

7. ANALYSIS: Allegation One

7.1 If this is then examined the following observations are made:

- The evidence established during the middle session on [REDACTED] [REDACTED] was teaching [REDACTED] at [REDACTED].
- The evidence of [REDACTED] and [REDACTED] confirm the students were unsettled and talking in class.
- The evidence of [REDACTED] and [REDACTED] confirm [REDACTED] addressed the class with [REDACTED] including the name, ' [REDACTED] ' in his comment.
- The evidence of [REDACTED] and [REDACTED] established ' [REDACTED] ' is a Year [REDACTED] student [REDACTED] who is a person with a disability.
- The evidence of [REDACTED] and [REDACTED] confirm they became distressed by the comments made by [REDACTED].
- The evidence of [REDACTED] confirm [REDACTED] informed [REDACTED] of the alleged comment made by [REDACTED].

7.2 If this evidence is assessed there are two different accounts of the alleged comments made by [REDACTED]. The first account is that of [REDACTED] who alleged when [REDACTED] addressed the class and [REDACTED] stated, "Shh it's like I'm teaching a bunch of [REDACTED] making all those noises." The alternative account is that [REDACTED] said the words to the effect of, "Shh, it is like having [REDACTED] in the class. All those noises" in an effort to remind the students of appropriate [REDACTED].

7.3 It is assessed although the evidence of [REDACTED] vary regarding the exact wording of the comment made by [REDACTED]. They were all consistent regarding [REDACTED] saying [REDACTED] name and they believed it was due to [REDACTED] having a disability. The evidence of [REDACTED] corroborate [REDACTED] became distressed by the comment made by [REDACTED]. The evidence of [REDACTED] was that [REDACTED] did say [REDACTED] name but was misquoted and was using [REDACTED] as an example as it was something the children had experienced and fully understood to be out of [REDACTED] control. The evidence of [REDACTED] was that [REDACTED] was focussing on the behaviour of the class and not on [REDACTED].

7.4 The evidence of [REDACTED] established [REDACTED] acknowledged [REDACTED] initial statement was improper and not a comment made by a professional teacher. [REDACTED] stated when [REDACTED] initially said the statement [REDACTED] quickly realised the inappropriateness of it and clarified by stating to the class, ' [REDACTED] can't help making those noises but you can!' [REDACTED] conceded that once [REDACTED] made the initial comment it could not be taken back. [REDACTED] conceded upon Year [REDACTED] students hearing the initial comment they may not of noted the secondary comment due to their reaction to the initial comment.

7.5 It is assessed there is sufficient evidence on the balance of probability to establish the conduct of [REDACTED] occurred. There is sufficient evidence to establish [REDACTED] commented in class using [REDACTED] name, being a Year [REDACTED] student who is a person with a disability. It has been

established [REDACTED] believed [REDACTED] was commenting that the class was displaying disabled behaviours like [REDACTED]. It has been established that [REDACTED] became upset and distressed regarding the comment with [REDACTED] concerned for [REDACTED].

7.6 It is assessed there is evidence of a breach by [REDACTED] under:

- [REDACTED] Enterprise Agreement [REDACTED]

- | [REDACTED]

- | [REDACTED]

- [REDACTED]

- | [REDACTED]

- | [REDACTED]

There is evidence [REDACTED] did not demonstrate professionalism or exercise professional judgment regarding his interaction with Class [REDACTED]. There is evidence [REDACTED] conduct caused [REDACTED] and other students in class [REDACTED] to become distressed. There is evidence [REDACTED] informed [REDACTED] younger [REDACTED], Year [REDACTED] student [REDACTED] of the comment due to [REDACTED] distress. There is evidence this has subsequently caused distress to [REDACTED] and [REDACTED] family. The use of [REDACTED] name, being a Year [REDACTED] student who is a person with a disability, by [REDACTED] in any context is not appropriate by a professional teacher addressing students in a teaching environment.

7.7 It is assessed the evidence of [REDACTED] established [REDACTED] has a sibling who is a person with a disability that compounded [REDACTED] distress. It is assessed although it has been established [REDACTED] was unaware of [REDACTED] personal circumstances this does not diminish [REDACTED] conduct.

7.8 It is assessed under [REDACTED] Enterprise Agreement [REDACTED] there is sufficient evidence to sustain a breach under that subsection.

- 7.9 It is assessed the evidence relating to the sustained finding under [REDACTED] is relevant to [REDACTED] where it is assessed [REDACTED] was not professional, competent or conscientious in the circumstances. Therefore, there is sufficient evidence to sustain a breach against [REDACTED] of the [REDACTED].
- 7.10 It is assessed under [REDACTED] there is sufficient evidence to sustain a breach under that subsection.

8. FINDING – Allegation One

- 8.1 The allegation has been sustained regarding breaches relating to [REDACTED] Enterprise Agreement [REDACTED].
- 8.2 It is assessed the allegation did not reach the threshold of being reportable conduct under the ACT Ombudsman Reportable Conduct Scheme.

9. CONCLUSION

- 9.1 [REDACTED] apologised for any distress [REDACTED] may have caused [REDACTED] and any other person that may have been offended by the comment he made.
- 9.2 The students who were interviewed resulted from it being determined those students were directly involved in the incident.
- 9.3 It is recommended that [REDACTED] provide [REDACTED] with sufficient support and training as well as facilitate any mediation between [REDACTED].

