

The School is aware that the fixed-term employment contract that you signed with the School on [REDACTED] will cease on [REDACTED]. The contract is a fix term contract for the period from [REDACTED] to [REDACTED].

I am writing to confirm with you that the School will not be renewing the contract.

As detailed in the letter of [REDACTED] and discussed with you in a meeting with [REDACTED] you are suspended from your role at the school until further notice. The direction provided by [REDACTED] in the said letter remains in place. For clarity you are not to:

- Communicate, by any means, including third-party communications or have any form of contact with any child, parents or staff member (outside your support person) who attend the School about this investigation or matters pertaining to this investigation.
- Make attempts to unduly influence any parties you believe to be involved or to dissuade parties you believe may be involved from proceeding with the complaint.

It has been brought to my attention that on [REDACTED] you came onto the School's grounds and you did so without contacting [REDACTED] as requested of you. Therefore, I am directing you not to:

- Come onto School grounds in any capacity without a written permission from the Principal or myself [REDACTED]


In relation to the ongoing investigation into the allegations of reportable conduct raised, this matter is continuing. Once I have received the investigation report from [REDACTED] and I have read its contents, I will write to you with the preliminary findings.

Should you require any further clarification, please don't hesitate to contact me at [REDACTED]

Yours sincerely,



**PRIVATE AND CONFIDENTIAL**

As you are aware,  commenced an investigation into a reportable allegation made regarding your alleged conduct involving a student.



The purpose of this letter is to provide you with the preliminary findings and to provide you an opportunity to provide any additionally information before a final findings are determined.


The preliminary findings have been reached in consideration of all the evidence presented to the investigation, including your response to the allegations.

For purposes of the ACT Reportable Conduct Scheme there are five possible findings. These are:

- sustained (e.g. a finding that the conduct occurred), or
- not sustained - insufficient evidence (for example, there is some evidence of weight however, there is insufficient evidence available to reasonably establish that the alleged conduct did occur), or
- not sustained - lack of evidence of weight (e.g. where the evidence is of such poor probative value or lacking in weight, such as to warrant a finding that, on the balance of probabilities, the conduct did not occur), or
- false (for example, where inquiries into the matter show reportable conduct or misconduct with a child did not occur), or
- not reportable conduct (for example, where inquiries into the matter show the conduct occurred but did not reach the threshold of reportable at the end of the investigation).

The allegations fell into the categories of *Neglect - Supervisory* and *III Treatment* as defined by the *Ombudsman Act 1989* and the ACT Ombudsman Practice Guide No. 2: *Identifying Reportable Conduct*.

The allegations were outlined in the letter from  dated 



<p>1. It is alleged that [redacted] you neglected [redacted] a Year [redacted] student whom you know to [redacted] when:</p> <p>a. On the morning of [redacted] and [redacted] you left [redacted] in the Year [redacted] classroom with [redacted] other students and without staff supervision, while you and the remainder of the Year [redacted] class went outside and participated in morning games for approximately 45 minutes.</p> <p>b. On the morning of [redacted] you left [redacted] without staff supervision in the Year [redacted] classroom with [redacted] other classmates, while you and the remainder of the Year [redacted] class took a "brain break" in the school playground and you did not have direct line of sight of the classroom.</p> <p>c. On a [redacted] morning in the latter half of [redacted] after [redacted] had directed you not to leave [redacted] unsupervised in the classroom and recommended you contact [redacted] parents to discuss a solution, you again left [redacted] and fellow student, [redacted] in the classroom without staff supervision for approximately 45 minutes while you and the remainder of the class participated in morning games.</p>	<p><b>Sustained - supervisory neglect</b></p>
<p>2. It is alleged that while teaching your Year [redacted] class on [redacted] you engaged in ill treatment towards [redacted] after having received an email from [redacted] querying your alleged in-class demonstration of a flame thrower and presentation of "grounding" as scientific fact. Specifically:</p> <p>a. During the morning of [redacted] you told the class in an angry and frustrated tone that they would not be able to do any more fire experiments because a student had complained to their parents and you may now lose your job, before adding words to the effect, "now I've had my grump for the day let's do the roll."</p>	<p><b>Not reportable conduct</b></p>

b. Later that day, while [redacted] was sorting coloured balls with students [redacted] and [redacted] you said to [redacted] in a loud, angry and frustrated voice, words to the effect, [redacted] for someone whose parents are so involved in the class I'm surprised that you're not", which led students to understand it was [redacted] parents who had raised concerns about your lesson.

**Opportunity to respond**

I invite you to provide me with any additional information before final findings are determined. Any additional information you would like to be considered should be provided to me in writing by [redacted]

**Other Matters**

I remind you that this is a confidential process. The process includes the complaint, the investigation and the preliminary findings. You are not to discuss this process with members of the School community outside of your identified support person(s). This includes students, parents and employees of the School. Action contrary to this direction will be viewed seriously.

I take this opportunity to remind you of the supports the School can offer you while you are preparing your response. These include the Employee Assistance Program from [redacted]

Yours sincerely,

[redacted signature block]

[redacted footer block]



**PRIVATE AND CONFIDENTIAL**

As you are aware [REDACTED] commenced an investigation into a reportable allegation made against you.

The purpose of this letter is to provide you with the final findings.

I note you have not provided a response to the preliminary findings letters dated [REDACTED]. The final findings have been reached after consideration of all the evidence, including your response to the allegations.

**Final Findings**

Allegation 1 <sup>1</sup>	Sustained – supervisory neglect
Allegation 2 <sup>2</sup>	Not reportable conduct

In accordance with the *Ombudsman Act 1989* (ACT), I have a responsibility to report the outcome of the investigation to the ACT Ombudsman Office.

Further the School has an obligation to report the outcome of this investigation to ACT Teacher Quality Institute (TQI) in accordance with *Teacher Quality Institute Act 2010* (ACT).

As outlined in my previous letter this matter remains confidential.

Yours sincerely,

<sup>1</sup> Allegation 1 is outlined in Appendix 1, attached to this letter.

<sup>2</sup> Allegation 2 is outlined in Appendix 1, attached to this letter.

### Supervisory Neglect

1. It is alleged that between [REDACTED] you neglected [REDACTED] a Year [REDACTED] student whom you know to [REDACTED] when:
  - a. On the morning of [REDACTED] and [REDACTED] you left [REDACTED] in the Year [REDACTED] classroom with [REDACTED] other students and without staff supervision, while you and the remainder of the Year [REDACTED] class went outside and participated in morning games for approximately 45 minutes.
  - b. On the morning of [REDACTED] you left [REDACTED] without staff supervision in the Year [REDACTED] classroom with [REDACTED] other classmates, while you and the remainder of the Year [REDACTED] class took a "brain break" in the school playground and you did not have direct line of sight of the classroom.
  - c. On a [REDACTED] morning in the latter half of [REDACTED], after [REDACTED] had directed you not to leave [REDACTED] unsupervised in the classroom and recommended you contact [REDACTED] parents to discuss a solution, you again left [REDACTED] and fellow student, [REDACTED] in the classroom without staff supervision for approximately 45 minutes while you and the remainder of the class participated in morning games.

### Ill-treatment of a child

2. It is alleged that while teaching your Year [REDACTED] class on [REDACTED] you engaged in ill treatment towards [REDACTED] after having received an email from [REDACTED] querying your alleged in-class demonstration of a flame thrower and presentation of "grounding" as scientific fact. Specifically:
  - a. During the morning of [REDACTED] you told the class in an angry and frustrated tone that they would not be able to do any more fire experiments because a student had complained to their parents and you may now lose your job, before adding words to the effect, "now I've had my grump for the day let's do the roll."
  - b. Later that day, while [REDACTED] was sorting coloured balls with students [REDACTED] and [REDACTED] you said to [REDACTED] in a loud, angry and frustrated voice, words to the effect, [REDACTED] for someone whose parents are so involved in the class I'm surprised that you're not", which led students to understand it was [REDACTED] parents who had raised concerns about your lesson.



**PRIVATE AND CONFIDENTIAL**

## Final Investigation Report

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**Entity name:** [REDACTED]

**Employee subject of allegation:** [REDACTED]

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**Written by:** [REDACTED]

[REDACTED] do not hold any records. All records provided to the investigation or made during the investigation are sent to the organisation for secure storage.

*This report has been finalised on the basis of the information provided to the investigation. All care has been taken while undertaking the investigation and writing the report. If a legal opinion is required you should contact your organisation's legal representative.*



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# 1 Background to Investigation

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[REDACTED]

[REDACTED]

In an email dated [REDACTED], [REDACTED] reported to colleagues that between [REDACTED] failed to supervise [REDACTED], a Year [REDACTED] student who is [REDACTED], when [REDACTED] left [REDACTED] in the classroom with other students while [REDACTED] and the remainder of the class attended morning games outside. (Tab 1)

Separately, on [REDACTED], [REDACTED], parent of [REDACTED] (a student in [REDACTED] classroom) sent an email complaint to [REDACTED] and [REDACTED] expressing concerns that [REDACTED] had shown the class a “hairspray flame thrower” during the previous day’s lessons.

[REDACTED] subsequently made a written complaint to the School on [REDACTED] that, on [REDACTED], [REDACTED] told [REDACTED] class that they would not be able to do any more fire experiments because a student had complained to their parents, and that [REDACTED] may lose [REDACTED] job as a consequence. [REDACTED] continued that on the same day, [REDACTED] reportedly said to [REDACTED] “for someone whose parents are so involved in the class I’m surprised that you’re not.” It is reported that as a result of this, the students in the classroom understood that it was [REDACTED] parents who had raised concerns about [REDACTED] lesson, which caused [REDACTED] to experience migraines and stress. (Tab 3).

