacher would not collect or use the work prepared for a class by a teacher who would be absent, when he was assigned that class as an extra class to cover.

Teacher 6 stated that as the Year 8 coordinator he observed classes taken by the teacher and he was of the professional view that students were not meaningfully engaged in his classes which consisted largely of the teacher talking. He noted that students from the Drama class also spoke to him about what was going on in the teacher's Drama classes and how the teacher had shown violent videos. Teacher 6 said the teacher was notoriously late for his classes and rarely planned lessons.

He stated that the teacher would put people down and say inappropriate things about colleagues who asked for IT help noting that "he made them look and feel stupid" and he added that the teacher had also done it to him personally. He noted that the teacher had accused him of sabotaging his own laptop. He said that he had also heard from others that the teacher had been unprofessional and called him inappropriate names in front of other teachers and students, including 'jerk' and 'big bird'. Teacher 6 indicated that he and other staff were not happy that the teacher seemed to continue to get away with poor behaviour which impacted negatively on others – "it made me wonder how bad a teacher has to be before he is removed from the school."

The Panel viewed documents provided by the teacher 6.

Teacher 2

Teacher 2 gave evidence that her statement was true and correct. She was an IT and Maths teacher at the school when the teacher was employed there. She had joined the

staff as a graduate teacher in 2005. In 2008 teacher 2 approached the teacher for help with her laptop as she couldn't get it to print and he told her that she didn't understand computers and related equipment because "you're a female". She stated that she was treated in a humiliating and demeaning way; upset and in tears she was walked back to her office by another colleague. She stated that she never went to the teacher for help again – despite his role. She stated that the teacher often made excuses for why the computers weren't working, including a time where she heard him tell students they didn't work "due to the rain on the line which was causing problems".

Teacher 2 stated that in 2007 the teacher told her Year 7 class that she was "a loser" and that Year 7 "shouldn't take any notice of what she tells them." The teacher also called one of her students "gay". She stated that she had been absent from the school due to a family funeral and was devastated and offended on her return having been told what the teacher had said about her. On another occasion the teacher had told her students words to the effect "don't talk to that person in the pink coat."

In 2008 teacher 2 stated that she heard the teacher tell his students that the learning coach was "a big fat lying hypocrite, take no notice of her" when she had come to check what the students were doing in the computer lab by themselves and to find out who let them in. The teacher turned up late and said to the learning coach "I'm here now, no need to interfere."

The teacher often took his classes next to the staffroom and teacher 2 overheard how he ran his classes. She noted that he was prone to trying to inculcate the students with his own theories on a range of things and specifically recalled him ranting about Marxism to a class of boys. She noted that she'd wear her iPod so that she couldn't hear his poor teaching in the staffroom.

Teacher 2 noted that the teacher showed Year 9 students inappropriate MA videos – DVD 2 in Spanish, and DVD 1. The teacher did not give her classes the work set for them when she was away. The teacher did not attend staff meetings or briefings like all other teachers. Believing that the teacher was leaving at the end of 2007 for a \$200,000 job in industry, as he had boasted, she stated that she was very upset to see him return in 2008.

Teacher 2 noted that she had reported all of her issues of concern to the Principal. She was not happy that a senior teacher was mocking other teachers in front of students. Further it was of interest that the numbers of students who had ended up doing IT in senior years had increased significantly since his departure.

The Panel viewed documents provided by teacher 2.

Witness 1

Witness 1 gave evidence that his statement was true and correct. Employed at the school as the IT technician from 2005 to 2008 witness 1 stated that he worked closely with the teacher. He also stated that the teacher became used to working in the IT systems area at the school and having limited consultation. When the school administrators wanted him "to slow down" and to consult with people about the IT

systems, he was unwilling. The teacher largely rebuilt the school's internet framework. Witness 1 stated that they had a good working relationship, although the teacher's communications with him were less than satisfactory, including the way in which the teacher engaged in his emails. Witness 1 raised the matter with the Principal. Examples of emails, which were accusatory in nature and abrupt in tone, were provided.

The working relationship started to deteriorate in March 2007 when the teacher was removed from the technical area, into the staffroom. Witness 1 then became responsible for the teacher's former 'technical' duties and the teacher took on the curriculum role for IT. Witness 1 believed that the teacher's attitude changed towards witness 1 because he took on the full IT role. He often challenged witness 1 about his work and what he was doing in relation to the IT area. Prior to this staff approached witness 1, rather than the teacher when they had laptop and other IT issues; for many the teacher was too hard to deal with. He did not relate well to staff, especially women and was at times unhelpful when they had a problem.