KEY PARTIES			
Name	Position	Involvement in Incident	Evidence Provided
[REDACTED]	[REDACTED]	Respondent	Written response. Recorded interview.
[REDACTED]	[REDACTED]	Alleged Victim	Written record
[REDACTED]	[REDACTED]	Witness	Written record
[REDACTED]	[REDACTED]	Witness	Recorded Interview

[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	Witness	Recorded interview
[REDACTED]	[REDACTED]	Witness	Recorded interview
[REDACTED]	[REDACTED]	Witness	Recorded interview
[REDACTED]	[REDACTED]	Witness	Recorded interview

Report Signatures / Authorities

Prepared by: (Investigator/Service Provider)

Signature:	[REDACTED]
Name:	[REDACTED]
Position:	[REDACTED]
Date:	[REDACTED]

Supported by: [REDACTED]

Signature:	[REDACTED]
Name:	[REDACTED]
Position:	[REDACTED]
Date:	[REDACTED]

Approved by: (Agency Decision Maker)

Signature:	[REDACTED]
Name:	[REDACTED]
Position:	[REDACTED]
Date:	[REDACTED]

10. ANNEXURES

1.	Written record of conversation between [REDACTED]
2.	Written record of conversation between [REDACTED]
3.	Recorded interview with [REDACTED] (Transcript)
4.	Recorded interview with [REDACTED] (Transcript)
5.	Recorded interview with [REDACTED] Transcript)
6.	Recorded interview with [REDACTED] (Transcript)
7.	Recorded interview with [REDACTED] (Transcript)
8.	Allegation letter provided to [REDACTED]
9.	Written response from [REDACTED]
10.	Recorded interview with [REDACTED] (Transcript)

[REDACTED]

RE: OUTCOME OF WORKPLACE COMPLAINTS PROCESS

I am writing to you to advise of the outcome of the workplace complaints process relating to allegations made against you in your position of teacher at [REDACTED]

Thank you for your written response provided to [REDACTED] on [REDACTED]. This has been taken into consideration.

Background

I refer to the notification of a preliminary finding letter (the Letter), forwarded to you on [REDACTED]

The Letter stated, if proven, the Allegations could constitute a breach of your duties and responsibilities set out in [REDACTED] *Enterprise Agreement* [REDACTED] (**Enterprise Agreement**) [REDACTED]

The Letter also provided you with the opportunity to respond in writing as to whether disciplinary action, if any, should not be taken against you in relation to concerns raised about your alleged conduct [REDACTED]

Allegation 1 (Sustained)

It was alleged on [REDACTED] during the middle session you interacted inappropriately with the [REDACTED] class in which you engaged in an inappropriate comment concerning year [REDACTED] student [REDACTED]

The investigation identified evidence from yourself and other current students from [REDACTED] that during the [REDACTED] class you addressed the class about their behaviour referring to Year [REDACTED] student [REDACTED] in your comment. At the time you made the comments you were aware [REDACTED] was a person with a disability. This caused Class [REDACTED] students to become

[REDACTED]

distressed and you conceded although your comment was taken out of context, your initial statement was improper and not a comment made by a professional teacher.

The Letter advised you of my preliminary findings in relation to Allegation 1, being:

- That you did not undertake duties in a professional, competent, and conscientious manner regarding your interaction with students during the class [REDACTED].
- That you engaged in an inappropriate comment concerning a student.

Outcome

After considering the evidence provided to me and taking into consideration your written response [REDACTED] the sanction of warning will remain.

I have formed the view that your behaviour breaches [REDACTED] [REDACTED] [REDACTED] *Enterprise Agreement* [REDACTED] as follows:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Further, I have formed the view that your behaviour breaches the [REDACTED], [REDACTED], [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]


This matter is now closed. No further communication will be required.

Reporting to external education bodies

Due to the nature of this matter and sustained finding [REDACTED] [REDACTED] are required to report the investigation and outcome to [REDACTED] [REDACTED]

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.

I can appreciate that this is a difficult time for you. Should you wish to access the free and confidential services of our 

Yours sincerely



From: [REDACTED]
To: [TQI Notifications](#)
Cc: [REDACTED]
Subject: [REDACTED] - Completion of Investigation [REDACTED]
Date: [REDACTED]
Attachments: [image153911.png](#)
[image112227.png](#)
[image041182.png](#)
[image741881.png](#)
[image972964.png](#)
[Final Outcome letter - \[REDACTED\].pdf](#)
[Investigation Report - \[REDACTED\].docx](#)



Hi Claudia

The matter concerning [REDACTED] has been completed where the alleged conduct of [REDACTED] was established with a breach against the enterprise agreement and [REDACTED] was sustained.

[REDACTED] was issued with a warning. This matter did not reach threshold of reportable conduct.

Please find attached the investigation report and finding letter as previously requested.

Please let me know if you require anything further

Kind regards

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

Regulatory Assessment Report

Notification under s.67 and s70B of the ACT Teacher Quality Institute Act 2010



Employers reporting obligation under s.67:

- the teacher has become mentally or physically incapacitated and the incapacity prevents the person from performing an inherent requirement of their job as a teacher;
- the teacher is given a negative notice under the Working with Vulnerable People (Background Checking) Act 2011 (WwVP), section 40;
- the teacher's registration under the WwVP Act has lapsed; or is made subject to a condition; or is suspended or cancelled; or is surrendered.

Employers reporting obligation under s.70B:

- The employer must notify TQI within 5 working days of a notification event.

Details of Teacher

Name: [REDACTED]	TQI Number: [REDACTED]
Date of notification: [REDACTED]	WwVP expiry date: [REDACTED]
Sector: [REDACTED]	School name recorded on TQI portal:
Reported under s70C <input checked="" type="checkbox"/>	Reported under S67 <input type="checkbox"/>

Administration

<input type="checkbox"/> CRM record reflects POI and change made to records disposal 75 years, details added to Regulatory Matrix	
<input type="checkbox"/> Meeting scheduled with Registration Review panel	Date of meeting: Click or tap to enter a date.
<input checked="" type="checkbox"/> s70C request sent to employer	Date of request: [REDACTED]

Background

On [REDACTED] was performing relief duties at [REDACTED] supervising the Year [REDACTED] class during the middle session for the regular classteacher. [REDACTED] is familiar with the class [REDACTED] and the students attending [REDACTED]. At the time [REDACTED] took over the class several of the students were being loud and disruptive. [REDACTED] addressed the class with [REDACTED] allegedly stating words to the effect of, "Shh it's like I'm teaching a bunch of [REDACTED] making all those noises." [REDACTED] relates to Year [REDACTED] student [REDACTED] who is a person with a disability [REDACTED].