On [REDACTED], the School issued an initial letter to [REDACTED], and she was stood down on full pay pending the investigation’s outcome. (Tab 4)

On [REDACTED], the School engaged [REDACTED] to conduct the reportable conduct investigation on their behalf (Tab 5) and provided [REDACTED] with documentation the School had gathered to date, including an investigation plan and Appendices. (Tabs 6, 7, and 8)

On [REDACTED], the School completed the reporting requirement to the ACT Ombudsman’s Office. (Tab 9 and Tab 10)

On [REDACTED] [REDACTED] submitted a draft investigation plan to the School, which was approved on the same day. (Tab 11 and Tab 12)

## 2 Investigation Process

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On [REDACTED], the investigation provided advice to [REDACTED] regarding a response to [REDACTED] email of the same day. (Tab 13)

On [REDACTED], the investigation:

- Contacted [REDACTED] via telephone and email ahead of an interview of [REDACTED] (Tab 14 and Tab 15)
- Issued a letter of introduction to [REDACTED]. (Tab 16)
- Contacted potential witnesses to arrange interviews. (Tabs 17-19)
- Communicated with the School regarding [REDACTED] adherence to [REDACTED] confidentiality directive. (Tab 20, Tab 21)
- Communicated with the school regarding what advice should be provided to [REDACTED] [REDACTED] in relation to the investigation. (Tab 22)

On [REDACTED], [REDACTED] provided the investigation with information via email. (Tab 56 and Tab 57)

On [REDACTED], the investigation provided an update to the School. (Tab 24)

On [REDACTED], the School provided the investigation with further information relevant to the investigation. (Tab 3, Tabs 25, Tab 26, Tab 27, Tab 45, Tab 46, Tab 47, Tab 48, Tab 49)

On [REDACTED], the School provided the investigation with a copy of the [REDACTED] plan for [REDACTED]. (Tab 28 and Tab 29)

On [REDACTED] and [REDACTED], the investigation requested information from the School relevant to [REDACTED] employment and induction records. (Tab 30 and Tab 31)

On [REDACTED], the investigation received a text message from [REDACTED], teacher and [REDACTED], who worked in the classroom with [REDACTED] to [REDACTED]. The investigation passed this message to the School on the same day, with advice for future engagement with [REDACTED] (Tab 34 and Tab 35)

On [REDACTED], the School received correspondence from the ACT Ombudsman's Office advising that [REDACTED] had raised concerns over the investigation with the Office. On [REDACTED], the investigation provided advice to the School for passage to the ACT Ombudsman. (Tab 36)

On [REDACTED], [REDACTED] provided further information to the investigation via email. (Tab 58 and Tab 59)

On 23 November 2020, a letter of allegation was issued to [REDACTED] after contact with [REDACTED] (Tabs 37-38)

On [REDACTED] the investigation provided advice to the School regarding the appropriate means of returning [REDACTED] personal effects ahead of the end of term. (Tab 40)

On [REDACTED], [REDACTED] participated in an interview by way of response to the allegations. [REDACTED] also provided a written submission, which [REDACTED] read at interview, and a hand drawn diagram of the School. (Tabs 41-43)

On [REDACTED], the School:

- requested assistance from the investigation in providing an update to the parents of students in [REDACTED]. (Tab 44)
- provided evidence to the investigation regarding [REDACTED] past email correspondence with [REDACTED]. (Tabs 60-63)
- provided information regarding [REDACTED] induction, training and employment. (Tabs 64-66)

On [REDACTED]

- The School engaged with [REDACTED] [REDACTED] had a telephone conversation with the investigator. (Tab 67–Tab 69, Tab 78)
- The School forwarded the investigation further information from [REDACTED] (Tab 70)
- The School forwarded the investigation further information from [REDACTED] (Tab 71)
- The School corresponded with the investigation regarding [REDACTED] training and [REDACTED] (Tab 72–Tab 77)
- Investigators requested further information regarding [REDACTED] [REDACTED] The School responded that day. (Tab 78–Tab 80)

On [REDACTED]

- The School provided advice as to the whereabouts of [REDACTED] school diary. (Tab 81)
- The investigation had further correspondence with [REDACTED] via text message. (Tab 67)

On [REDACTED], the investigation met with [REDACTED] (Tab 23) and provided an update to the School (Tab 87). On the same day, the School responded with further information regarding [REDACTED] statements at interview and evidence from [REDACTED] work diary. (Tab 88, Tab 89, Tab 90)

## 2.1 Documentary Sources of Evidence

The documentary sources of evidence which were relied upon in this investigation include:

- [REDACTED] written submission and hand drawn diagram of the School. (Tabs 41-42)
- Evidence from the School regarding [REDACTED] contact with parents of students (Tabs 25-27, Tabs 45-46, Tabs 82-85)
- Email complaint from [REDACTED] dated 29 October 2020 (Tab 1)
- Email complaint from [REDACTED] dated 3 November 2020 (Tab 2)
- School's Staff Code of Conduct, undated (Tab 32)



- [REDACTED] CV (Tab 77)
- Evidence regarding [REDACTED] training at the School (Tab 73 and Tab 75)
- Evidence relevant to [REDACTED] and resultant School planning documents (Tab 78, Tab 79, Tab 28, Tab 29)
- The School's undated written timeline (Tab 3, Tab 48, Tab 49)
- Email advice from [REDACTED] to the investigation. (Tab 70, Tab 71)

## 2.2 Interviews

Interviews were conducted with the following people to supplement the above documentation:

- [REDACTED] (PSOA) – [REDACTED] (Tab 43)
- [REDACTED] – [REDACTED] (Tab 50 and Tab 55)
- [REDACTED] – [REDACTED] (Tab 51)
- [REDACTED] (alleged victim) – [REDACTED]. (Tab 52)
- [REDACTED] (alleged victim's parents) – [REDACTED]. (Tab 53).  
Noting [REDACTED] email advice to the school that their complaint was based solely on [REDACTED] conversation with them, it was determined there was a low risk of evidence contamination by them being interviewed together.
- [REDACTED] – [REDACTED] (Tab 54)
- [REDACTED], [REDACTED] of [REDACTED] – [REDACTED] (Tab 23)

### 3 Allegation (as put to the employee)

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#### Allegation 1

It is alleged that between [redacted] and [redacted], you neglected [redacted], a Year [redacted] student whom you know to [redacted], when:

- a. On the morning of [redacted] and [redacted], you left [redacted] in the Year [redacted] classroom with [redacted] other students and without staff supervision, while you and the remainder of the Year [redacted] class went outside and participated in morning games for approximately 45 minutes.
- b. On the morning of [redacted] you left [redacted] without staff supervision in the Year [redacted] classroom with [redacted] other classmates, while you and the remainder of the Year [redacted] class took a 'brain break' in the school playground and you did not have direct line of sight of the classroom.
- c. On a [redacted] morning in the latter half of [redacted] after [redacted] had directed you not to leave [redacted] unsupervised in the classroom and recommended you contact [redacted] parents to discuss a solution, you again left [redacted] and fellow student, [redacted], in the classroom without staff supervision for approximately 45 minutes while you and the remainder of the class participated in morning games.

#### Allegation 2

It is alleged that while teaching your Year [redacted] class on [redacted], you engaged in ill-treatment towards [redacted], after having received an email from [redacted] mother querying your alleged in-class demonstration of a flame thrower and presentation of 'grounding' as scientific fact. Specifically:

- a. During the morning of [redacted], you told the class in an angry and frustrated tone that they would not be able to do any more fire experiments because a student had complained to their parents and you may now lose your job, before adding words to the effect, 'now I've had my grump for the day let's do the roll.'
- b. Later that day, while [redacted] was sorting coloured balls with students [redacted] and [redacted], you said to [redacted] in a loud, angry and frustrated voice words to the effect, [redacted], for someone whose parents are so involved in the class I'm surprised that you're not', which led students to understand it was [redacted] parents who had raised concerns about your lesson.

## 4 Allegation 1

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### 4.1 Summary of Evidence

Refer to Appendix A for evidence relied on for allegation 1.

### 4.2 Analysis of the Evidence

Section 17E of the ACT *Ombudsman Act 1989* (the Act) states that reportable conduct includes ‘...neglect of the child...’ and the ACT Ombudsman’s Practice Guide No. 2 *Identifying Reportable Conduct* provides the following definition:

*Neglect of a child involves the actions or inactions (omissions) of an employee who has the responsibility to care for a child. Such actions may be intentional or unintentional. Neglect refers to a failure to provide a child with the basic needs for his or her physical/emotional/psychological and intellectual development. The following are categories of neglect:*

- *Supervisory neglect is an intentional or reckless<sup>1</sup> failure to adequately supervise a child that results in the death of, or significant harm to, a child/or*
  - *an intentional or reckless failure to adequately supervise a child, or a significantly careless act or failure to act, that involves a gross breach of professional standards, or*
  - *has the potential to result in the death of, or significant harm to, a child or expose a child to dangerous or life-threatening situations, which could result in physical injury or significant harm*
- *providing illegal drugs, restricted substances or alcohol to children may constitute supervisory neglect and may be a criminal offence*
- *Carer neglect is grossly inadequate care that involves depriving a child of the basic necessities of life: such as the provision of food and drink, clothing, critical medical care or shelter*
- *Abandonment, leaving a child alone for more than a reasonable period without provision of age-appropriate care, is also carer neglect*
- *Failure to protect from abuse is an obviously or very clearly unreasonable failure to respond to information strongly indicating actual or potential serious abuse of a child*

The civil standard of proof, ‘*the balance of probabilities*’, applies to an agency investigation into a reportable allegation. This means that the decision maker need only be satisfied that it is ‘*more likely than not*’ that the alleged conduct occurred and meets the threshold of ‘*neglect*’ in order to sustain an allegation.

Before considering whether allegation 1 constitutes neglect, specifically supervisory neglect, it is first necessary to determine whether the conduct occurred, on the balance of probability.

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<sup>1</sup> The word reckless has its common or accepted meaning: rash, careless, thoughtless, incautious, heedless, inattentive, hasty, precipitate, precipitous, impetuous, impulsive, irresponsible, ill-advised.

**Consideration of whether the conduct occurred as alleged**

Allegation 1 originated from an email of [redacted] from [redacted] to [redacted], [redacted] and [redacted] r. In this email, [redacted] detailed three incidents on [redacted], in which [redacted] allegedly left [redacted] (a year [redacted] student [redacted]) in the classroom unsupervised, save for the company of a number of [redacted] peers.<sup>2</sup> [redacted] wrote:

[redacted]

[redacted]

During two separate interviews with the investigation, [redacted] consistently stated that from [redacted], [redacted] was not present for the joint- [redacted] morning games, with [redacted] believing [redacted] was being brought to school late on these days, and that during a conversation with [redacted] on or before [redacted], [redacted] told [redacted] was, in fact, present at School during morning games and had been instructed by [redacted] to remain in the classroom.

In [redacted] response, [redacted] affirmed [redacted] had left [redacted] alone in the classroom with [redacted] friend and classmate [redacted] on occasions when the class went to play morning activities. [redacted] provided contextual information in relation to [redacted] actions which will be considered in the Discussion of Issues below. [redacted] stated in [redacted] response that morning activities/games were a daily event for Year [redacted] and that on days when [redacted] was at School ([redacted]) [redacted] would have [redacted] remain in the classroom with [redacted].

[redacted] did not make clear how many times [redacted] left [redacted] unsupervised in this manner, or for how long on each occasion; however, it is assessed [redacted] did so on at least three occasions given the following points:

- [redacted]

[redacted]



[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

•

Based on the evidence of all parties, it is accepted that [REDACTED] left [REDACTED] unsupervised in the classroom on at least three occasions when [REDACTED] was outside the classroom.

### Discussion of Issues

It has been found, on balance, that [REDACTED] left [REDACTED] unsupervised in the classroom on at least three occasions, including on [REDACTED] when [REDACTED] left [REDACTED] unsupervised for at least 20 minutes. It will now be determined, based on the established conduct occurring, whether it constitutes Supervisory Neglect as defined by the Act and the ACT Ombudsman's Practice Guide No.2. Specifically, it will be determined whether [REDACTED] conduct constituted an intentional or reckless<sup>3</sup> failure to adequately supervise a child; and had the potential to result in the death of, or significant harm to, a child or expose the child to a dangerous or life-threatening situation, which could result in physical injury or significant harm.

With consideration to the available evidence, it is accepted on balance that [REDACTED] conduct did constitute supervisory neglect as set out in the definition above. The following evidence is relevant to this consideration:

1. A body of evidence indicates [REDACTED] had appropriate information regarding [REDACTED] [REDACTED] such that a reasonable person in [REDACTED] position would have anticipated the particular risk to [REDACTED] in leaving [REDACTED] unsupervised. The School's Individual Learning Plan (ILP) for [REDACTED], dated [REDACTED], identifies [REDACTED] [REDACTED] requires [REDACTED] to be carefully supervised at all times.

