

VICTORIAN INSTITUTE OF TEACHING

DECISION AND REASONS OF THE FORMAL HEARING

NUMBER: 140

REGISTERED TEACHER: Craig John PLEYDELL

PANEL MEMBERS: Heather Schnagl, Chairperson
Leonie Sheehy, Registered Teacher
Paul Wilhelm, Registered Teacher

ATTENDANCE: The teacher attended the Formal Hearing and was self-represented

Mr Rodney Hepburn, Counsel Assisting the Victorian Institute of Teaching

DATES OF HEARING: 17 April 2013

DATE OF DECISION: 3 June 2013

FINDINGS AND DETERMINATION:

Pursuant to section 2.6.46 of the *Education and Training Reform Act 2006*, on 3 June 2013 the Panel found the teacher guilty of serious misconduct.

As the teacher is not currently registered with the Institute, the Panel is unable to make any determination.

REASONS

BACKGROUND

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

By letter dated 24 December 2010, the employer notified the Institute that it had taken action taken in relation to the alleged serious misconduct and/or lack of fitness to teach of the teacher.

The teacher resigned from his employment with the employer on 6 December 2010.

By notification received by the Institute on 9 December 2010, the teacher advised that he no longer wished to be registered with the Institute, effective from 8 December 2010.

The matter was referred to the Disciplinary Proceedings Committee (the Committee) of the Institute on 16 February 2011 and the Committee decided to conduct an investigation.

On 16 November 2011, the Committee considered the Investigator's report and decided to continue with the inquiry and referred the matter to a Formal Hearing.

A Notice of Formal Hearing dated 13 March 2013 was personally served upon the teacher on 18 March 2011.

THE ALLEGATIONS

The allegations of serious misconduct 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 school during 2010, the teacher:

1. Failed to treat a female student, student 1 with courtesy and dignity in that he:
 - a. Engaged in inappropriate contact with student 1, via telephone, text and Facebook from or around September 2010 onwards.
 - b. Communicated frequently with student 1 after school hours and in some instances very late at night.
 - c. In his communications with student 1 he made comments to student 1 "You're way too good for NR."
 - d. In his communications with student 1 he asked student 1, "Do you think I'm good enough for JH?"
 - e. In his communications to student 1 he made comments to student 1 as follows:
 1. "You're the prettiest out of all the Year 11s".
 2. "You have an amazing body."
 3. "You have the full package for what every guy wants."

4. That student 1 was “pretty”.
5. That student 1 possessed “good morals”.
6. That student 1 had a “great personality”.
- f. In his communications to Student 1 he made comments to student 1 as follows:
 1. “Do you go to parties?”
 2. “Do you hook up with guys?”
 3. “Why aren’t you out partying?”
 4. “Will you be drinking”
 5. “Do you drink?”
- g. In his communications with student 1 he asked student 1 if she was a virgin.
- h. In his communications with student 1 via Facebook he stated to student 1,
 1. “You have amazing legs young lady”.
 2. “I couldn’t resist trying to look up your dress”.
 3. He asked student 1 if she had noticed him putting his arm around her chair during the class and student 1 responded that she didn’t notice. He responded, “Oh damn, that was one of my best moves.”
- i. In his communications with student 1 via Facebook on 7 November 2010,
 1. He stated to student 1, “Did you know that you can attach pictures to these messages and no one can see them except me?”
 2. Student 1 responded, “No I didn’t? But cool i guess?”
 3. He then stated to student 1, “Yes it is:D and also I like your new picture its stunning!”
- j. In his communications with student 1 he made comments about student 1’s appearance including her hair.
- k. In response to a Facebook status update by student 1 saying, “My internet is being turned off, so if you want to talk to me, text me”, he sent student 1 a text stating, “Does this mean I’m allowed to text you?”
- l. Sent an inappropriate photograph of himself displaying his naked torso to student 1.
- m. Sent several photographs of himself to student 1 including photographs of him making silly faces, appearing head and shoulders without wearing a singlet or shirt, and a photograph of himself taken in the bathroom.
- n. On more than one occasion he requested that student 1 provide him with photographs of herself in return for the photographs sent by him to student 1.
- o. On more than one occasion stated to student 1 that he would never show anyone any photographs.
- p. On one occasion said to student 1, regarding the photographs, “It can be our little secret.”
- q. Instructed student 1 to delete electronic messages sent to her by him.
- r. Encouraged student 1 to provide false information about his communications with her.
- s. Sent student 1 a copy of an internal communication that he had sent the Assistant Principal of the school.
- t. Encouraged student 1 to intervene in a complaint that a female student, student 2 had made against him. He asked student 1 to obtain student 2’s mobile phone and delete any messages from him to student 2.
- u. On more than one occasion when student 1 did not respond to his communication, contact student 1 to ask, “Why didn’t you reply?”
2. Failed to treat a female student , student 2 with courtesy and dignity in that he:
 - a. Engaged in inappropriate contact with student 2, via telephone, text and Facebook.