Evidence Provided: See case file

Initial Assessment

<input type="checkbox"/> Notified teacher to request meeting	Date of meeting: Click or tap to enter a date.
<input type="checkbox"/> Meeting notes confirmed with teacher as accurate record	
<input type="checkbox"/> Decision independently reviewed	
<input checked="" type="checkbox"/> Assessment of teacher response and final decision discussed with Registration Review panel	

Notice in writing to teacher regarding determination if an action is taken.

This is written with statements of reason and advice regarding teacher's right of appeal to ACAT in 28 days.

Note: A decision NOT to suspend or cancel is NOT appealable – ie no decision under s.65

Note: Suspensions must have a specific end date- they can be extended but not over a renewal period of 12 months.

Final Determination

Factors influencing final determination:

Teacher with [REDACTED] for approximately [REDACTED] and has been a teacher at [REDACTED] for the past [REDACTED]. Note that teacher admitted to making comments regarding a student w a disability was not the actions of a professional. Teacher unreservedly apologised for the offence [REDACTED] comment caused. Evidence teacher was deeply distressed that students were sufficiently disturbed by the comment to raise it with their parents. This investigation has highlighted the need for continued professional development. Note [REDACTED] written admonishment [REDACTED].

<input checked="" type="checkbox"/> Not action taken	<input type="checkbox"/> Formal Warning	<input type="checkbox"/> Condition	<input type="checkbox"/> Suspension	<input type="checkbox"/> Cancellation
If decision to take no action was a letter of final determination sent:			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Advised to employers of determination				

Regulatory Assessment Report

Notification under s.67 and s70B of the ACT Teacher Quality Institute Act 2010



- Notified other jurisdictions in writing of determination was suspension or cancellation
- Update regulatory Matrix
- Advise Registration Review panel of actions taken

<input type="checkbox"/> Review Suspension Date reviewed: Click or tap to enter a date.	Determination Date: Click or tap to enter a date.	<input checked="" type="checkbox"/> Case Closed Date: <input type="text"/>
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Name Delegate Finalised	Corale McAlister	Date: <input type="text"/>
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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
	2021 – Case 17 – Refer to 2020 – Case 25			
17.1	Investigation Report Code of Conduct	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function Pages that are wholly redacted have been removed

17.2	Letter – Notification of Final Finding		Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
17.3	Email – TQI Notifications - Completion of Investigation		Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
17.4	Regulatory Assessment Report		Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function



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1. EXECUTIVE SUMMARY

- 1.1 [REDACTED]
- 1.2 [REDACTED] received notification of a complaint by a Year [REDACTED] student of [REDACTED] regarding the alleged conduct of a [REDACTED] Teacher at the school, [REDACTED]
- 1.3 This complaint from the Year [REDACTED] student was made to [REDACTED] on the [REDACTED]. The allegation related to an incident occurring during the [REDACTED] period on [REDACTED]
- 1.4 The complainant provided information that has resulted in one allegation that relates to [REDACTED] placing [REDACTED] hand on a student's thigh and making inappropriate comments causing them distress [REDACTED] whilst teaching a Year [REDACTED] class.
- 1.5 On [REDACTED] [REDACTED] commenced a formal investigation into the allegations. During the investigation the alleged victim, Year [REDACTED] student – [REDACTED] [REDACTED] were interviewed as well as the respondent.
- 1.6 The respondent advised:
- [REDACTED] did complete his duty in a professional, competent, and conscientious manner
 - [REDACTED] denied acting inappropriately with [REDACTED]
 - [REDACTED] was seated in the staffroom [REDACTED] when [REDACTED] approached [REDACTED] requesting to borrow money to purchase lunch at the 'sausage sizzle'
 - [REDACTED] believed due to [REDACTED] asking for a loan of the money it would be repaid
 - the following morning [REDACTED] [REDACTED] asked [REDACTED] if [REDACTED] had the money (\$4.00) to repay the loan with [REDACTED] denying it was a loan
 - [REDACTED] did not sit down during the conversation with [REDACTED]
 - [REDACTED] did not place [REDACTED] hand on [REDACTED] thigh during the conversation
 - [REDACTED] did not say or infer "it doesn't have to be money"

Although it has been established [REDACTED] had a conversation with [REDACTED] regarding [REDACTED] lending [REDACTED] four dollars. There is insufficient evidence to establish [REDACTED] sat down next to [REDACTED] and placed [REDACTED] hand on [REDACTED] thigh, stating words to the effect, "it doesn't have to be money." It is assessed there is insufficient evidence to sustain a breach against the relevant framework of the relevant [REDACTED], most notably, those of professional standards, conduct and behaviour.

The investigation has concluded there is insufficient evidence to sustain a finding regarding reportable conduct relating to the category of Misconduct of a sexual nature – crossing professional boundaries.

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

The conclusions regarding the complaint has been considered against the framework of relevant [REDACTED], most notably, those of professional standards, conduct and behaviour as well as the definitions of reportable conduct pursuant to the Ombudsman Act 1989 (ACT).