It notes:

<sup>3</sup> The Practice Guide notes: "The word reckless has its common or accepted meaning: rash, careless, thoughtless, incautious, heedless, inattentive, hasty, precipitate, precipitous, impetuous, impulsive, irresponsible, ill-advised."

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] confirmed at interview [REDACTED] had received a [REDACTED] for [REDACTED] and kept copies in the drawer of the teacher's desk and attached to the classroom door with [REDACTED] picture. On [REDACTED], [REDACTED] confirmed to the investigation that copies of [REDACTED] ILP, with the details set out above, were located in the teacher's desk and attached to the wall in a plastic sleeve on the classroom wall. In light of this, it is accepted [REDACTED] was in receipt of an iteration of [REDACTED] ILP which set out supervision requirements, including a requirement to "ensure there are no gaps in supervision" for [REDACTED] that [REDACTED] had a history of [REDACTED] and that made clear [REDACTED] required an immediate response.

Furthermore, [REDACTED] was absent from school for much of [REDACTED], owing to [REDACTED], and [REDACTED] and [REDACTED] have affirmed that it was agreed, in consultation with [REDACTED], that [REDACTED] should only attend main lessons on [REDACTED] return to School in [REDACTED]. In an email of [REDACTED] to [REDACTED], [REDACTED] stated [REDACTED] had been present for a Zoom meeting with [REDACTED] parents and [REDACTED] and provided the following summary:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Consistent with [REDACTED] email above, [REDACTED] confirmed [REDACTED] was present at the Zoom meeting with [REDACTED] parents during the [REDACTED] to discuss [REDACTED] return to School, during which [REDACTED] was told [REDACTED] would be [REDACTED], [REDACTED]. The evidence above demonstrates [REDACTED] was aware that [REDACTED] was required to miss a significant period of school owing to the complications from [REDACTED] which should have further informed [REDACTED] understanding of the potentially serious implications in the event [REDACTED] was injured while not under the supervision of a staff member.

2. A body of evidence indicates [REDACTED] demonstrated a propensity towards lax supervision of [REDACTED] students at the School, despite being spoken to about the issue by other staff members. This body of evidence undermines [REDACTED] statement regarding [REDACTED] decision to leave [REDACTED] unsupervised, in which [REDACTED] stated that decision was reached after a sound assessment of the relevant risks:

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]



- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

3. Investigators are satisfied that [REDACTED] ought to have known, of [REDACTED] r duty of care to [REDACTED] students, including [REDACTED] duty to provide appropriate supervision to them:

- [REDACTED]

- The School's Code of Conduct sets out employees' duty of care to students, including to supervise them, as follows:

**Duty of Care**

*As a School employee, you have a duty of care to students in your charge to take all reasonable steps to protect students from risks of harm that can be reasonably predicted.*

*The duty encompasses a wide range of matters, including (but not limited to):*

- *The provision of adequate supervision...*

**Work health and safety**

*...It is also your responsibility to ensure that your activities do not place at risk the health and safety of your co-workers, students or other persons that you may come into contact with at work. Considerations of safety relate to both physical and psychological wellbeing of individuals.*

**Supervision of students**

*You should take all reasonable steps to ensure that no student is exposed to any unnecessary risk or injury... Students should not be left unsupervised either within or outside of class... Playground supervision is an integral part of the responsibility of the staff. It must take precedence over other activities. It is unacceptable to be late for duties. You should actively supervise your designated area, being vigilant and constantly moving around."*

Investigators are satisfied [REDACTED] had access to these documents; the School's Human Resources department has confirmed that on [REDACTED], all staff received refresher training in the use and functions of 'Safety Champion', the School's repository for storing these policies, and the focus of that PD was to provide training to staff in order to understand the functions of the portal and to know how to navigate the portal. Signed timesheets for [REDACTED] provided to the investigation by the School, affirm [REDACTED] attended [REDACTED]

4. Investigators are satisfied that [REDACTED] intentional or reckless failure to adequately supervise [REDACTED] on at least three occasions had the potential to result in [REDACTED]

- An emergency letter for [REDACTED], completed by [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

Mitigating factors raised by [REDACTED]

It bears noting that the following points have been raised by [REDACTED] in explaining [REDACTED] decision to leave [REDACTED] unsupervised:

- [REDACTED]

[REDACTED]

- [REDACTED]

[Redacted]

[Redacted]

[Redacted]

- [Redacted]
  - 
  - 
  - 
  - 
  - 
  - 
  - 
  - 
  - 
  -

[Redacted]

- [Redacted]

[REDACTED]

[REDACTED]

Investigators are not of the view that the factors which [REDACTED] identified above alter the finding that [REDACTED] failed in [REDACTED] duty of care to [REDACTED] and engaged in behaviours which constituted supervisory neglect.

### Conclusion

While investigators have identified no evidence to suggest [REDACTED] intended to see [REDACTED] come to harm, [REDACTED] makes clear from [REDACTED] evidence that [REDACTED] intended to leave [REDACTED] unsupervised in the classroom, despite holding clear information regarding [REDACTED] and the risk of [REDACTED].

It is accepted [REDACTED] holds potentially [REDACTED] consequences for [REDACTED] and [REDACTED] that [REDACTED] conduct in leaving [REDACTED] unsupervised for extended periods with other students in the classroom placed [REDACTED] at risk [REDACTED] during those periods. It is also accepted [REDACTED] held clear information regarding these risks, and had received appropriate guidance through the School's Code of Conduct and also from [REDACTED] colleagues, regarding [REDACTED] duty of care to [REDACTED], and [REDACTED] responsibility to ensure [REDACTED] activities did not place students at risk of physical harm.

### 4.3 Recommended Finding

It is recommended that the most appropriate finding for allegation 2 is **sustained – supervisory neglect**.

## 5 Allegation 2

---

### 5.1 Summary of Evidence

Refer to Appendix A for evidence relied on for allegation 2.

### 5.2 Analysis of Evidence

Section 17E of the ACT *Ombudsman Act 1989* (the Act) states that reportable conduct includes ‘...ill-treatment of the child...’ and the ACT Ombudsman’s Practice Guide No. 2 *Identifying Reportable Conduct* provides the following definition:

*Ill-treatment includes those circumstances where an employee treats a child in an **unreasonable and seriously inappropriate, inhumane or cruel manner**. This behaviour may be intentional or unintentional. The focus is on the alleged conduct rather than the actual effect of the conduct on a child.*

*Ill-treatment of a child can include:*

- *emotional abuse*
- *hostile use of force/physical contact towards a child*
- *inappropriate restrictive intervention*
- *making excessive and/or degrading demands on a child*
- *malevolent acts*
- *a pattern of hostile or unreasonable and seriously inappropriate, degrading comments or behaviour*
- *inappropriate forms of restrictive intervention.*

*In making a determination regarding ill-treatment, it may be important to consider relevant codes of conduct that outline the nature of professional conduct and practice by employees/workers which should occur when working with children/young people.*

#### **Emotional Abuse**

*Emotional abuse may occur when treatment towards a child is unreasonable and seriously inappropriate, inhumane or cruel.*

*Examples of emotional abuse is conduct toward a child by an employee where the child is:*

- *isolated (e.g. placing a child in a cupboard as punishment)*
- *verbally assaulted*
- *subjected to a pattern of hostile or unreasonable and seriously inappropriate, degrading comments or behaviour*
- *harassed/being corrected in excess of what is reasonable*
- *humiliated or intimidated*
- *rejected*
- *frightened by threats of violence or exposure to violence*
- *treated in a malevolent or retaliatory manner*
- *bullied or treated with continual coldness*



- *alleged to have seen or heard the physical, sexual or psychological abuse of a person with whom the child or young person has a domestic relationship.*

*A medical diagnosis is not required to establish a causal link between an employee's conduct and emotional harm to a child.*

The civil standard of proof, '*the balance of probabilities*', applies to an agency investigation into a reportable allegation. This means that the decision maker need only be satisfied that it is 'more likely than not' that the alleged conduct occurred and meets the threshold of 'ill-treatment' in order to sustain an allegation.

Before considering whether allegation 2 constitutes ill-treatment, specifically emotional abuse, it is first necessary to determine whether the conduct outlined occurred, on the balance of probability.

### **Consideration of whether the conduct occurred as alleged**

Allegation 2 originates from an email complaint sent by [REDACTED] to the School on [REDACTED], which described [REDACTED] as being '*really out of sorts*' following comments made by [REDACTED] in class. [REDACTED] advised that after sending an email to [REDACTED] on [REDACTED] asking why [REDACTED] had shown the class a "hairspray blow torch", [REDACTED] said to [REDACTED] r class the following day, "[s]omeone's parent had made a complaint and that [REDACTED] could lose [REDACTED] job", and later said in the presence of the class "[REDACTED], since your parents are so involved in the class and making complaints I'm surprised you aren't engaged in the lesson". [REDACTED] alleged that this second comment was said in the classroom and was heard by all students.

[REDACTED]

[REDACTED]

At interview, [REDACTED] provided the following account of [REDACTED] statements:

[REDACTED]

In [REDACTED] interview with the investigation, [REDACTED] denied having made the comments as alleged. [REDACTED] alleged [REDACTED] told the class that "students should feel welcome to share with their parents the events of our days in class, but to make sure that any communication was factual and honest, and that I recorded all events of the day in my notes, because should they not be truthful that this did in fact put my job at risk". [REDACTED] stated [REDACTED] specifically avoided

looking in [redacted] direction while making this comment. [redacted] elaborated to the investigation that this comment was informed, in part, by ongoing uncertainty as to whether [redacted] would have a position with the School the following year. [redacted] alleged [redacted] had received conflicting advice from the School regarding [redacted] contract of employment and, [redacted]

[redacted] continued that later in the day, [redacted] reprimanded [redacted] on his focus because [redacted] was [redacted] rather than completing [redacted] work.

[redacted] alleged that a student named [redacted] told [redacted] that [redacted] had confirmed to [redacted] classmates that [redacted] parents had raised the concerns about the lesson.

The evidence above shows [redacted] and [redacted] have provided divergent accounts of [redacted] comments, and specifically whether [redacted] inferred to the class that [redacted] parents had complained, or rather, that [redacted] disclosed this to the class.

Investigators conducted interviews with [redacted] confirmed [redacted] had conducted the experiment and, subsequent to [redacted] email, had told the class someone had made a complaint. [redacted]

- [redacted]

[redacted]

[redacted]

- [redacted]

[redacted]

[REDACTED]

Investigators are in possession of classroom observation notes of [REDACTED]

[REDACTED] While this lends some support to [REDACTED] version of events, it is insufficient on its own to reach a conclusion, on balance, that [REDACTED] alleged inference that [REDACTED] parents were the complaints did not take place.