- b. *In communications with student 2 he described student 2 as “awesome” in relation to the ‘footy dress up’ day at school.*
- c. *On or about 7 September 2010 via Facebook he stated to student 2 “Just to let you know student 2, I do think very highly of you as one of my student s and I think your attractive.”*
- d. *He requested that student 2 delete texts and/or Facebook communications sent from him.*
- e. *On more than one occasion contacted student 2 by text to ask why student 2 did not reply to his communication.*

List of exhibits

- A. Opening statement from Counsel Assisting
- B. Statement of the Principal
- C. Statement of Assistant Principal 1
- D. Statement of Assistant Principal 2
- E. Statement of student 1
- F. Statement of student 2
- G. Letter to the Institute from the teacher, 7 September 2011
- H. Closing Statement from Counsel Assisting
- I. Closing Statement from the teacher

THE EVIDENCE

Counsel Assisting’s opening submission noted that the allegations relate to a period in the latter part of 2010 when the teacher was a Physical Education teacher and Year 11 Coordinator at the school. Following an internal investigation by the Principal into his alleged conduct, the teacher resigned his employment on 6 December 2010.

The allegations are based on complaints received by the Principal and two Assistant Principals from two students of the school that the teacher had engaged in inappropriate communication with them via telephone, text and social media.

The Panel heard evidence under oath or affirmation from:

- The Principal of the school
- The Assistant Principal 1
- The teacher
- The teacher’s wife

Unfortunately Assistant Principal 2 was unable to attend the hearing (or give evidence by telephone) due to personal circumstances.

The two students, student 1 and student 2, who participated in the investigations, both the initial internal investigation by the school and subsequent investigation by the Institute, did not attend the hearing, although they were scheduled to do so.

The Principal

The Principal gave evidence under affirmation. The Principal confirmed the details of his written statement to investigators as true and correct (tabled as Exhibit B).

Counsel Assisting the Institute invited the Principal to comment on a number of aspects of his statement for clarification. He outlined that he had observed that the teacher was quite casual in his interactions with senior students, especially the Year 11s, for whom he was the level coordinator in 2010. This was in reference to the proper wearing of school uniform where the Principal believed that some students were treated differently and that he felt that the teacher was on occasion 'too friendly' with students. In response to questions from the Panel, he later explained this further stating that he felt the teacher blurred the boundaries between teacher and friend with these girls (student 2 and student 1) and other girls and that he was more casual and informal than expected for the teacher student relationship.

In response to Assistant Principal 1 receiving an email from the teacher indicating that he believed he had been the subject of a prank call from a student (whom he thought might be student 2) which the teacher later emailed to say that it was 'all sorted' and no follow up was required, the Principal stated that he found this very uncharacteristic. He gave evidence that the teacher normally wanted things followed up and hence he thought this rather strange. Given the fact that student 2 had maligned his character, integrity and professionalism and potentially put his career at risk, the Principal had expected the teacher to have said that the student should be expelled. At the time the Principal commented to Assistant Principal 1 that he believed that it was highly likely that the teacher had indeed acted inappropriately based on the fact that the teacher did not want them to even talk to the student or suspend her.