- 1.7 [REDACTED] advised [REDACTED] has had a long history working in [REDACTED] in a range of teaching and leadership positions and has not been a subject of any previous investigations during his career.
- 1.8 [REDACTED]
- 1.9 This investigation has highlighted the need for continued professional development and support for [REDACTED]. It is suggested [REDACTED] continue to support [REDACTED] and [REDACTED] family that may include mediation between [REDACTED], and [REDACTED] family.
- 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 between [redacted] and [redacted] at [redacted] the respondent interacted inappropriately with Year [redacted] student, [redacted] which the respondent:</p> <ul style="list-style-type: none"> • was completing [redacted] role as [redacted] Teacher at [redacted]. • during a planned school sausage sizzle event offered [redacted] \$4.00 to purchase a sausage sandwich. • the following morning during the pastoral class approached [redacted] asking [redacted] how [redacted] was going to pay the money back with Thomas responding [redacted] was unaware that [redacted] had to pay the \$4.00 back • sat down next to [redacted] placing [redacted] hand on [redacted] thigh stating words to the effect, "it doesn't have to be money." • this caused [redacted] to feel uncomfortable and distressed. <p>By engaging in this manner, the respondent:</p> <ul style="list-style-type: none"> • did not undertake duties in a professional, competent and conscientious manner. • engaged in an inappropriate interaction with [redacted] 	<p>Breach not sustained - insufficient evidence</p> <p>Reportable Conduct - not sustained</p>

3. BACKGROUND

- 3.1 On [redacted] during lunch at [redacted], Year [redacted] student, [redacted] and Year [redacted] Teacher, [redacted] had a conversation regarding loaning [redacted] \$4.00 for lunch.
- 3.2 On [redacted] during a Year [redacted] Class [redacted] approached [redacted] regarding the \$4.00 that resulted in an incident that is subject of the allegation.
- 3.3 During the [redacted] Year [redacted] spoke with [redacted] regarding an unrelated matter with [redacted] informing [redacted] of the details of the allegation.
- 3.4 Later that day [redacted] informed [redacted]
- 3.5 On [redacted] notified [redacted] who determined the [redacted] would investigate the matter. [redacted]

[REDACTED] was assigned to investigate the matter.

- 3.6 On [REDACTED] attended [REDACTED] and spoke with [REDACTED] and [REDACTED] mother, [REDACTED]. [REDACTED] were also present. [REDACTED] participated in an electronically recorded interview (audio only) by consent of [REDACTED] and [REDACTED] who provided support for [REDACTED]. **(Annexure 1 - transcript of interview)**
- 3.7 On [REDACTED] spoke with Year [REDACTED] student [REDACTED] with [REDACTED] present who provided support for [REDACTED] had previously obtained permission from [REDACTED] mother – [REDACTED] for [REDACTED] to speak with [REDACTED]. [REDACTED] participated in an electronically recorded interview (audio only) by consent of [REDACTED] and [REDACTED]. **(Annexure 2 – transcript of interview)**
- 3.8 On [REDACTED] obtained a written statement from [REDACTED] [REDACTED]. **(Annexure 3)** Note: [REDACTED] provided a copy of email [REDACTED] forwarded to [REDACTED] on [REDACTED].
- 3.9 On [REDACTED] spoke with [REDACTED] providing [REDACTED] with the notification of allegation letter and a copy of [REDACTED]. **(Annexure 4 & 5)** Note: [REDACTED] explained the allegation and investigation process to [REDACTED].
- 3.10 On [REDACTED] communicated with [REDACTED] via email who provided further information requested by [REDACTED]. **(Annexure 6)** Note: Confirmation the fundraising Sausage sizzle occurred on [REDACTED].
- 3.11 On [REDACTED] provided [REDACTED] a written response to the allegations via email. **(Annexure 7)**
- 3.12 On [REDACTED] participated in an electronically recorded interview with [REDACTED] and [REDACTED]. [REDACTED] also attended the interview as a support person for [REDACTED]. **(Annexure 8 - Transcript of interview)**.
Note: During the interview [REDACTED],
- completed a diagram showing part of the college layout, **(Annexure 9)**
 - [REDACTED] provided a diagram of the layout of [REDACTED] classroom **(Annexure 10)**
 - Provided documents concerning [REDACTED] non-completion of assignment **(Annexure 11)**
- 3.13 On [REDACTED] attended [REDACTED] and obtained a written statement from [REDACTED] – Year [REDACTED] Coordinator. **(Annexure 12)**
- 3.14 On [REDACTED] communicated with [REDACTED] via email who provided further information requested by [REDACTED]. **(Annexure 13)** Note: [REDACTED] attendance history of [REDACTED] provided identifying [REDACTED] was absent from school on [REDACTED].

4. METHODOLOGY

4.1 The allegation regarding [REDACTED] was assessed regarding the following policies and/or procedures:

- [REDACTED] (Enterprise Agreement),
- [REDACTED]

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:

- (a) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

5. ALLEGATION ONE

5.1 It is alleged between [redacted] and [redacted] at [redacted] the respondent interacted inappropriately with Year [redacted] student, in which the respondent:

- was completing [redacted] role as [redacted] Teacher at [redacted].
- during a planned school sausage sizzle event offered [redacted] \$4.00 to purchase a sausage sandwich.
- the following morning during the [redacted] class approached [redacted] asking [redacted] how [redacted] was going to pay the money back with [redacted] responding [redacted] was unaware that [redacted] had to pay the \$4.00 back.
- sat down next to [redacted] placing [redacted] hand on [redacted] thigh stating words to the effect, "it doesn't have to be money."
- this caused [redacted] to feel uncomfortable and distressed.

By engaging in this manner, the respondent:

- did not undertake duties in a professional, competent, and conscientious manner.
- engaged in an inappropriate interaction with [redacted]

Based on the alleged conduct outlined above, [redacted] is suspected of breaching [redacted] of the Enterprise Agreement and [redacted].

6. SUMMARY OF EVIDENCE

6.1 The witnesses identified in this investigation are [redacted] and the respondent, [redacted].

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

7. ANALYSIS:

7.1 If this is then examined the following observations are made:

- The evidence established on the [REDACTED] was the Year [REDACTED] Pastoral teacher at [REDACTED].
- The evidence of [REDACTED] established on [REDACTED] was given \$4.00 by [REDACTED] to purchase items at the school fundraising sausage sizzle.
- The evidence established on the morning of [REDACTED] was supervising a Year [REDACTED] class that [REDACTED] attended.
- The evidence of [REDACTED] and [REDACTED] established on [REDACTED] during the [REDACTED] class they had a conversation regarding the \$4.00.
- The evidence established on [REDACTED] was absent from school.