With consideration to the information above, there is insufficient evidence to conclude, on balance, that the conduct occurred as alleged. Furthermore, the available evidence does not support a conclusion, on balance, that any such conduct by [REDACTED] reached a threshold of being “unreasonable and seriously inappropriate, inhumane or cruel”. While a comment of the nature alleged may have been deemed “unreasonable” when considered against professional standards and expectations, there is no evidence to indicate [REDACTED]. Examples of emotional abuse as provided by the ACTO in Fact Sheet 2, provide some insight to the threshold intended to be met for an allegation of emotional harm that is sustained, which include placing a child in a cupboard as punishment, verbal assault, degrading comments or behaviour, exposure to threats of violence, bullying and treatment of continual coldness, humiliation or intimidation. Investigators are not satisfied that [REDACTED] alleged comments meet this threshold.

### 5.3 Recommend Finding

It is recommended that the most appropriate finding for allegation 2 is **not reportable conduct**.

Endorsed by:

[REDACTED]

[REDACTED]



## Freedom of Information Schedule

### – TEACHERS REGISTRATION S70

**Scope:** The records from within the time period of 17 February 2019 until 29 November 2021 specifically:

- 1. The document or documents which detail the reasons why any registered teacher has been issued with a formal warning, had conditions placed on their registration or been de-registered as a result of their conduct.*
- 2. Any information disclosed under s.70A (1) (a) and (b) of the TQI Act to the Institute, whether or not the teacher's registration was suspended, cancelled or had conditions placed upon it.*
- 3. Any information disclosed to the institute under s.70B of the TQI Act.*

**DATE OF REQUEST: 29 NOVEMBER 2021 - FILE2021/5895**

Record Number	Description	Notification Date	Decision (Full release, Partial release, Non-release)	Reason for Partial release or Non-release
	Case 13		Non-release	Ongoing investigation – no records available for 2021

Records are not released in accordance with Section 17 of the  
*Freedom of Information Act 2016*, Schedule 2.2(a)(iii)

## Freedom of Information Schedule

### – TEACHERS REGISTRATION S70

**Scope:** The records from within the time period of 17 February 2019 until 29 November 2021 specifically:

- 1. The document or documents which detail the reasons why any registered teacher has been issued with a formal warning, had conditions placed on their registration or been de-registered as a result of their conduct.*
- 2. Any information disclosed under s.70A (1) (a) and (b) of the TQI Act to the Institute, whether or not the teacher's registration was suspended, cancelled or had conditions placed upon it.*
- 3. Any information disclosed to the institute under s.70B of the TQI Act.*

**DATE OF REQUEST: 29 NOVEMBER 2021 - FILE2021/5895**

Record Number	Description	Record Date	Decision (Full release, Partial release, Non-release)	Reason for Partial release or Non-release
	<b>2021 – Case 15 – Refer to 2020 – Case 23</b>			
15.1	Email		Non-release	Schedule 2.2(a)(ii)
15.2	Statements – 1		Non-release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.3	Statement - 2		Non-release	Schedule 2.2(a)(ii) and Confidential Information and Management Function



15.4	Transcript of Interview – 1	[REDACTED]	Non-release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.5	Transcript of Interview – 2	[REDACTED]	Non-release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.6	Transcript of Interview - 3	[REDACTED]	Non-release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.7	Transcript of Interview – 4	[REDACTED]	Non-release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.8	Statements	[REDACTED]	Non-release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.9	Letter – RE: Notification of a Workplace Complaints Process	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.10	Transcript of interview	[REDACTED]	Non-release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.11	Investigation Report - Code of Conduct Investigation	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function  Pages that are wholly redacted have been removed

15.12	Letter – RE: Notification of a Preliminary Finding	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.13	Letter – RE: Appeal of Preliminary Finding	[REDACTED]	Non-release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.14	Letter – RE: Notification of a Final Finding	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
15.15	Letter from TQI – Final determination letter	[REDACTED]	Partial release	Schedule 2.2(a)(ii)

This record is not released in accordance with Section 17 of the  
*Freedom of Information Act 2016*, Schedule 2.2(a)(ii)

This record is not released in accordance with Schedule 17 of  
the *Freedom of information Act 2016*, Schedule 2.2(a)(ii),  
Confidential Information and Management Function

This record is not released in accordance with Schedule 17 of the *Freedom of information Act 2016*, Schedule 2.2(a)(ii), Confidential Information and Management Function

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This record is not released in accordance with Schedule 17 of  
the *Freedom of information Act 2016*, Schedule 2.2(a)(ii),  
Confidential Information and Management Function

[REDACTED]

**RE: NOTIFICATION OF A WORKPLACE COMPLAINTS PROCESS**

The [REDACTED] has identified possible breaches by yourself of the [REDACTED] Enterprise Agreement [REDACTED] (**Enterprise Agreement**), [REDACTED]

**Your obligations**

Under [REDACTED] of the Enterprise Agreement, the following professional duties and responsibilities is to be adhered to by all employees. In carrying out their duties and responsibilities all employees will:

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

### Allegation One

It is alleged that you have during [REDACTED] made a number of inappropriate and sexualised comments to various students in a Year [REDACTED] Class, which you teach. These students are [REDACTED].

The particulars of this allegation are:

- you are a teacher at [REDACTED] and teach the subject [REDACTED]
- you teach a Year [REDACTED] class which includes the Year [REDACTED] students [REDACTED]
- during a lesson in [REDACTED] you made a comment to [REDACTED] when [REDACTED] was dancing by moving [REDACTED] hips and thrusting “ [REDACTED] stop dancing, keep that for the bedroom”. This comment was heard by [REDACTED] and other students
- during a lesson in [REDACTED] where the class was playing a circle game where they had to drop to the floor, when [REDACTED] and [REDACTED] did not do this you screamed “Get on your knees” while standing directly in front of these students
- during a lesson in [REDACTED] when the students were partner dancing [REDACTED] face went red and you made a comment in front of the class of words to the effect “ [REDACTED] is blushing”
- during a lesson in [REDACTED] where [REDACTED] was crawling on [REDACTED] knees you made a comment in front of the class “get off your knees save it for later” in front of the class
- during a lesson in [REDACTED] the class was required to make a video about physical activity and [REDACTED] and [REDACTED] made a video about horse riding where [REDACTED] was the horse and [REDACTED] the rider. In this lesson you said to [REDACTED] words to the effect “have you showed the [REDACTED] your [REDACTED] video [REDACTED] was riding on [REDACTED]”
- these comments made these students feel uncomfortable and some of the comments were also heard by some other students, and
- on [REDACTED] in [REDACTED] you attended the [REDACTED] where [REDACTED] were and said to these students words to the effect “ [REDACTED] sure likes playing with ball”.

### Allegation Two

It is alleged that you have during [REDACTED] had an inappropriate focus on various students in a Year [REDACTED] Class, which you teach. These students are [REDACTED].

The particulars of this allegation are:

- you are a teacher at [REDACTED] and teach the subject [REDACTED]
- you teach a Year [REDACTED] class which includes the Year [REDACTED] students T [REDACTED]



- you during class appear to spend more time with these students than other students, are friendly with them in a manner that is not appropriate and has been described by a student in the class as “flirting”
- this focus has included the making of sexualised comments referred to in Allegation One
- you also seem to have a similar focus on them outside class when they are in the school and you see them and you will often go and speak to them
- this focus makes these students feel uncomfortable;
- it is alleged you have had an unprofessional focus on these students [REDACTED].

Based on the alleged conduct outlined above, you are suspected of breaching subsections [REDACTED]

These allegations reach the threshold of reportable conduct and a notification will be made about these allegations to the ACT Ombudsman as well as the outcome of the investigation. Likewise, the [REDACTED] is required to notify the ACT Teacher Quality Institute about this allegation and the investigation outcome. Depending on the outcome, the [REDACTED] may also notify the outcome to Access Canberra in accordance with the Working with Vulnerable Persons Scheme. Such a disclosure is determined on a case by case basis.

This investigation will be conducted [REDACTED]

You are invited to provide a response to the allegations; you may do this in writing or at an interview. If you choose to respond in writing this should be received by [REDACTED] by [REDACTED]. Your response should be sent to [REDACTED] email address. Following the receipt of any written response, you will be invited to participate in an electronically recorded interview. Alternatively, if you would prefer to instead only participate in an interview, please contact [REDACTED] and this will be organised for you on a mutually agreeable time and date.

You may elect to have a support person accompany you to this interview and will be given reasonable opportunity to arrange for this. The support person may be a friend, a family member, union or other representative.

Please note that the role of a support person is to offer you pastoral support. A support person does not offer comment on the issues discussed at the interview or attend to advocate on your behalf. They are bound by the same confidentiality obligations which apply to you and other witnesses participating in this process. If it not appropriate to have a support person who has been involved in the matter under investigation, or whose availability may lead to a delay in the investigation.

### **Confidentiality**

You are requested not to discuss any matters being investigated with any persons (students, parents, and teachers) connected with or who may be reasonably suspected of being connected to this investigation. If you think there is a need for you to contact and discuss the

investigation with any person who may be connected or interviewed as part of the investigation, you must contact [REDACTED] to receive explicit authorisation before you contact that person. If you do not follow this direction, your conduct could be separately investigated as a potential breach of the Enterprise Agreement.

### **Victimisation**

If any person seeks to or does victimise or retaliate against you as a result of the issues raised or because of your involvement in this investigation, you should immediately report it to [REDACTED] or myself.

Similarly, you must not victimise or retaliate against anyone as a result of their involvement in the complaint process. It is inappropriate to ask workplace colleagues or students whether they or their parents have made a complaint or to take steps to identify the witnesses who have been interviewed about these allegations as well as what they stated during an interview. Any person who engages in such conduct may be subject to disciplinary action.

Breach of confidentiality obligations and victimisation are matters treated very seriously and, if proven, may be subject to disciplinary action and result in termination of the employment contract.

### **Complaints Process**

The above-mentioned policies and guidelines are available on the intranet and more information about the process will be provided to you by [REDACTED] at your interview. You may also contact [REDACTED] if you have any questions about the process.

Once the investigation into this matter is complete, the investigation will produce a report which I will review and make my findings. If these findings are detrimental to you, you will be provided another opportunity to respond and provide further information for my consideration before I make a final decision on the matter.