Witness 1 said he was aware that the teacher told a Year 10 class in 2007 to kick the door down if witness 1 didn't answer. He'd speak like that at times and probably meant it in a joking manner. Witness 1 also stated that he recalled he was in a Year 8 class when the teacher in front of the students called him a "useless spoilt little boy who had no idea about how to work computers in the school". Witness 1 indicated that it may have meant to be funny, but it was unprofessional, especially in the school setting.

The teacher made false accusations, including that the Principal had deleted all of the teacher's data in respect to students which was not true. The Principal did not order that all student data bases be erased. The teacher's files were transferred to the science office and his computer crashed – it is not true to say that the Principal had his data deleted.

The Panel viewed documents provided by witness 1.

The Assistant Principal

The Assistant Principal gave evidence by telephone. She retired from the role of Acting Principal at the end of 2008. Confirming that her statement was true and correct, the Assistant Principal stated that she came into contact with the teacher when the Principal asked her in mid-2007 to work with the teacher, assisting him in his delivery of PD for staff. The teacher agreed to deliver a number of PD sessions over the coming months. The teacher only held one PD session for staff and did not provide handouts. As the leading teacher responsible for Information Communication Technology (ICT) across the curriculum, the teacher was given an allowance of nine and a half hours a fortnight. Part of this time release was to provide the PD training to staff. Despite many people wanting IT skills the session was not well attended because it was the teacher running it. The Assistant Principal stated that staff were very wary of him because he belittled people and was not helpful.

While it was a school requirement, the teacher failed to keep hard copy records for his classes. He refused to do so, saying that the Principal had destroyed his student data base. That aside, all data should have been in hardcopy anyway, and he was informed

about this several times. There were two periods of 'monitoring' of the teacher. During the second period of monitoring in 2008 the Assistant Principal actually set up hard copy class rolls for the teacher. The teacher still failed to complete the rolls. The teacher refused to develop course outlines and lesson plans despite being counselled and receiving requests in writing. The additional problem associated with this was that it was hard for other teachers to take his classes in his absence. In this area support was extended during the 'monitoring' periods, but to no avail.

The Assistant Principal observed the teacher's classes. On 26 May 2008 the teacher flatly refused to do lesson plans and said to her – in front of the students – “your attendance is a waste of time and nothing is going to change.” The Assistant Principal noted that a colleague teacher also observing the teacher's classes noted that on 28 May 2008 the teacher again refused to provide a copy of his lesson plan and stated “this is a practical lesson, the plan is always the same” and “I'm not going to write curriculum materials unless I get paid for it like in TAFE.” In addition the Assistant Principal said that the teacher repeatedly arrived late to his classes, failed to attend extra classes that were assigned to him, failed to recognise inappropriate activities of the students while in his classes, failed to keep records of student work, was not thought to be marking much student work, failed to differentiate between students, constantly belittled students saying things like “if you had a brain in your head you could do it.” Often blunt when preparing student reports, the reports needed to be done again before being sent to parents.

Dismissive of the efforts of the school to support him, the teacher did little during the 'monitoring' periods, regularly denigrating the process and what the school was trying to do. He turned up to the first meeting for the first monitoring period only. The meetings were not compulsory, but his performance and conduct was so bad that it was untenable for him to think that he was not in need of peer review. Ultimately, the meetings were held in his absence and the reports were placed in his pigeon hole.

Regularly late or absent, and seen talking to people when he should have been in staff meetings or in class, the teacher was considered by the Assistant Principal to be most unprofessional, especially given that his lateness or absence placed a burden on other staff and was disadvantageous for students. The Assistant Principal stated that the teacher regularly spoke disparagingly about the school and put people down. Disrespectful towards his colleagues and lacking commitment to the school and his students, the teacher in the view of the Assistant Principal should not have been working in a secondary school.

The Panel viewed a large amount of support documentation provided with a Statutory Declaration by the Assistant Principal.

The Teacher

The teacher did not attend the Hearing to give evidence, nor did a representative attend on his behalf. The teacher chose not to engage in an investigation with the assigned Victorian Institute of Teaching Investigator prior to the Hearing.

The teacher advised the Victorian Institute of Teaching on 8 March 2011, that having received his notice of Formal Hearing and the other related documentation that he had “no interest in the matter” and that “it was all crap” and “a waste of time” and that he wanted no further contact with the employer or the Institute.