7.2 If this evidence is assessed there are two different accounts of the alleged incident that occurred between [REDACTED] and [REDACTED] at [REDACTED]. The first account is that of [REDACTED] who alleged on [REDACTED] offered [REDACTED] \$4.00 for the sausage sizzle that [REDACTED] accepted. [REDACTED] alleged on [REDACTED] during the [REDACTED] class [REDACTED] approached [REDACTED], standing near [REDACTED] asking [REDACTED] how [REDACTED] was going to pay the \$4.00 back. [REDACTED] alleged [REDACTED] then sat down next to [REDACTED] placing [REDACTED] hand on [REDACTED] thigh stating, "It doesn't have to be money." [REDACTED] stated [REDACTED] felt distressed by the interaction.

7.3 The alternative account is that of [REDACTED] who stated on [REDACTED] was sitting in the [REDACTED] staffroom having lunch when [REDACTED] approached [REDACTED] and asked if [REDACTED] could loan some money for the sausage sizzle. [REDACTED] loaned [REDACTED] \$4.00 for the sausage sizzle. [REDACTED] stated during the [REDACTED] class on [REDACTED] approached [REDACTED] and stood on the opposite side of the desk from [REDACTED]. [REDACTED] asked [REDACTED] for the \$4.00 [REDACTED] loaned [REDACTED]. [REDACTED] stated [REDACTED] informed [REDACTED] that [REDACTED] did not think it was a loan. [REDACTED] stated [REDACTED] asked [REDACTED] to speak with [REDACTED] parents about it and observed [REDACTED] becoming a little apprehensive, so [REDACTED] didn't pursue it any further. [REDACTED] denied offering [REDACTED] the \$4.00. [REDACTED] denied sitting down next to [REDACTED] and denied placing [REDACTED] hand on [REDACTED] thigh and saying, "it doesn't have to be money."

7.4 It was confirmed by [REDACTED] the sausage sizzle fundraiser [REDACTED] was referring to occurred on [REDACTED] and subsequent interaction between [REDACTED] and [REDACTED] occurred on [REDACTED]

7.5 It was confirmed the initial disclosure regarding the incident was made by [REDACTED] to [REDACTED] on [REDACTED] being 10 weeks after the alleged encounter occurred.

7.6 It is assessed the evidence of [REDACTED] cannot be confirmed. [REDACTED] stated [REDACTED] observed [REDACTED] not eating anything at the sausage sizzle and offered [REDACTED] money for it. [REDACTED] stated [REDACTED] was eating lunch in the staffroom and [REDACTED] stuck [REDACTED] head in the door informing [REDACTED] that [REDACTED] couldn't find one of the co-ordinators and that [REDACTED] didn't have any money for the sausage sizzle. [REDACTED] stated [REDACTED] said, "Can I have a loan of some money?" [REDACTED] stated [REDACTED] loaned [REDACTED] \$4.00. [REDACTED] stated at the time there was another student with [REDACTED] being one of [REDACTED] friends, either [REDACTED] or [REDACTED]. The evidence of [REDACTED] was [REDACTED] asked [REDACTED] for money

for the sausage sizzle. The evidence of [REDACTED] did not indicate where this occurred, but [REDACTED] evidence does corroborate in part [REDACTED] evidence that [REDACTED] approached [REDACTED]

- 7.7 [REDACTED] stated the following morning in the [REDACTED] I class ([REDACTED]) [REDACTED] was sitting next to [REDACTED] when [REDACTED] sat next to [REDACTED], placed [REDACTED] hand on [REDACTED] thigh and spoke to [REDACTED] about repaying the money. [REDACTED] stated [REDACTED] may not have witnessed what happened as [REDACTED] was on [REDACTED] laptop. [REDACTED] stated [REDACTED] spoke to [REDACTED] about what happened after [REDACTED] walked away and again later at recess. The evidence of [REDACTED] contradicts [REDACTED] evidence. [REDACTED] stated [REDACTED] was not at school on the day that the incident allegedly occurred. This has been corroborated by [REDACTED] who stated [REDACTED] was not present on the day of the alleged incident. This has been confirmed through [REDACTED] Attendance history that [REDACTED] was sick and did not attend school on [REDACTED].
- 7.8 [REDACTED] stated [REDACTED] told [REDACTED] about the incident weeks later with [REDACTED] initially thinking it was a joke. [REDACTED] stated [REDACTED] informed [REDACTED] about [REDACTED] after an incident where [REDACTED] and [REDACTED] had an argument over an assignment. The evidence of [REDACTED] and [REDACTED] corroborate part of [REDACTED] evidence confirming that at the beginning of [REDACTED] (which commenced [REDACTED]) that there was an issue between [REDACTED] and [REDACTED] concerning a [REDACTED] assignment and a misunderstanding if the assignment was submitted or not by [REDACTED].
- 7.9 [REDACTED] stated on [REDACTED] [REDACTED] spoke with [REDACTED] about the incident telling [REDACTED] [REDACTED] had to stand up for [REDACTED] because [REDACTED] was a witness. [REDACTED] stated [REDACTED] informed [REDACTED] that [REDACTED] was not a witness as [REDACTED] never saw what happened. [REDACTED] stated [REDACTED] was not sure if [REDACTED] was making the incident up or not, but [REDACTED] wasn't going to ruin [REDACTED] career if it was not true.
- 7.10 It is assessed the evidence of [REDACTED] corroborates [REDACTED] regarding [REDACTED] approaching [REDACTED] a few days after the sausage sizzle informing [REDACTED] about loaning [REDACTED] the \$4.00. [REDACTED] stated [REDACTED] also informed [REDACTED] that the day after [REDACTED] gave the money to [REDACTED], [REDACTED] asked [REDACTED] to pay back the money.
- 7.11 It is assessed there is insufficient evidence to establish during the [REDACTED] class [REDACTED] sat down beside [REDACTED] and placed [REDACTED] hand on [REDACTED] thigh saying words to the effect, "it doesn't have to be money."
- 7.12 It is assessed there is no evidence to corroborate [REDACTED] account except for [REDACTED] description regarding [REDACTED] interaction with [REDACTED] concerning the assignment. There is evidence to corroborate [REDACTED] account that on [REDACTED] [REDACTED] approached [REDACTED] asking for money for the sausage sizzle. There is evidence to corroborate [REDACTED] that on [REDACTED] [REDACTED] was not at school that day and could not have witnessed what occurred in the [REDACTED] class. The evidence confirms [REDACTED] could not have informed [REDACTED] of the incident on the [REDACTED].