In the event that the allegations are sustained, any employment sanctions appropriate will be determined by [REDACTED]

If you would like to access confidential counselling offered through [REDACTED], please do not hesitate to contact them on [REDACTED]

Regards

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

This record is not released in accordance with Schedule 17 of  
the *Freedom of information Act 2016*, Schedule 2.2(a)(ii),  
Confidential Information and Management Function

## Investigation Report

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### Code of Conduct Investigation

In the matter of [REDACTED]

AUTHOR: [REDACTED]

DATE [REDACTED]

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**1. EXECUTIVE SUMMARY**

- 1.1 On [redacted] a complaint was received by [redacted] from a parent of a [redacted] student relating to inappropriate comments being made by a [redacted] Teacher [redacted] to [redacted] students during [redacted]. These students are [redacted] ( [redacted] ). It was identified these [redacted] students have a very close friendship.
- 1.2 On [redacted], [redacted] conducted interviews with the students as well as other [redacted] students in relation to these interactions. The [redacted] students' evidence was consistent and at times the same, suggesting an element of collusion, whether inadvertently or otherwise due to the strong friendship relationship.
- 1.3 Other students interviewed provided evidence that [redacted] may appear to be flirtatious with the [redacted] students although [redacted] also stated that the students may take things out of context.
- 1.4 Interviews were also conducted with [redacted] staff members [redacted] ( [redacted] ) stated [redacted] had not witnessed any inappropriate behaviours by [redacted] although did state the [redacted] students' behaviours were challenging at times. [redacted] was also interviewed, stated that [redacted] heard [redacted] say to [redacted] students one of the alleged comments, about playing with balls.
- 1.5 [redacted] did not provide a written response in this matter, however, did participate in an interview. In this interview [redacted] denied making the comments as stated and, that the comments [redacted] accepted [redacted] made were not intended to be sexual in nature.
- 1.6 It is assessed that of the comments made, on balance [redacted] appears to have made two of the comments in a manner that is sexually explicit. These comments relate to one student riding another and the playing with balls. It is assessed that the other comments are not sustained due to insufficient evidence or lack of weight.
- 1.7 It is assessed that [redacted] action have breached [redacted].
- 1.8 There was a second allegation investigated regarding [redacted] crossing professional boundaries with the students. It is assessed this allegation cannot be sustained due to insufficient evidence.

**2. SUMMARY OF ALLEGATIONS AND FINDINGS**

Allegation Number	Allegation	Outcome
1 and 2	<p><b>Allegation One</b></p> <p>It is alleged that you have during [redacted] made a number of inappropriate and sexualised comments to various students in a Year [redacted] Class, which you teach. These students are [redacted]</p> <p>The particulars of this allegation are:</p>	Sustained



Allegation Number	Allegation	Outcome
	<ul style="list-style-type: none"> <li>• you are a teacher at [REDACTED] and teach the subject [REDACTED]</li> <li>• you teach a Year [REDACTED] class which includes the Year [REDACTED] students [REDACTED]</li> <li>• during a lesson in [REDACTED] you made a comment to [REDACTED] when [REDACTED] was dancing by moving [REDACTED] hips and thrusting “ [REDACTED] stop dancing, keep that for the bedroom”. This comment was heard by [REDACTED] and other students</li> <li>• during a lesson in [REDACTED] where the class was playing a circle game where they had to drop to the floor, when [REDACTED] and [REDACTED] did not do this you screamed “Get on your knees” while standing directly in front of these students</li> <li>• during a lesson in [REDACTED] when the students were partner dancing [REDACTED] face went red and you made a comment in front of the class of words to the effect “ [REDACTED] is blushing”</li> <li>• during a lesson in [REDACTED] where [REDACTED] was crawling on [REDACTED] knees you made a comment in front of the class “get off your knees save it for later” in front of the class</li> <li>• during a lesson in [REDACTED] the class was required to make a video about physical activity and [REDACTED] and [REDACTED] made a video about horse riding where [REDACTED] was the horse and [REDACTED] the rider. In this lesson you said to [REDACTED] and [REDACTED] words to the effect “have you showed the [REDACTED]s your [REDACTED] video [REDACTED] was riding on [REDACTED]”</li> <li>• these comments made these students feel uncomfortable and some of the comments were also heard by some other students, and</li> <li>• on [REDACTED] in [REDACTED] you attended the [REDACTED] where [REDACTED] h were and said to these students words to the effect “ [REDACTED] sure likes playing with ball”.</li> </ul> <p><b>Allegation Two</b></p> <p>It is alleged that you have during 2020 had an inappropriate focus on various students in a Year [REDACTED] Class, which you teach. These students are [REDACTED].</p> <p>The particulars of this allegation are:</p> <ul style="list-style-type: none"> <li>• you are a teacher at [REDACTED] and teach the subject [REDACTED]</li> <li>• you teach a Year [REDACTED] class which includes the Year [REDACTED] students [REDACTED]</li> <li>• during class you appear to spend more time with these students than other students, are friendly with them in a manner that is not appropriate and has been described by a student in the class as “flirting”</li> <li>• this focus has included the making of sexualised comments referred to in Allegation One</li> <li>• you also seem to have a similar focus on them outside class when you see them in the school you will often go and speak to them</li> <li>• this focus makes these students feel uncomfortable</li> </ul>	





- █ [REDACTED]
- █ [REDACTED]

**5. SUMMARY OF EVIDENCE COMPLAINANTS**

**Identification of alleged breach and student accounts**

5.1 On [REDACTED] became aware of some concerns the students [REDACTED] had regarding [REDACTED].

5.2 On [REDACTED], these students met [REDACTED] and wrote down their accounts of their complaint. It is noted these students were sitting together when they wrote these accounts.

[REDACTED]

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

[REDACTED]

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]



- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

## 9. ANALYSIS: ALLEGATIONS

- 6.1 This investigation has reviewed allegations which are, it is alleged, breaches of the Guidelines for Professional Conduct and the Enterprise Agreement.
- 6.2 There is a difference of accounts in various aspects between the complainants [REDACTED] in terms of the comments made and/or the context in which they occurred.
- 6.3 It is prudent to consider for each Allegation the particulars and assess the particulars and whether they constitute a breach of the [REDACTED] and the Agreement.
- During a lesson in [REDACTED] you made a comment to [REDACTED] when [REDACTED] was dancing by moving [REDACTED] hips and thrusting “ [REDACTED] stop dancing, keep that for the bedroom”. This comment was heard by [REDACTED] and other students**
- 6.4 The evidence has identified these comments being made from [REDACTED]. The investigation has not identified evidence that other students heard this comment or [REDACTED]. In the interview conducted, [REDACTED] stated [REDACTED] did not recall this incident, [REDACTED] dancing or making these comments and [REDACTED] would not use that terminology.
- 6.5 This means that there are [REDACTED] witnesses, who are close friends, as stated by the students, who state the comments occurred whilst [REDACTED] has denied this.
- 6.6 If the comments themselves, as stated by the students, is considered it is assessed that the reference to dancing being kept for the bedroom, does on the balance of probabilities have a sexual overtone. In making this assessment it is recognised that it is not beyond doubt that a person may dance in their bedroom although [REDACTED] has stated [REDACTED] does not use this terminology which recognises the potential sexual overtones of the comment. It is assessed that per the [REDACTED] the making of such a comment would not be appropriate and professional given it refers to sexually related actions with a student.
- 6.7 As to whether the comments occurred it is assessed that it cannot, in the absence of independent evidence be determined with a degree of certainty whether the comments in their form did occur. This assessment is made as whilst [REDACTED] students have made this comment their account is very similar, and the comment has been denied by [REDACTED]. It is accordingly assessed there is insufficient evidence to sustain this comment did occur. This assessment is also made based on [REDACTED] complex relationship with the students [REDACTED]

**During a lesson in [REDACTED] where the class was playing a circle game where they had to drop to the floor, when [REDACTED] and [REDACTED] did not do this you screamed “Get on your knees” while standing directly in front of these students**

- 6.8 Evidence of these comments has been provided by [REDACTED] who have provided consistent accounts. [REDACTED] in contrast has stated that [REDACTED] cannot recall the circle game or saying these things and when they do activities the students have to sit on the ground and [REDACTED] sometimes says take a knee and does in a big voice if they are outside. There has been no other evidence identified about these comments.
- 6.9 It has been suggested by the students that these comments were sexualised, and they took offence to these comments. The response of [REDACTED] states he does not recall the comments although [REDACTED] did state [REDACTED] would sometimes request the students sit on their knees. [REDACTED] has stated [REDACTED] has not observed any inappropriate comments.
- 6.10 It is assessed that the explanation of [REDACTED] is reasonable in that if [REDACTED] did make this comment, it is more likely than not this related to a teaching activity, was not sexualized and it is assessed this allegation is not sustained due to lack of weight.

**During a lesson in [REDACTED] when the students were partner dancing [REDACTED] face went red and you made a comment in front of the class of words to the effect “[REDACTED] is blushing”**

- 6.11 This evidence has been stated by [REDACTED] has provided an alternative account that the comment was made by another student and that [REDACTED] agreed with this that [REDACTED] was red. [REDACTED] has stated [REDACTED] said: Yeah. Okay. [REDACTED] is blushing. Don’t be embarrassed. You’ve got nothing to worry about. You did really well.” So, it was all part of the supportive comment”.
- 6.12 It is assessed that the explanation of [REDACTED] is reasonable in that if [REDACTED] did make this comment, this was in relation to a comment made by a student, was not made in an unprofessional manner and was not sexually related.
- 6.13 it is more likely than not this related to a teaching activity and it is assessed this allegation is not sustained due to lack of weight.

**During a lesson in [REDACTED] where [REDACTED] was crawling on [REDACTED] knees you made a comment in front of the class “get off your knees save it for later” in front of the class**

- 6.14 This evidence has been stated by [REDACTED] has provided an alternative account that the comment was at the start of the lesson when they were warming up for fun and some students were hiding behind the stage and mucking up and [REDACTED] said Get up off your knees. Stop mucking around. You can save your mucking around for later” and there was no sexual innuendo in the comment.
- 6.15 It is assessed that the explanation of [REDACTED] is reasonable in that if [REDACTED] did make this comment, it is more likely than not this related to a teaching activity and was not sexually related. It is assessed this allegation is not sustained due to lack of weight.

**During a lesson in [REDACTED] the class was required to make a video about physical activity and [REDACTED] and [REDACTED] made a video about horse riding where [REDACTED] was the horse and [REDACTED] the rider. In this lesson you said to [REDACTED] and [REDACTED] words to the effect “have you showed the guys your [REDACTED] video [REDACTED] was riding on [REDACTED]” these comments made these students feel uncomfortable and some of the comments were also heard by some other students, and**



6.16 This evidence has been stated by [REDACTED] has provided an alternative account that the comments [REDACTED] made was:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

6.17 There was no other evidence identified about this incident. In difference to some of the other comments [REDACTED] has recalled this incident although [REDACTED] has provided an alternative explanation. This explanation has agreed that [REDACTED] used the term riding although in a different context.

6.18 Whilst [REDACTED] has provided this alternative view it is assessed that the use of the term riding in this context had a sexual overtone as [REDACTED] directed this comment at the boys and then said [REDACTED] was riding [REDACTED]. It is assessed that in using the term riding [REDACTED] is referring to on person sitting on another person for a sexually related reason where riding means a person is sitting on a horse. It is assessed that this comment is sustained as not being professional and having a sexual overtone.

On [REDACTED] in [REDACTED] you attended the [REDACTED] where [REDACTED] were and said to these student's words to the effect "[REDACTED]".

6.19 This evidence was provided by [REDACTED] and was also corroborated by [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

6.20 In responding to this allegation [REDACTED] stated [REDACTED] does not recall the [REDACTED] being at the stall and [REDACTED] does recall saying to [REDACTED] who was looking after the stall with stress balls "Of course, you're doing" – [REDACTED] I'm like, "Of course, you're doing the stress balls stall. You love your stress balls"; [REDACTED] also stated the comment [REDACTED] made to the teacher was teacher to teacher and "If you look back, and you're going through a fine-tooth comb, you can probably go, "Probably didn't need to say it." (A238).