The Principal gave evidence that he believed that the teacher had a very good relationship with both student 2 and student 1, both during 2010 as their level coordinator and prior to this as he had been their home room teacher. He described the teacher as a fantastic teacher, who was friendly to students and listened to their concerns. In The teacher's nine years as a teacher at the school, the Principal gave evidence that he had been an excellent classroom teacher and Year 8 Coordinator (as well as Sport and Health and PE coordinators) but that he had concerns regarding being too friendly with students in his 2010 role as Year 11 Coordinator. The Principal told the Panel that he had spoken to the teacher regarding this on occasion.

In response to questions from the Panel, the Principal stated that he believed that staff were very clear about their legal responsibility regarding care of students and that this had been covered at staff meetings. At the time of the incidents, which form the basis for this Hearing, the only electronic support for students was through Facebook as a means of accessing information and support but not for personal use. Subsequent to the incidents, the Principal gave specific instructions to staff that they were not to have student s as friends on their Facebook pages. However, the Principal stated that the teacher should have been aware of the appropriate use of electronic communication at the time of the allegations, including the 'dos and don'ts' for a teacher.

Counsel Assisting, however, noted that the Facebook communication by student 2 to Assistant Principal 2 was of a very informal nature and that he had not pointed this out to the student. The Principal told the hearing that he did follow this up later with the Assistant Principal but that they did not at the time, as they believed that there was more information to come forward and the girls were very reluctant to provide this. The Principal stated that students were not encouraged to refer to their teachers by nicknames and that if the use of nicknames was ever heard, it would be corrected.

In response to questions, the Principal stated that it was only during 2010 that he felt that the teacher had blurred the lines regarding appropriate teacher student relationships.

Assistant Principal 1

Assistant Principal 1, (Assistant Principal of the school at the time of the alleged incidents and currently Assistant Principal at school 1), gave evidence to the Hearing under oath and confirmed that his written statement (Exhibit C) was true and correct, excepting for his recent change of school.

Assistant Principal 1 described the teacher as well regarded by students and staff and that he had received no complaints about him. He stated that members of the leadership team had expressed concerns regarding his lack of follow up regarding uniform issues and the awarding of detentions for these. He also stated that he was 'matey' and that this was an area for improvement. He indicated that he had asked the Head of Senior School to follow this up with the teacher who was in a one year replacement role as a level coordinator, although he was unaware as to whether this had occurred.

In his first meeting with student 1 (who was accompanied by student 3, a fellow student) Assistant Principal 1 described her as wanting to give information but not to get anyone into trouble. At the time he did not connect this meeting with the email he later received from the teacher regarding a prank call casting aspersions on the teacher's integrity. Assistant Principal 1 stated that he knew both girls (student 1 and student 2) well, having taught them both in Year 9 and been their Year 10 level coordinator.

Assistant Principal 1 expressed concern that the teacher, in communicating with him by email, did not want anything done regarding the prank call he had received casting aspersions on his professional reputation. Consequently despite a subsequent email from the teacher that the 'matter had been sorted' Assistant Principal 1 and the Principal decided that it would be appropriate to meet with the teacher to elicit further information.

In his statement confirmed under oath, Assistant Principal 1 outlined the details of the conversation he, together with the other Assistant Principal, Assistant Principal 2, had with student 1 which involved contact of a personal nature on Facebook between the teacher and student 1, including the sending of a photograph of his semi naked torso (top off) and subsequent communication asking her to delete messages sent to her by him.

In emails sent to Assistant Principal 1, students called him 'nickname 1' or 'nickname 2' and when questioned regarding this, he stated that if nicknames were used in person that

he would correct them. He did agree that there was a bit of a culture of familiarity at the school. When questioned regarding the use of social media to communicate between staff and students, Assistant Principal 1 told the Panel that some staff used social media for study groups and that in fact the school area Network had set up Facebook for this purpose. However, he also agreed that teachers should not be friends with student s on Facebook.