7.13 It is assessed there is insufficient evidence to establish the conduct occurred, therefore there is insufficient evidence to sustain a breach against [REDACTED] under:

- [REDACTED] Enterprise Agreement), [REDACTED]

- [REDACTED]

- | [REDACTED]

- | [REDACTED]

- | [REDACTED]

- | [REDACTED]

- | [REDACTED]

7.14 It is assessed the evidence of [REDACTED] is reliable and has been weighted accordingly. There has been no evidence identified to suggest otherwise. [REDACTED] stated [REDACTED] is a close friend of [REDACTED], but evidence did not corroborate [REDACTED] account. [REDACTED] evidence did corroborate portions of [REDACTED] evidence.

7.15 During [REDACTED] interview it was ascertained why [REDACTED] had not informed anyone of the matter prior to the [REDACTED] [REDACTED] stated [REDACTED] raised this with [REDACTED] father a few days after the incident who did not take it seriously and told [REDACTED] if it happened again to tell [REDACTED] and they would do something. It is assessed a reasonable person would find it difficult to believe if a child informed their parent of an incident involving a teacher that had sexual connotations that parent would not be concerned and at least raise it with the other parent. [REDACTED] Mother was present during the interview and did not state that [REDACTED] was previously aware of the matter.

7.16 It is assessed under [REDACTED] (Enterprise Agreement), [REDACTED] there is insufficient evidence to sustain a breach under that subsection.

7.17 It is assessed under [REDACTED] there is insufficient evidence to sustain a breach under those subsections.

Reportable Conduct

7.18 The alleged conduct has been categorised as Misconduct of a sexual nature – crossing professional boundaries under the ACT Ombudsman Reportable Conduct Scheme. This was assessed regarding [REDACTED] alleged conduct toward [REDACTED] potentially being inappropriate and overly personal conduct on a child where [REDACTED] would have known or ought to have known [REDACTED] behaviour was unacceptable.

7.19 It has been established [REDACTED] loaned [REDACTED] \$4.00 dollars for the sausage sizzle, but the evidence also established [REDACTED] approached [REDACTED] and initiated asking for some money for lunch.

7.20 It has been established during the pastoral class [REDACTED] asked [REDACTED] to repay the loan. However, there is insufficient evidence to establish [REDACTED] sat next to [REDACTED] and placed [REDACTED] hand on [REDACTED] thigh saying words to the effect, "It doesn't have to be money."

7.21 It has been established there is insufficient evidence to sustain a breach against the relevant codes of conduct. Likewise, there is insufficient evidence to sustain the respondent's conduct was inappropriate and overly personal. There is insufficient evidence to sustain a finding of Misconduct of a Sexual Nature - crossing of professional boundaries against [REDACTED]

7.22 Consideration was applied regarding the threshold for reporting and investigating an allegation being lower than the threshold for making a finding of reportable conduct.

8. FINDING

8.1 There is insufficient evidence to sustain a breach relating to [REDACTED] (Enterprise Agreement), [REDACTED] or [REDACTED]

8.2 It is assessed there is insufficient evidence to sustain a finding of Misconduct of a Sexual Nature - crossing of professional boundaries under the ACT Ombudsman Reportable Conduct Scheme.

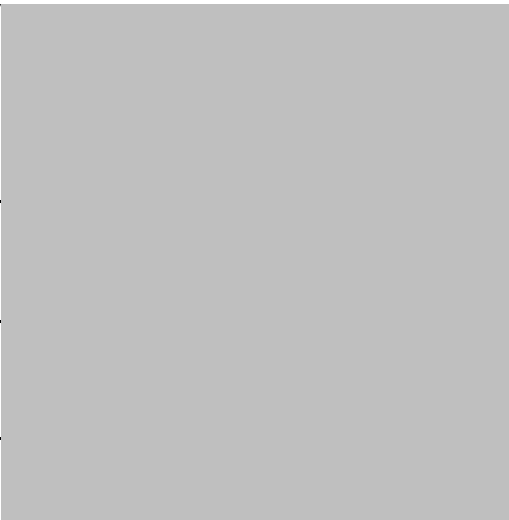
9. CONCLUSION

- 9.1 During the investigation it was ascertained on [redacted] after [redacted] disclosed the incident to [redacted]. Later that day [redacted] states [redacted] approached [redacted] in the gym during a Year [redacted] program and apologised to [redacted] for being rude to [redacted]. [redacted] stated [redacted] thanked [redacted] and was surprised as [redacted] had not considered [redacted] actions in class or [redacted] to be noteworthy of such an apology.
- 9.2 Throughout the investigation consideration was given to interviewing other students nominated, including [redacted] and [redacted] students nominated by [redacted]. It was assessed due to the length of time (ten weeks) between when the alleged incident occurred until [redacted] disclosed the matter to [redacted]. It was determined these students would not be interviewed as their wellbeing outweighed the potential information they could provide. To cause these students and their family’s anxiety and stress that would possibly be generated from submitting them to an interview outweighed the information believed they could potentially provide.
- 9.3 It is recommended the [redacted] provide [redacted] continual support and training. It is recommended [redacted] continue to support the wellbeing of [redacted] and [redacted] family.