6.21 It is assessed that it is more likely than not that the account of [REDACTED] and the students is more accurate than [REDACTED] based on the consistency in these accounts as well as [REDACTED] acknowledgement that the comment was made teacher to teacher and [REDACTED] probably did not need to say this.

6.22 It is also assessed that this comment was sexually related as it was referring to male genitals and not the stress balls on the stall and was implying that the teacher and student liked playing with these items.







The Fact Sheet states these include “inappropriate conversations of a sexual nature. For the reasons stated above it is assessed these comments are reportable conduct. Further that the reportable conduct is sustained as the evidence has identified that on balance the comments were made to these students.

## 9. CONCLUSION

This investigation has identified the outcome stated above. It is noted that [REDACTED] was cooperative in the investigation.

KEY PARTIES			
Name	Position	Involvement in Incident	Evidence Provided
[REDACTED]	[REDACTED]	Respondent	Response and Interview
[REDACTED]	[REDACTED]	Complainant/Witness	Account and Interview
[REDACTED]	[REDACTED]	Complainant/Witness	Account and Interview
[REDACTED]	[REDACTED]	Complainant/Witness	Account and Interview

ATTACHMENT				
Number	Name	Type	Involvement in Incident	Evidence Provided
Attachment 1	[REDACTED]	Email of Complaint	[REDACTED]	Email
Attachment 2	[REDACTED]	Allegation Letter	Respondent	Letter
Attachment 3	[REDACTED]	Account	Complainant / Witness	Interview Transcript
Attachment 4	[REDACTED]	Account	Complainant / Witness	Interview Transcript
Attachment 5	[REDACTED]	Interview	Complainant / Witness	Interview Transcript
Attachment 6	[REDACTED]	Response	Complainant / Witness	Interview Transcript
Attachment 7	[REDACTED]	Interview	Complainant / Witness	Interview Transcript
Attachment 8	[REDACTED]	Interview	Witness	Interview Transcript
Attachment 9	[REDACTED]	Account	Witness	Interview Transcript
Attachment 10	[REDACTED]	Email	Witness	Email
Attachment 11	[REDACTED]	Email	Witness	Email
Attachment 12	[REDACTED]	Interview	Respondent	Interview Transcript

Report Signatures / Authorities

**Prepared by: (...)**

<b>Signature:</b>	<b>Per</b>
<b>Name:</b>	[REDACTED]
<b>Position:</b>	[REDACTED]
<b>Date:</b>	[REDACTED]

**Supported by:** [REDACTED]

<b>Signature:</b>	
<b>Name:</b>	
<b>Position:</b>	
<b>Date:</b>	

**Approved by: (Agency Decision Maker)**

<b>Signature:</b>	<b>Per</b>
<b>Name:</b>	[REDACTED]
<b>Position:</b>	[REDACTED]
<b>Date:</b>	[REDACTED]



**RE: NOTIFICATION OF A PRELIMINARY FINDING**

The [redacted] has identified possible breaches by yourself of the [redacted] Enterprise Agreement [redacted] (**Enterprise Agreement**), [redacted]

[redacted]  
[redacted]  
[redacted]

If proven, the Allegation could constitute a breach of your duties and responsibilities set out in [redacted] Enterprise Agreement [redacted] (**Enterprise Agreement**) and [redacted]

[redacted]  
[redacted]

The process was communicated to you by an Allegation Letter dated [redacted].

**Your obligations**

Under [redacted] of the Enterprise Agreement, the following professional duties and responsibilities is to be adhered to by all employees. In carrying out their duties and responsibilities all employees will:

- [redacted]  
[redacted]  
[redacted]

[redacted]  
[redacted]

- [redacted]  
[redacted]



[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

### Allegation One

It is alleged that you have during [REDACTED] made a number of inappropriate and sexualised comments to various students in a Year [REDACTED] Class, which you teach. These students are [REDACTED]

The particulars of this allegation are:

- you are a teacher at [REDACTED] and teach the subject [REDACTED]
- you teach a Year [REDACTED] class which includes the Year [REDACTED] students [REDACTED]
- during a lesson in [REDACTED] you made a comment to [REDACTED] when she was dancing by moving [REDACTED] r hips and thrusting “ [REDACTED] stop dancing, keep that for the bedroom”. This comment was heard by [REDACTED] and other students
- during a lesson in [REDACTED] where the class was playing a circle game where they had to drop to the floor, when [REDACTED] and [REDACTED] did not do this you screamed “Get on your knees” while standing directly in front of these students
- during a lesson in [REDACTED] when the students were partner dancing [REDACTED] face went red and you made a comment in front of the class of words to the effect [REDACTED] is blushing”
- during a lesson in [REDACTED] where [REDACTED] was crawling on [REDACTED] knees you made a comment in front of the class “get off your knees save it for later” in front of the class
- during a lesson in [REDACTED] the class was required to make a video about physical activity and [REDACTED] and [REDACTED] made a video about horse riding where [REDACTED] was the horse and [REDACTED] the rider. In this lesson you said to [REDACTED] and [REDACTED] words to the effect “have you showed the [REDACTED] your health video [REDACTED] was riding on [REDACTED]”
- these comments made these students feel uncomfortable and some of the comments were also heard by some other students, and
- on [REDACTED] you attended the [REDACTED] where [REDACTED] were and said to these students words to the effect “[REDACTED] sure likes playing with ball”.

### Allegation Two

It is alleged that you have during [REDACTED] had an inappropriate focus on various students in a Year [REDACTED] Education Class, which you teach. These students are [REDACTED]

The particulars of this allegation are:



- you are a teacher at [REDACTED] and teach the subject [REDACTED]
- you teach a Year [REDACTED] class which includes the Year [REDACTED] students [REDACTED]
- you during class appear to spend more time with these students than other students, are friendly with them in a manner that is not appropriate and has been described by a student in the class as “flirting”
- this focus has included the making of sexualised comments referred to in Allegation One
- you also seem to have a similar focus on them outside class when they are in the school and you see them and you will often go and speak to them
- this focus makes these students feel uncomfortable;
- it is alleged you have had an unprofessional focus on these students [REDACTED].

Based on the alleged conduct outlined above, you are suspected of breaching subsections [REDACTED]

These allegations reach the threshold of reportable conduct and a notification has been made about these allegations to the ACT Ombudsman as well as the ACT Teacher Quality Institute. The outcome of this investigation will be notified to these organisations when the matter is concluded.

The preliminary findings are as follows:

### **Findings per The Guidelines for Professional Conduct**

#### Allegation One

It is assessed that you have breached [REDACTED], noting that not all of the comments are sustained.

#### Allegation Two

It is assessed that this allegation is not sustained due to insufficient weight of evidence.

### **Finding per Enterprise Agreement**

It is assessed that you have breached [REDACTED] as your actions were not professional and do not demonstrate integrity.

### **Findings per Reportable Conduct**

If Allegation One is examined the relevant category to examine is [Misconduct of a Sexual nature](#) (see linked Fact Sheet). This Fact Sheet states that sexual misconduct may include speech or other communication of a sexual nature which includes sexually explicit comments and includes inappropriate conversations of a sexual nature.

It is assessed these comments are reportable conduct as it is identified that on balance the comments were made to these students.

**Assessment per The Guidelines for Professional Conduct and Enterprise Agreement (Allegation One)**

The reasons for my finding are as follows:

- a. It has been alleged there were various comments made by yourself which were not appropriate, which were six in total;
- b. The investigation has identified that of these comments it cannot be identified that the below comments were inappropriate due to the conflicting accounts by yourself and the students and the differing context of these conversation. That said, I do recognise the potential innuendo that may arise from such comments and I would encourage you to be mindful, in the future of your comments to students. These comments are:
  - i. during a lesson in [REDACTED] you made a comment to [REDACTED] when [REDACTED] was dancing by moving [REDACTED] hips and thrusting "[REDACTED] stop dancing, keep that for the bedroom". This comment was heard by [REDACTED] and other students
  - ii. had to drop to the floor, when [REDACTED] and [REDACTED] did not do this you screamed "Get on your knees" while standing directly in front of these students
  - iii. during a lesson in [REDACTED] when the students were partner dancing [REDACTED] face went red and you made a comment in front of the class of words to the effect "[REDACTED] is blushing"
  - iv. during a lesson in [REDACTED] where [REDACTED] was crawling on [REDACTED] knees you made a comment in front of the class "get off your knees save it for later" in front of the class
- c. The evidence has identified consistent evidence relating to your comments regarding horse riding and [REDACTED] riding [REDACTED]. I note in your interview you provided the following alternative account:

[REDACTED]

- d. Whilst I recognise that you are suggesting that the comment related to the activity it is my assessment that when you made the comment, whilst it may have been linked to the assessment activity you were also making a sexual overtone where you were referring to a person sitting on another person for a sexually related reason where riding means a person is sitting on a horse.
- e. The investigation has identified evidence that you did make a comment about a staff member and a student that they loved playing with balls. In your interview you stated you did make these comments although said that you included the word stress ball. Further you stated the comment you made to the teacher was teacher to teacher and "If you look back, and you're going through a fine-tooth comb, you can probably go, "Probably didn't need to say it." It is my assessment that in making this comment you recognised that it could be interpreted as sexually related as it was referring to male genitals and not the stress balls [REDACTED] and was implying that the teacher and student liked playing with these items.

f. It is my assessment that these comments are inappropriate.

### **Disciplinary Measures**

I have carefully considered all evidence presented by [REDACTED] including your responses to the allegations. I have determined the following sanction.

I have determined to issue a warning to you in relation to this breach. Further failure to adhere to [REDACTED] policies and exercise professional judgement may result in further disciplinary action. You are advised that:

- you must ensure that you understand [REDACTED] Policies and comply at all times;
- you should review the [REDACTED] to ensure you understand the obligations in using information technology; and
- you should commence a formal process with your Executive where you meet fortnightly to discuss your approach to student interactions and management to assist you interact appropriately with these students.

### **The seriousness of this incident**

The protection of children is paramount for [REDACTED] and a primary and key duty of a teacher. A key aspect of this duty is appropriate interactions with students which includes not making comments which may be misinterpreted as sexually related. The making of such comments breaches our [REDACTED] and also legislative responsibilities and undermines any confidence our community has in our organisation. There is no place for such comments, whether said in jest or otherwise.

### **Your response to Preliminary Findings**

I invite you to respond in writing to the above matters, providing any reasons why the allegations should not be sustained and the proposed disciplinary action should not be taken against you. You may provide a written response to these preliminary findings offering any additional information you wish me to consider. This response must be received by me no later than by [REDACTED] I will consider this information, if any, and make final findings.

### **Confidentiality and Counselling**

I again remind you that your confidentiality obligations in relation to this matter continue. You must also refrain from victimising or taking any detrimental action towards others who have participated in this matter. Assurances of confidentiality have also been sought from all persons involved in the investigation process.

If you have any questions or concerns or seek additional clarification, please contact myself.