Assistant Principal 1 gave evidence that the other Assistant Principal, Assistant Principal 2, who was unavailable to give evidence at the Hearing but had provided a written statement to the investigator, was outstanding in her role and that he knew nothing that would call into question her honesty.

The teacher

Under affirmation the teacher told the Hearing that he had been a teacher at the school from 2003, when he started as a graduate teacher, until his resignation on 6 December 2010. He agreed that when the Principal put the allegations to him by letter dated 29 November 2010 to which he responded in writing on 6 December 2010, that he had over stepped the professional boundaries expected of a teacher.

The teacher told the Panel that he found the kids at the school really good and that he was well regarded by the community. He stated that there was a culture of closeness because it was such a tight knit community and that you would see the student s outside school. He believed a close personal relationship with student s helped the classroom relationship but also agreed that there was a line that cannot be crossed. The teacher told the Panel that he got on better with the boys who played sport. In response to the 'matey' suggestion made by Assistant Principal 1, he stated that he did not hang out with the student s but took the time to get to know them. At the school the importance of pastoral care through home rooms was stressed. He also told the Panel that he had never had a conversation with either the Principal or Assistant Principal 1, regarding being too close to a student(s).

The teacher stated that he had been appointed to a two-year level coordinator role in 2010, initially as Year 11 coordinator for 2010 and was hoping to be Year 12 coordinator for 2011 but was not prepared to be further interviewed for this role and did not get the position. He was subsequently offered the position as Year 11 VCE Enhancement Coordinator for 2011 (prior to his resignation).

In response to the Institute's investigations regarding the allegations, The teacher wrote to the Institute on 7 September 2011 outlining the confidential difficult personal circumstances that he faced in the latter part of 2010 (Exhibit G). The teacher told the Panel that these circumstances were extremely difficult and he 'lost his way big time'. He could not face people and hence Facebook became an outlet for him. He also started drinking at home, which was out of control at times. Despite 'putting on an act' at school, he became very anti-social during what was a very traumatic time for him. He stated that his drinking was a huge concern as he did not think about what he was doing at this time. Since the allegations arose he told the Panel that he had spent the past three years trying to be a better person.

In response to questions the teacher indicated that as their level coordinator he had tried to assist both student 2 and student 1 with their personal problems but acknowledged that he did the wrong thing. Both girls were friends on his personal Facebook page. He said that there was no clear cut policy at the school not to have friends on staff members' personal Facebook pages.

The teacher told the Panel that he believed that he first crossed the appropriate teacher/ student boundary with the two girls concerned on the interstate trip held in September of that year. With respect to the specific allegations, the teacher agreed that he had sent student 1 the photograph of himself without a shirt flexing his muscles, which he stated was a poorly designed joke which he will regret for the rest of his life. Due to his difficult personal circumstances at that time he was not able to think straight. He also acknowledged asking student 1 to delete material he had sent her suggesting that one part of him was aware that he had done the wrong thing. He acknowledged that he now knew this to be completely wrong.

In response to questions from Counsel Assisting regarding each specific allegation, the teacher responded to each of the allegations as follows:

Allegation 1:

- a. He confirmed that he had engaged in inappropriate contact with student 1 via text and Facebook (but not phone) which occurred from September to November 2010
- b. Agreed
- c. Unsure (he was unable to remember)
- d. Unsure (he was unable to remember)
- e. 1 and 2 unsure (he was unable to remember)
3. No
- 4, 5 and 6 Agreed
- f. 1 – 5. Agreed
- g. No
- h. 1 – 3 No
- i. 1. – 3. Agreed
- j. Unsure (he was unable to remember)
- k. No
- l. Agreed
- m. She could have seen this on his Facebook page
- n. No
- o. No
- p. No
- q. Agreed
- r. Agreed
- s. Agreed – student 1 asked him to give her information and he showed her the letter he was going to send to Assistant Principal 1
- t. Agreed
- u. Did not remember but could be true

Allegation 2:

- a. Confirmed that he had engaged in inappropriate contact with student 2 via text and Facebook (but not by telephone)
- b. Agreed
- c. Agreed
- d. Agreed
- e. Thought this was possible on Facebook

In response to questions from the Panel, the teacher stated that he had never sought any counselling for the difficult confidential personal circumstances that he faced. He indicated that there were no clear guidelines or policy regarding Facebook usage for staff and that there were Facebook study groups set up on the school network. He also told the Panel that he was friends with a handful of students and that they had requested him as a friend on Facebook. He believed that there were other teachers at the school at the time with students as friends on Facebook.