KEY PARTIES			
Name	Position	Involvement in Incident	Evidence Provided
[redacted]	[redacted]	Respondent	Written response. Recorded interview.
[redacted]	[redacted]	Victim	Recorded interview
[redacted]	[redacted]	Witness	Recorded interview
[redacted]	[redacted]	Witness	Written statement
[redacted]	[redacted]	Witness	Written statement

Report Signatures / Authorities

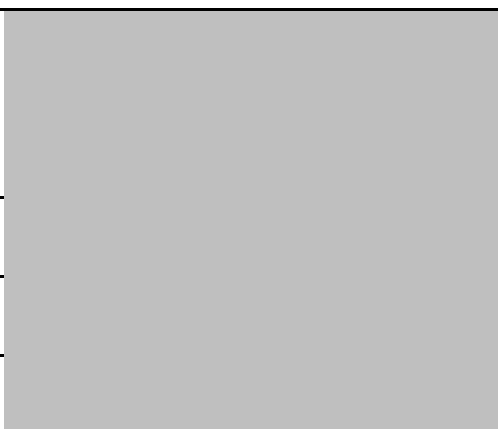
Prepared by: (Investigator/Service Provider)

Signature:	
Name:	
Position:	
Date:	

Supported by: 

Signature:	
Name:	
Position:	
Date:	

Approved by: (Agency Decision Maker)

Signature:	
Name:	
Position:	
Date:	

10. ANNEXURES

1.	Recorded interview with [REDACTED] (Transcript)
2.	Recorded interview with [REDACTED] (Transcript)
3.	Written statement– [REDACTED]
4.	Allegation letter provided to [REDACTED]
5.	Copy of [REDACTED] guidelines
6.	Email between [REDACTED] & [REDACTED]
7.	Written response from [REDACTED]
8.	Recorded interview with [REDACTED] (Transcript)
9.	Diagram completed by [REDACTED] showing part of [REDACTED] layout.
10.	Diagram provided by [REDACTED] identifying layout of [REDACTED] pastoral class
11.	Documents provided by [REDACTED] concerning [REDACTED] non-completion of assignment.
12.	Written statement– [REDACTED]
13.	2020 attendance history for [REDACTED]

RE: NOTIFICATION OF FINAL FINDING

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

The process was communicated to you by letter on [REDACTED].

Allegation One

It is alleged during between [REDACTED] and [REDACTED] at [REDACTED]. You interacted inappropriately [REDACTED] at Year [REDACTED] student, [REDACTED] in which you:

- were completing your role as [REDACTED] Teacher at [REDACTED]
- during a planned school sausage sizzle event you offered [REDACTED] \$4.00 to purchase a sausage sandwich
- the following morning during the [REDACTED] class you approached [REDACTED] asking [REDACTED] how [REDACTED] was going to pay the money back
- [REDACTED] responded that [REDACTED] was unaware that [REDACTED] had to pay the \$4.00 back where [REDACTED] sat down next to [REDACTED] placing your hand on [REDACTED] thigh stating words to the effect, "it doesn't have to be money"
- this caused [REDACTED] to feel uncomfortable and distressed

By engaging in this manner you did not:

- undertake duties in a professional, competent and conscientious manner;
- engaged in an inappropriate interaction [REDACTED].

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

Findings

The findings are contained in the below table.

Allegation Number	Allegation	Outcome	Reportable Conduct breach
1	<p>It is alleged between [REDACTED]</p> <p>[REDACTED]</p> <p>You have interacted inappropriately with Year [REDACTED] student, [REDACTED] in which you loaned \$4.00 for a sausage sizzle. The following day you asked for the \$4.00 to be repaid where you sat next to [REDACTED] placing your hand on [REDACTED] thigh stating, 'it doesn't have to be money,' causing [REDACTED] to feel uncomfortable and distressed.</p>	Not sustained Insufficient Evidence	Not sustained Insufficient Evidence

The allegation has been not sustained due to there being insufficient evidence.

No breach regarding the Enterprise Agreement and [REDACTED] have been sustained. Furthermore, there is insufficient evidence to sustain the reportable conduct matter with the matter now finalised.

The ACT Ombudsman Office will be notified of the investigation and outcome of the matter, likewise, the ACT Teachers Quality Institute will be notified.

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]

From: [REDACTED]
To: [TOI Notifications](#)
Cc: [REDACTED]
Subject: [REDACTED] - Completion of Investigation [REDACTED]
Date: [REDACTED]
Attachments: [image869948.png](#)
[image756521.png](#)
[image778629.png](#)
[image452837.png](#)
[image375638.png](#)
[Investigation Report - \[REDACTED\].docx](#)
[Letter to \[REDACTED\].RE notification of the finalisation of a workplace complaints process.pdf](#)

[REDACTED]

Hi Claudia

The matter concerning [REDACTED] has been completed where it was established there was insufficient evidence to sustain a breach against [REDACTED]. Likewise, there was insufficient evidence to sustain the reportable conduct.

The investigation process and outcome are being forwarded to the ACT Ombudsman Office for oversight.

Please find attached the investigation report and finding letter as previously requested.

Please let me know if you require anything further

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Regulatory Assessment Report

Notification under s.67 and s70B of the ACT Teacher Quality Institute Act 2010



Employers reporting obligation under s.67:

- the teacher has become mentally or physically incapacitated and the incapacity prevents the person from performing an inherent requirement of their job as a teacher;
- the teacher is given a negative notice under the Working with Vulnerable People (Background Checking) Act 2011 (WwVP), section 40;
- the teacher's registration under the WwVP Act has lapsed; or is made subject to a condition; or is suspended or cancelled; or is surrendered.

Employers reporting obligation under s.70B:

- The employer must notify TQI within 5 working days of a notification event.