If you would like to access confidential professional counselling offered through [REDACTED]

Yours sincerely

[REDACTED]

This record is not released in accordance with Schedule 17 of  
the *Freedom of information Act 2016*, Schedule 2.2(a)(ii),  
Confidential Information and Management Function



**RE: NOTIFICATION OF A FINAL FINDING**

The [redacted] has identified possible breaches by yourself of the [redacted] Enterprise Agreement [redacted] (**Enterprise Agreement**), [redacted]  
[redacted]  
[redacted]  
[redacted]

If proven, the Allegation could constitute a breach of your duties and responsibilities set out in [redacted] Enterprise Agreement [redacted] (**Enterprise Agreement**) [redacted]  
[redacted]  
[redacted]

The process was communicated to you by an Allegation Letter dated [redacted]. A Preliminary Finding Letter was provided to you on [redacted].

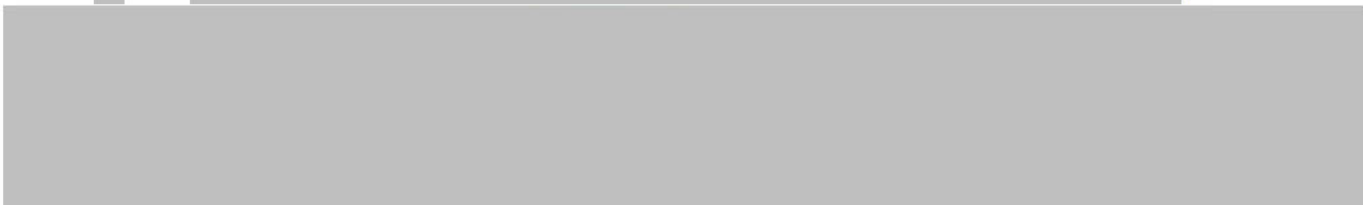
**Your obligations**

Under [redacted] of the Enterprise Agreement, the following professional duties and responsibilities is to be adhered to by all employees. In carrying out their duties and responsibilities all employees will:

- [redacted]  
[redacted]  
[redacted]  
[redacted]

[redacted]  
[redacted]

[redacted]







The particulars of this allegation are:

- you are a teacher at [REDACTED] and teach the subject [REDACTED];
- you teach a Year [REDACTED] class which includes the Year [REDACTED] students [REDACTED];
- you during class appear to spend more time with these students than other students, are friendly with them in a manner that is not appropriate and has been described by a student in the class as “flirting”;
- this focus has included the making of sexualised comments referred to in Allegation One;
- you also seem to have a similar focus on them outside class when they are in the school and you see them and you will often go and speak to them;
- this focus makes these students feel uncomfortable; and
- it is alleged you have had an unprofessional focus on these students [REDACTED]

Based on the alleged conduct outlined above, you are suspected of breaching subsections [REDACTED]

These allegations reach the threshold of reportable conduct and a notification has been made about these allegations to the ACT Ombudsman as well as the ACT Teacher Quality Institute. The outcome of this investigation will now be notified to these organisations.

### **Your Response to the Preliminary Finding**

On [REDACTED], you provided to myself a document titled ‘Appeal Letter’ in which you outlined further responses to the allegations and the proposed findings. I have considered this letter in making my final finding.

I advise that whilst you have indicated that “[at] no stage have I made comments to students with sexual overtones or comments that were sexually related in any way” and provided reasons why this was the case the evidence I have examined does not support these statements. The evidence I have examined identifies that on balance the comments did have sexual overtones.

I understand this outcome may be disappointing and I encourage you [REDACTED] to focus on considering your teaching practice and refining this as appropriate so in the future no similar allegations can be made. I also encourage you to access the experience of your colleagues to develop your skills and continue to engage successfully in this rewarding career.

The Final Findings are as follows:

### **Findings per The Guidelines for Professional Conduct**

#### Allegation One

It is my finding that you have breached [REDACTED], noting that not all of the comments are sustained.

Allegation Two

It is my finding that this allegation is not sustained due to insufficient weight of evidence.

**Finding per Enterprise Agreement**

It is my finding that you have breached [REDACTED] as your actions were not professional and do not demonstrate integrity.

**Findings per Reportable Conduct**

If Allegation One is examined the relevant category to examine is [Misconduct of a Sexual nature](#) (see linked Fact Sheet). This Fact Sheet states that sexual misconduct may include speech or other communication of a sexual nature which includes sexually explicit comments and includes inappropriate conversations of a sexual nature.

It is my finding that these comments are reportable conduct as it is identified that on balance the comments were made to these students and that the allegation of reportable conduct for allegation one is sustained. The allegation of reportable conduct for allegation two is not sustained due to insufficient evidence.

**Finding per The Guidelines for Professional Conduct and Enterprise Agreement (Allegation One)**

The reasons for my finding remain as follows:

- a. It has been alleged there were various comments made by yourself which were not appropriate, which were six in total;
- b. The investigation has identified that of these comments it cannot be identified that the below comments were inappropriate due to the conflicting accounts by yourself and the students and the differing context of these conversation. That said, I do recognise the potential innuendo that may arise from such comments and I would encourage you to be mindful, in the future of your comments to students. These comments are:
  - i. during a lesson in [REDACTED] you made a comment to [REDACTED] when she was dancing by moving [REDACTED] hips and thrusting “[REDACTED] stop dancing, keep that for the bedroom”. This comment was heard by [REDACTED] and other students;
  - ii. had to drop to the floor, when [REDACTED] and [REDACTED] did not do this you screamed “Get on your knees” while standing directly in front of these students;
  - iii. during a lesson in [REDACTED] when the students were partner dancing [REDACTED] face went red and you made a comment in front of the class of words to the effect “[REDACTED] is blushing”; and
  - iv. during a lesson in [REDACTED] where [REDACTED] was crawling on [REDACTED] knees you made a comment in front of the class “get off your knees save it for later” in front of the class.
- c. The evidence has identified consistent evidence relating to your comments regarding horse riding and ‘[REDACTED] riding [REDACTED]’. I note in your interview you provided the following alternative account:

[REDACTED]

[REDACTED]

██  
 ██  
 ██  
 ██

- d. Whilst I recognise that you are suggesting that the comment related to the activity it is my finding that when you made the comment, whilst it may have been linked to the assessment activity, the comments had sexual overtones where you were referring to a person sitting on another person for a sexually related reason.
- e. The investigation has identified evidence that you did make a comment about a staff member and a student that they loved playing with balls. In your interview you stated you did make these comments although said that you included the word stress ball. Further you stated the comment you made to the teacher was teacher to teacher and “If you look back, and you’re going through a fine-tooth comb, you can probably go, “Probably didn’t need to say it.” It is my finding that in making this comment you recognised that it could be interpreted as sexually related as it was referring to ██████ genitals and not the stress balls on the stall and was implying that the teacher and student liked playing with these items.
- f. It is my finding that these comments are inappropriate.

### **Disciplinary Measures**

I have carefully considered all evidence presented by ██████████ including your responses to the allegations. I have determined the following sanction.

I now issue a warning to you in relation to this breach. Further failure to adhere to ██████ policies and exercise professional judgement may result in further disciplinary action. You are advised that:

- you must ensure that you understand ██████ Policies and comply at all times;
- you should review the ██ to ensure you understand the obligations in using information technology; and
- you should commence a formal process with your Executive where you meet fortnightly ██ to discuss your approach to student interactions and management to assist you interact appropriately with students.

### **The seriousness of this incident**

The protection of children is paramount for ██████████ and a primary and key duty of a teacher. A key aspect of this duty is appropriate interactions with students which includes not making comments which may be misinterpreted as sexually related. The making of such comments breaches our Guidelines and also legislative responsibilities and undermines any confidence our community has in our organisation. There is no place for such comments, whether said in jest or otherwise.

### **Confidentiality and Counselling**

I again remind you that your confidentiality obligations in relation to this matter continue. You must also refrain from victimising or taking any detrimental action towards others who have participated in this matter. Assurances of confidentiality have also been sought from all

persons involved in the investigation process.

If you have any questions or concerns or seek additional clarification, please contact myself.

If you would like to access confidential professional counselling offered through

[REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

[REDACTED]



**ACT**  
Government



TQI Reference: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

Sent via: [REDACTED]

[REDACTED]

### Final determination letter

I have been advised by the [REDACTED] under s.70B of the *ACT Teacher Quality Institute Act 2010* of comments that were alleged to have occurred in [REDACTED] in the course of your employment at [REDACTED]. This letter is to advise you that I will not be taking any action in relation to this matter.

### Background

ACT Teacher Quality Institute (TQI) was notified on the on the [REDACTED] that an investigation had begun. On [REDACTED] under s70C of the Act, TQI was provided copies of the final misconduct determination letter, final sanction letter and the investigation outcome letter.

This incident potentially constituted a breach of the TQI *Code of Professional Practice and Conduct*. As you are aware, compliance with the Code is a condition of registration as a professional teacher in the ACT. Failure to comply with conditions of registration with TQI may provide grounds for the suspension or cancellation of your registration. Under s.56 of the Act, TQI may also impose any additional conditions which it may consider appropriate for the purposes of the Act.

Thank you for allowing me to discuss this matter with you by phone on [REDACTED]. I explained I have reviewed all the relevant information [REDACTED].

I have taken into account the information provided during our conversation relating to remedial actions proposed by your employer, taken by you in good faith and I wish to advise you that I will not be taking any further action.

The reasons for this decision are set out below.





## Reasons for decision

The purposes of the Act include:

- s.6 (a) uphold the standards of the teaching profession; and
- (b) protect students and the community by ensuring education in schools is provided in a *professional and competent way* by approved teachers...

From the information provided during our phone call on [REDACTED], I am satisfied that you have *commenced a formal process with your Executive where you meet fortnightly in [REDACTED] to discuss your approach to student interactions and management to assist you interact appropriately with students*. I am also satisfied that you are participating in this remedial action in good faith. It is evident from our conversation on the [REDACTED] that you have already actively engaged in professional learning and reflection around student management.

Independent of any advice you may seek about reviewing the outcome, I consider that no further action relating to the renewal of registration is required regarding the s70B notification.

## Registration renewal

During our phone conversation we discussed the requirement to renew registration and you indicated you have submitted an application. I affirmed that the registration renewal would be progressed as soon as practicable.

If you have any queries about this matter please contact Ms Claudia Hale on 6205 8207 or email [Claudia.Hale@act.gov.au](mailto:Claudia.Hale@act.gov.au).

Yours sincerely

[REDACTED]

**Coralie McAlister**  
Chief Executive Officer

[REDACTED]

## Freedom of Information Schedule

### [REDACTED] – TEACHERS REGISTRATION S70

**Scope:** The records from within the time period of 17 February 2019 until 29 November 2021 specifically:

1. *The document or documents which detail the reasons why any registered teacher has been issued with a formal warning, had conditions placed on their registration or been de-registered as a result of their conduct.*
2. *Any information disclosed under s.70A (1) (a) and (b) of the TQI Act to the Institute, whether or not the teacher's registration was suspended, cancelled or had conditions placed upon it.*
3. *Any information disclosed to the institute under s.70B of the TQI Act.*

**DATE OF REQUEST: 29 NOVEMBER 2021 - FILE2021/5895**

Record Number	Description	Record Date	Decision (Full release, Partial release, Non-release)	Reason for Partial release or Non-release
	<b>2021 – Case 16 – Refer to 2020 – Case 24</b>			
16.1	Investigation Report - Code of Conduct	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
16.2	Letter – RE: Outcome of Workplace Complaints Process	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
16.3	Email to TQI Notifications – RE: Completion of Investigation	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function



16.4	Regulatory Assessment Report		Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
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Investigation Report

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Code of Conduct

[REDACTED]

AUTHOR: [REDACTED]

DATE: [REDACTED]

CONFIDENTIAL

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## 1. EXECUTIVE SUMMARY

1.1

[REDACTED]

1.2

On [REDACTED], [REDACTED] received notification of a complaint by a Year [REDACTED] student of [REDACTED] regarding the alleged conduct of a class teacher at the school, [REDACTED].