He acknowledged that he was a popular teacher at the school which he believed was due to the fact that he took the time to get to know the kids. He felt that his time at the school was a highly successful time until the allegations surfaced around 23 November 2010.

When asked as to why he provided both his written response to the allegations outlined in writing by the Principal and his resignation on the same day (6 December 2010) the teacher responded that he had had a lot of knockbacks for promotion positions, such as that of VCE Coordinator, whilst believing that he was the best interviewee and a friend advised him 'to take some time out of the job'. Consequently he resigned to move on to a new chapter in his life in landscape gardening. He stated that it gave him an opportunity to get out of the difficult position he was in at the time.

The teacher told the Panel that he had decided to attend the hearing as he had now got his life sorted and he wished to get closure. He indicated that he would love the opportunity to teach sometime in the future but would now focus on landscape gardening. He acknowledged his poor behaviour was for three months out of his nine years of teaching but hoped that it would not stop him from ever going back as he would like to educate people to be healthy and stop the epidemic of obesity.

The teacher's wife

The teacher's wife confirmed the confidential personal issues outlined earlier by the teacher. She also stated that she had a second job at a pool and was not home at nights and hence her husband was at home by himself.

WRITTEN CLOSING SUBMISSIONS

In his unsigned closing submission, the teacher stated that he had
'..never denied the fact that I made a huge mistake which was for a very small time frame (approx. 2 months) out of a very successful career of 9 years.'

He also stated that he has

'..also been from the beginning, very apologetic for my actions and very remorseful for how people have been affected by them.'

In response to the allegations themselves, the teacher stated that

'..my intentions were nothing untoward...' and 'I acted unprofessionally and very inappropriately but I did have some good intentions, albeit in the wrong forum and time.'

In the written closing submission of Counsel Assisting, in addition to commentary on the evidence, it was noted that the Panel did not hear evidence from Assistant Principal 2 or either of the two affected students, each of whom was scheduled to appear. As it was known that Assistant Principal 2 would be unable to give evidence at the Hearing, both the Principal and Assistant Principal 1 gave evidence as to her honesty and integrity. In addition, much of the evidence in her signed statement was corroborated by other evidence at the Hearing lending weight to the evidence in her statement.

The statements of student 1 student 2, although signed, were not affirmed in evidence nor were they able to be tested in cross examination. The principles of natural justice require that the teacher be afforded the opportunity to question both principal witnesses making allegations against him.

DISCUSSION OF THE EVIDENCE

Having heard evidence from both the Principal and Assistant Principal 2 and from the teacher himself, but not from Assistant Principal 2 and the two student complainants, student 1 and student 2, only the evidence that was able to be corroborated either by witnesses or the teacher himself at the Hearing was considered by the Panel in reaching its decision.

The statement of Assistant Principal 2 was valuable to the Panel in that her character was affirmed as honest in sworn evidence and almost all of her statement was corroborated in the evidence given at the Panel Hearing.

The statements of the two complainants, student 1 and student 2, were of some value in that, although untested at the Hearing, were in line with the evidence presented at the hearing itself. No weight was placed on allegations which were only supported by their statements.

To his credit the teacher admitted to many of the allegations himself. It was, however, of concern to the Panel that he also admitted that he had been both drinking and using social media (Facebook) at home at night on his own as an escape from personal issues to the extent that he was not able at times to remember precisely the nature of his actions. In fact in his closing unsigned submission, he stated that he was drinking to the point of intoxication at this time. Consequently whilst the teacher's admissions were extremely valuable, there remains an element of uncertainty as to the full picture of the exact nature and extent of his contact with the two students, especially on Facebook. It is also evident

that the two students involved were sufficiently affected by the inappropriate actions of the teacher to report the matter to senior staff, even though in the professional opinion of these staff, the students did not wish to get him into trouble.