The Panel noted that the teacher did not at any time ask for an adjournment; however, he did forward an email on 31 March 2011 that stated the following:

- “it is my express desire to have no intention of answering allegations that have no foundation in truth” and
- “I request that you desist from any further correspondence on matters that are a concoction and or a deliberate attempt to make allegations against me without any effort to establish the truth” and
- “as indicated on a number of occasions I will be in meetings with federal Ministers and or interstate. My calendar is booked out until May on national skills and standards matters. I have no time for this trivial nonsense” and
- “I have no time to attend Hearings that make no attempt at investigating the truth, but are administrative processes to justify a process based on lies. I have no desire nor any interest in attending such a process Hearing because I have no interest in legitimising such a process” and
- “I now regard the continued correspondence regarding the matter a nuisance and I advise that if you do not desist from sending me this nonsense I will contact the Minister directly on this continued harassment.”

The teacher also wrote in his email that witness 1 had lied about him, in order to secure full-time employment, and that witness 1 had used his CV content. The teacher also wrote that “in relation to all other matters raised by your correspondence, I have nothing to add or answer....”

The Panel noted that there was no final report from the employer, as the teacher resigned from his job prior to the conclusion of the employer’s investigation.

DISCUSSION

The witnesses who gave evidence at the Hearing were deemed to be credible by the Panel. The Panel considered it unfortunate that the teacher did not attend the Hearing to provide evidence. However the Panel was of the firm view that the teacher had access to all of the relevant Hearing Materials, and had been provided with sufficient time to prepare for the Hearing. The Panel believed that the principles of natural justice had been fully adhered to and that the teacher was a registered teacher at the time of the Hearing. The teacher’s registration status was confirmed at the time of the Hearing. The Panel noted that there was no evidence that the teacher had formally resigned from the Victorian Institute of Teaching and that until the point in time where a non-fee payment led to a cancellation of the teacher’s registration, that the teacher was registered.

The Panel reviewed the written material sent by the teacher to the Victorian Institute of Teaching and was of the view that the teacher showed contempt for the proceedings of

the regulatory authority and demonstrated a particularly limited understanding of his responsibilities as a registered professional.

FINDINGS

The witnesses gave clear unchallenged evidence about the teacher's conduct whilst employed at the school. Based on that evidence and the documentary material provided by the witnesses the Panel finds that all of the allegations are made out.

The Panel was clear that it needed to make findings and determinations in accordance with s 2.6.46 of the Act, as it existed prior to legislative amendments given the timing of the behaviours in question. The Panel found that on the balance of probabilities the behaviour of the teacher amounted to serious misconduct. It was not behaviour that was trivial or momentary with respect to impact. The Panel heard evidence of a pattern of behaviour that not only brought disrepute to the profession, but placed young people at risk. A substantial departure from educational standards, deserving of censure and indeed blameworthy, the teacher's behaviour was viewed as inexcusable on many counts by the Panel. Additionally the impost and fallout associated with the proven allegations made it clear to the Panel that it was not in the public interest for this teacher to engage with students.

Finally the Victorian Institute of Teaching Code of Ethics and Code of Conduct provided benchmarks for the Panel given the circumstances of the case. It was clear that the teacher's behaviour fell well short of the three core values Integrity, Respect and Responsibility, housed in the Code of Ethics. With respect to the Code of Conduct, the teacher's behaviour as proven was in conflict with a number of principles including

- 1.1 - teachers provide opportunities for all students to learn,
- 1.2 - teachers treat their students with courtesy and respect,
- 1.6 – teachers maintain a professional relationship with parents,
- 1.8 – collegiality is an integral part of the work of teachers, and
- 3.1- teachers value their professionalism, and set and maintain standards of conduct.

The Panel was not of the view, given what was known about the teacher, and the proven allegations, that the teacher was fit to teach. There was no information presented by the teacher that allowed for further consideration of the character, reputation or conduct of the teacher at the time the Hearing was held, or from the point in time where the teacher had left the school. Based on the available information the Panel was not of the view that the teacher should be allowed to teach in a school without further inquiry. The position of teacher is a privileged and trusted one, and the right to perform the duties of a teacher should be reserved for those who can, and are willing to demonstrate fitness to teach.

Based on the balance of probabilities and the information available to it, the Panel found that the teacher was guilty of serious misconduct and unfit to teach. The Panel considered that all of the allegations put, and their particulars, to be substantiated.

DETERMINATION

The Panel considered the determinations available to it, given that the teacher was found guilty of serious misconduct and to be unfit to teach. Mindful of the seriousness of the conduct and the detrimental effect it had on students and other teachers the Panel concluded that the most appropriate determination was to cancel the teacher's registration.

Pursuant to section 2.6.46 of the *Education and Training Reform Act 2006* the Panel found the registered teacher guilty of serious misconduct and unfit to teach. The Panel cancelled the registration of the teacher.



.....
SUSAN HALLIDAY, CHAIRPERSON



.....
per:
PAUL WILHELM, REGISTERED TEACHER



.....
per:
JENNY WAJSENBERG, PANEL MEMBER