1.3

This complaint from the student was made by [REDACTED] who contacted [REDACTED] later that day. The allegation related to an incident occurring during the middle session on [REDACTED].

1.4

The complainant provided information, resulting in one allegation that relates to [REDACTED] making inappropriate comments concerning Year [REDACTED] student, [REDACTED], whilst teaching Class [REDACTED]. [REDACTED] stated during the class words to the effect of "Shh it's like I'm teaching a bunch of [REDACTED] making all those noises." Note: Year [REDACTED] student [REDACTED] is a person with a disability [REDACTED].

1.5

On 18 November 2020, [REDACTED] commenced a formal investigation into the allegations. During the investigation Year [REDACTED] students were interviewed as well as the respondent.

1.6

The respondent advised:

- When [REDACTED] took over the class during the middle session the students were restless and unsettled.
- A number of students were being uncooperative and unfocused with the behaviour management strategies [REDACTED] was applying not working.
- In an effort to remind those students of appropriate behaviour [REDACTED] used the words, "Shh, it is like having [REDACTED] in the class. All those noises."
- [REDACTED] immediately realised the impact of those words and qualified [REDACTED] statement.
- [REDACTED] used [REDACTED] behaviour as an example because it was something the students had experienced and understood it this was out of [REDACTED] control, but they (the students) did have control of their own behaviour.
- [REDACTED] was aware [REDACTED] was a Year [REDACTED] student who is a person with a disability.
- [REDACTED] acknowledged that making those comments regarding a student was not the actions of a professional teacher.
- [REDACTED] unreservedly apologised for the offence [REDACTED] comment caused.

It has been established that [REDACTED] did make a comment to the Year [REDACTED] class regarding Year [REDACTED] student, [REDACTED] who is a person with a disability. At the time [REDACTED] made the comment [REDACTED] knew [REDACTED] was a person with a disability.

The investigation concluded that there is sufficient evidence on the balance of probabilities that the alleged conduct occurred. Therefore, there is sufficient evidence to sustain a breach against the framework of the relevant [REDACTED] and School Policies and Procedures, most notably, those of professional standards, conduct and behaviour.

A table summarising the allegations and respective findings can be found at page 5 of this report.

- 1.7 [REDACTED] advised [REDACTED] is deeply distressed that students were sufficiently disturbed by the comment to raise it with their parents.
- 1.8 [REDACTED] advised [REDACTED] has been a teacher with [REDACTED] for approximately [REDACTED] years and has been a teacher at [REDACTED] for the past [REDACTED] years.
- 1.9 This investigation has highlighted the need for continued professional development and support for [REDACTED]. It is suggested [REDACTED] continue to support [REDACTED].
- 1.10 This Investigation Report is submitted to [REDACTED] for information and further consideration.

[REDACTED]

## 2. SUMMARY OF ALLEGATIONS AND FINDINGS

Allegation Number	Allegation	Outcome
1	<p>It is alleged during the middle session on [REDACTED] at [REDACTED] the respondent made an inappropriate comment regarding Year [REDACTED] student, [REDACTED] in which the respondent:</p> <ul style="list-style-type: none"> <li>• was completing [REDACTED] role as class teacher at [REDACTED]</li> <li>• was teaching the Year [REDACTED] class during the middle session</li> <li>• during the session addressed the class as they were being disruptive</li> <li>• stated to the class words to the effect of, “Shh it’s like I’m teaching a bunch of [REDACTED] making all those noises”</li> <li>• implying this as meaning [REDACTED] who is a Year [REDACTED] student and is a person with a disability</li> <li>• caused alarm to several Year [REDACTED] students who were distressed by the comment</li> </ul> <p>By engaging in this manner, the respondent:</p> <ul style="list-style-type: none"> <li>• did not undertake duties in a professional, competent and conscientious manner</li> </ul>	<p><b>Breach sustained as per CE Policies and Procedures</b></p> <p><b>Not Reportable Conduct</b></p>

## 3. BACKGROUND

- 3.1 On [REDACTED] during the middle session, [REDACTED], Year [REDACTED] students were participating in the classroom. [REDACTED] who was relieving for the Year [REDACTED] class teacher was supervising the class.
- 3.2 During the middle session, students in the class was being disruptive. [REDACTED] responded to this behaviour by referring to Year [REDACTED] student, [REDACTED]). This resulted in an incident that is subject of the allegation.
- 3.3 Later that afternoon Year [REDACTED] student, [REDACTED] informed [REDACTED] who informed [REDACTED] mother, [REDACTED]
- 3.4 On [REDACTED] contacted the Principal [REDACTED] and informed [REDACTED] of the details of the allegation. Later that day [REDACTED] spoke with [REDACTED] and [REDACTED] with [REDACTED] making a record of the conversation. (Annexure 1)



- 3.5 [REDACTED] also spoke with [REDACTED] after obtaining permission from [REDACTED] father, [REDACTED]. [REDACTED] made a record of the conversation with [REDACTED]. (Annexure 2)
- 3.6 On [REDACTED] [REDACTED] notified [REDACTED] who determined the [REDACTED] would investigate the matter. [REDACTED] was assigned to investigate the matter.
- 3.7 On [REDACTED] [REDACTED] attended [REDACTED] where [REDACTED] spoke to a number of year [REDACTED] students including, [REDACTED] had obtained permission from [REDACTED] for [REDACTED] to speak with [REDACTED] and [REDACTED] support person. [REDACTED] participated in an interview that was electronically recorded by consent of [REDACTED]. (Annexure 3)
- 3.8 [REDACTED] spoke with Year [REDACTED] student, [REDACTED] had obtained permission from [REDACTED] ) for [REDACTED] to speak with [REDACTED] and [REDACTED] support person. [REDACTED] participated in an interview that was electronically recorded by consent of [REDACTED]. (Annexure 4)
- 3.9 [REDACTED] spoke with Year [REDACTED] student [REDACTED] support person. [REDACTED] participated in an interview that was electronically recorded by consent of [REDACTED]. (Annexure 5)
- 3.10 [REDACTED] spoke with [REDACTED] student [REDACTED] support person. [REDACTED] participated in an interview that was electronically recorded by consent of [REDACTED]. (Annexure 6)
- 3.11 [REDACTED] spoke with [REDACTED] student [REDACTED] support person [REDACTED] participated in an interview that was electronically recorded by consent of [REDACTED]. (Annexure 7)
- 3.12 During the afternoon on [REDACTED] [REDACTED] spoke with [REDACTED] informing [REDACTED] of the allegation and providing [REDACTED] with Notification of workplace complaint letter. [REDACTED] explained the contents of the letter and investigation process to [REDACTED]. This included [REDACTED] being given the opportunity to provide a written response to the allegation as well as participate in an interview. [REDACTED] was also advised [REDACTED] could bring a support person to any interview if [REDACTED] wished. (Annexure 8)
- 3.13 On [REDACTED] [REDACTED] provided [REDACTED] a written response to the allegation via email. (Annexure 9) Note: The written response was a word document presenting [REDACTED] response addressing the suspected breach.
- 3.14 On [REDACTED] [REDACTED] participated in an electronically recorded interview with [REDACTED] [REDACTED] consented to the interview being electronically recorded. (Annexure 10)



4. METHODOLOGY

4.1 The allegations regarding [REDACTED] were assessed regarding the following policies and/or procedures:

- [REDACTED]
- [REDACTED]

Under [REDACTED], the following professional duties and responsibilities is to be adhered to by all employees. In carrying out their duties and responsibilities all employees will:

- [REDACTED]
- [REDACTED]

The Guidelines are 'official guidelines' for the purposes of sub-section (k)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

5. ALLEGATION ONE

5.1 It is alleged during the middle session on [REDACTED] at [REDACTED] the respondent made an inappropriate comment regarding Year [REDACTED] student, [REDACTED] in which the respondent:

- was completing [REDACTED] role as class teacher at [REDACTED]
- was teaching the Year [REDACTED] class during the middle session
- during the session addressed the class as they were being disruptive

- stated to the class words to the effect of, "Shh it's like I'm teaching a bunch of [REDACTED] making all those noises"
- implied this as meaning [REDACTED] who is a Year [REDACTED] student and is a person with a disability
- this caused alarm to several Year [REDACTED] students who were distressed by the comment

By engaging in this manner, the respondent:

- did not undertake duties in a professional, competent and conscientious manner

Based on the alleged conduct outlined above, [REDACTED] is suspected of breaching [REDACTED]

## 6. SUMMARY OF EVIDENCE

6.1 The witnesses identified in this investigation are [REDACTED] the respondent, [REDACTED]

[REDACTED]

6.2 [REDACTED]

[REDACTED]

6.4 [REDACTED]

[REDACTED]

6.6 [REDACTED]

[REDACTED]

6.7 [REDACTED]

[REDACTED]

[REDACTED]

6.10 [REDACTED]

6.11 [REDACTED]

6.12 [REDACTED]

6.13 [REDACTED]

6.14 [REDACTED]

6.15 [REDACTED]

6.16 [REDACTED]

6.17 [REDACTED]

6.18 [REDACTED]

6.19 [REDACTED]

6.20 [REDACTED]

6.21 [REDACTED]

6.22 [REDACTED]

6.23 [REDACTED]

6.24 [REDACTED]

6.25 [REDACTED]

6.26 [REDACTED]

6.27 [REDACTED]

6.28 [REDACTED]

6.29 [REDACTED]

6.30 [REDACTED]

6.31 [REDACTED]

[REDACTED]

6.32 [REDACTED]

6.33 [REDACTED]

6.34 [REDACTED]

6.35 [REDACTED]

[REDACTED]

[REDACTED]

6.36 [REDACTED]

6.37 [REDACTED]

6.38 [REDACTED]

6.39 [REDACTED]

6.40 [REDACTED]

6.41 [REDACTED]

6.42 [REDACTED]

6.43 [REDACTED]

6.44 [REDACTED]

6.45 [REDACTED]

6.46 [REDACTED]

6.47 [REDACTED]

6.48 [REDACTED]

6.49 [REDACTED]

6.50 [REDACTED]

[REDACTED]

6.51 On [REDACTED] was interviewed by [REDACTED].  
The interview was electronically recorded by [REDACTED] with consent [REDACTED].

6.52 [REDACTED]

6.53 [REDACTED]

6.54 [REDACTED]

6.55 [REDACTED]

6.56 [REDACTED]

6.57 [REDACTED]

6.58 [REDACTED]

6.59 [REDACTED]

6.60 [REDACTED]

6.61 [REDACTED]

6.62 [REDACTED]

6.63 [REDACTED]

6.64 [REDACTED]