It is also to the teacher's credit that he displayed remorse for his actions, both in writing in his initial response to the allegations in a letter to his Principal on 6 December 2010 and in a subsequent letter to the Institute and at the Hearing. He clearly recognised that he had crossed the professional teacher student boundary and communicated with two students in an unprofessional manner. It was, however, of concern that he appeared not to recognise the impact of his actions on the two students concerned, who themselves were in his own words, vulnerable. The Panel formed the view that whilst the teacher has accepted responsibility for his actions that he still has some way to go in developing an understanding of the impact of and effect of his actions on the students concerned.

The teacher's blurring of the professional boundaries required by a teacher was not helped by an apparent lack of clear policy regarding expectations at the school with respect to the use of social media by staff.

The fact that the teacher was in a senior pastoral care role as Year 11 Coordinator with a higher degree of responsibility for the care of the two students concerned was of even greater concern to the Panel. As the girls' level coordinator, the teacher had primary responsibility for the welfare and wellbeing of the students in his year level and by his actions towards these two students violated this responsibility.

Whilst the teacher provided a detailed explanation to the Panel regarding the difficult family situation that he was experiencing at the time (which was also corroborated by the evidence of his wife) this did not justify his inappropriate communication with two very vulnerable students. Of significant concern to the Panel, was that even in the intervening more than two years since the incident at the time of the hearing, that he had not sought professional assistance other than through the beyondblue website to deal with this situation nor to develop a repertoire of appropriate coping strategies should he face difficult personal circumstances in the future.

Whilst the teacher has always maintained that he meant nothing untoward to the students themselves, two concerns remain. Firstly, one cannot be sure of his motives at the time as by his own admission at the time he was intoxicated and cannot remember some of his actions. Behaviours such as those exhibited in this case are also consistent with grooming behaviour and it is not possible to predict what might have happened had the students not raised their concerns with senior staff.

Secondly, if the Panel accepts the teacher's explanation that he was trying to cheer up a vulnerable student in student 1, this too is of concern. In his evidence the teacher describes her as a student with significant family issues and it would appear that he was trying to assist her. One of the challenges for the teaching profession as a whole is to recognise the limitations in the role of a teacher and where the assistance of a health professional is required. It appeared to the Panel that the teacher was misguidedly trying to assist the student, when the proper course of action was to refer her to an appropriate health professional.

FINDINGS

In reaching its decision the Panel was limited to the evidence given by the two witnesses and the admissions of the teacher himself. On the balance of probabilities the Panel found the allegations largely substantiated in that he failed to treat both students, student 1 and student 2, with courtesy and dignity.

Specifically the Panel found:

Allegation:

- 1 a substantiated by text and Facebook but not by telephone
- 1 b substantiated (although how late was open to interpretation)
- 1 c & d not substantiated by the evidence presented
- 1 e parts 4 – 6 substantiated (parts 1 – 3 not substantiated by the evidence presented)
- 1 f parts 1 – 5 substantiated
- 1 g not substantiated by the evidence presented
- 1 h partly substantiated – although it is possible that the teacher added ‘just kidding’
- 1 i substantiated
- 1 j & k not substantiated by the evidence presented
- 1 l substantiated
- 1 m, n, o & p not substantiated by the evidence presented
- 1 q, r, s & t substantiated
- 1 u not substantiated by the evidence presented

- 2 a substantiated by text and Facebook but not by telephone
- 2 b, c & d substantiated
- 2 e not substantiated by the evidence presented

The substantiated allegations demonstrate clear and significant breaches of Principle 1.2 of the Code of Conduct and as such constitute misconduct. That The teacher claims his actions were motivated by his intention to support two vulnerable student s also brings into question his understanding of Principle 1.3 of the Code of Conduct, namely whether he worked within the limits of his professional expertise.

Whether this misconduct should be considered serious or not presented a challenge to the Panel. Some guidance was provided by previous cases (VIT and Mills, Case 53; VIT and Hook, Case 63; VIT and SWS, Case 79; and VIT and McGrath, Case 81) which considered similar allegations of misconduct. It might be argued that the teacher’s actions were somewhat similar to those of SWS, which were considered to be misconduct rather than serious misconduct despite containing more sexually explicit material. The cases of Hook and Mills, both of which were found to be serious misconduct, went beyond just communication to more intimate contact. Similarly the cases of Fiford and Lont involved a more serious departure from appropriate teacher student communication than the allegations substantiated in this case.

The teacher's inappropriate communication with the two students concerned was not transitory or a one off incident but by his own admission occurred over a two - three month period until it was brought to the attention of the school's leadership team.

The Panel noted that in the intervening period since his resignation, the teacher had made a significant effort to address the underlying personal issues behind these allegations.

The Panel, however, remained very concerned with the teacher's apparent lack of awareness of the harm he had caused to two vulnerable students for whom he was specifically responsible in his position of responsibility as Year 11 Coordinator. As far as the Panel is aware the teacher has never apologised either directly or indirectly to the students concerned for his actions. While the teacher accepts responsibility and has demonstrated remorse for his actions, his insight at the Hearing did not extend to understanding the impact of his actions on the two students most affected, who were described as vulnerable. The first time the teacher demonstrated any indication of the effect of his actions on the students was in his unsigned closing submission.

Consequently whilst the teacher's misconduct might not be considered serious in some situations, the Panel found a higher standard of care and responsibility to students is required to be displayed by a teacher with a senior pastoral care responsibility. Therefore the Panel concluded that the substantiated allegations amounted to serious misconduct within the context of section 2.4.46 of the Act.

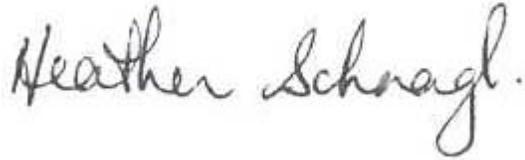
DETERMINATION

As the teacher is not currently registered with the Institute, having resigned in 2010, the Panel is unable to make any determination. However, had the teacher been currently registered, the Panel would not have cancelled the teacher's registration as a teacher, but rather, imposed conditions on his registration. As guidance for the teacher, should he seek to reapply for teacher registration in the future, the likely conditions would have been that:

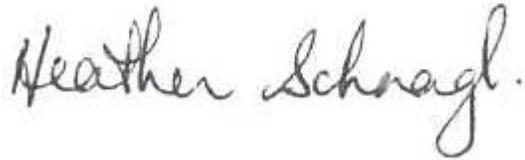
1. He consult a registered psychologist for the purpose of counselling in respect of:
 - a. His emotional upheaval and personal circumstances in 2010, which the Panel considered impacted him professionally
 - b. The development of coping strategies to better handle any future challenging personal or professional circumstances
 - c. Differentiating between the personal and professional roles of a teacher
 - d. A comprehensive understanding of the Institute's Code of Ethics and Code of Conduct, with specific links being made to his conduct that fell short of what is required of a teacher
2. A minimum of six sessions would be required within a twelve month period at the teacher's own cost.
3. The teacher would be required to provide the Institute with a report from the registered psychologist at the conclusion of the six sessions.
4. The report from the registered psychologist should set out the psychologist's qualifications, address of practice, confirmation that the psychologist has read the

Panel's finding (including the Panel's reasons), confirmation of the teacher's attendance and address the matters set out in Condition 1.

5. The teacher is to provide the Institute with a letter written by him to accompany the psychologist's report, detailing his view on his progress and the personal and professional insights he has gained, addressing all matters set out in Condition 1.



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HEATHER SCHNAGL, CHAIRPERSON



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per:
LEONIE SHEEHY, REGISTERED TEACHER



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per:
PAUL WILHELM, PANEL MEMBER