Details of Teacher

Name: [REDACTED]	TQI Number:
Date of notification: [REDACTED]	WwVP expiry date: Click here to enter a date.
Sector: [REDACTED]	School name recorded on TQI portal: [REDACTED]
Reported under s70C <input checked="" type="checkbox"/>	Reported under S67 <input type="checkbox"/>

Administration

- | | |
|--|---|
| <input checked="" type="checkbox"/> CRM record reflects POI and change made to records disposal 75 years, details added to Regulatory Matrix | |
| <input type="checkbox"/> Meeting scheduled with Registration Review panel | Date of meeting: Click or tap to enter a date. |
| <input checked="" type="checkbox"/> s70C request sent to employer | Date of request: [REDACTED] |

Background

Allegation that [REDACTED] sat down next to student, [REDACTED] and placed [REDACTED] hand on [REDACTED] thigh, stating words to the effect, "it doesn't have to be money." Alleged [REDACTED] borrowed \$4.00 for sausage sizzle and next day [REDACTED] requested back, and engaged in conduct of a sexual nature.

Evidence Provided: See case file

Initial Assessment

- | | |
|---|---|
| <input type="checkbox"/> Notified teacher to request meeting | Date of meeting: Click or tap to enter a date. |
| <input type="checkbox"/> Meeting notes confirmed with teacher as accurate record | |
| <input type="checkbox"/> Decision independently reviewed | |
| <input type="checkbox"/> Assessment of teacher response and final decision discussed with Registration Review panel | |

Notice in writing to teacher regarding determination if an action is taken.

This is written with statements of reason and advice regarding teacher's right of appeal to ACAT in 28 days.

Note: A decision NOT to suspend or cancel is NOT appealable – ie no decision under s.65

Note: Suspensions must have a specific end date- they can be extended but not over a renewal period of 12 months.

Final Determination

Factors influencing final determination:

The conclusions regarding the complaint have been considered against the framework of relevant [REDACTED], most notably, those of professional standards, conduct and behaviour as well as the definitions of reportable conduct pursuant to the Ombudsman Act 1989 (ACT). The investigation has concluded there is insufficient evidence to sustain a finding regarding reportable conduct relating to the category of Misconduct of a sexual nature – crossing professional boundaries. It has been established there is insufficient evidence to sustain a breach against the relevant codes of conduct. Likewise, there is insufficient evidence to sustain the respondent's conduct was inappropriate and overly personal. There is insufficient evidence to sustain a finding of Misconduct of a Sexual Nature - crossing of professional boundaries against [REDACTED]. Consideration was applied regarding the threshold for reporting and investigating an allegation being lower than the threshold for making a finding of reportable conduct.

- | | | | | |
|--|---|------------------------------------|-------------------------------------|---------------------------------------|
| <input checked="" type="checkbox"/> Not action taken | <input type="checkbox"/> Formal Warning | <input type="checkbox"/> Condition | <input type="checkbox"/> Suspension | <input type="checkbox"/> Cancellation |
|--|---|------------------------------------|-------------------------------------|---------------------------------------|

Regulatory Assessment Report

Notification under s.67 and s70B of the ACT Teacher Quality Institute Act 2010



If decision to take no action was a letter of final determination sent:

Yes No

- Advised to employers of determination
- Notified other jurisdictions in writing of determination was suspension or cancellation
- Update regulatory Matrix
- Advise Registration Review panel of actions taken

Review/Suspension
Date reviewed: Click or tap to enter a date.

Determination Date:
Click or tap to enter a date.

Case Closed
Date: Click or tap to enter a date.

Name Delegate Finalised

Corale McAlister

Date

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
	2021 – Case 18 – Refer to 2020 – Case 26			
18.1	Regulatory Assessment Report		Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function

Regulatory Assessment Report

Notification under s.67 and s70B of the ACT Teacher Quality Institute Act 2010



Employers reporting obligation under s.67:

- the teacher has become mentally or physically incapacitated and the incapacity prevents the person from performing an inherent requirement of their job as a teacher;
- the teacher is given a negative notice under the Working with Vulnerable People (Background Checking) Act 2011 (WwVP), section 40;
- the teacher's registration under the WwVP Act has lapsed; or is made subject to a condition; or is suspended or cancelled; or is surrendered.

Employers reporting obligation under s.70B:

- The employer must notify TQI within 5 working days of a notification event.

Details of Teacher

Name: [REDACTED]	TQI Number: [REDACTED]
Date of notification: [REDACTED]	WwVP expiry date: [REDACTED]
Sector: [REDACTED]	School name recorded on TQI portal: [REDACTED]
Reported under s70C <input checked="" type="checkbox"/>	Reported under S67 <input type="checkbox"/>

Administration

<input checked="" type="checkbox"/> CRM record reflects PCI and change made to records disposal 75 years, details added to Regulatory Matrix	
<input type="checkbox"/> Meeting scheduled with Registration Review panel	Date of meeting: Click or tap to enter a date.
<input checked="" type="checkbox"/> s70C request sent to employer	Date of request: [REDACTED]

Background

[REDACTED] was issued a show cause conduct of concern letter on [REDACTED] in regard to the following matter: [REDACTED] submitted a personal leave form and certificate for [REDACTED] and [REDACTED], on the basis that [REDACTED] was unfit for work due to injury [REDACTED] pain and being on pain killers; on those days [REDACTED] performed [REDACTED] work on a work site, which appears inconsistent with [REDACTED] injury rendering [REDACTED] unfit for teaching work (since standing, bending, lifting and other manual labour required for [REDACTED] work is more physical than teaching work); [REDACTED] behaviour on these days is also inconsistent with the reasonable expectation that if [REDACTED] was on paid personal leave, [REDACTED] would spend [REDACTED] time resting, recuperating or convalescing at home, given the nature of [REDACTED] injury, the pain medication prescribed and [REDACTED] sick certificate; [REDACTED] has been provided with paid time off by [REDACTED] pending [REDACTED] response to the allegations and scheduled follow-up meeting on [REDACTED]. [REDACTED] tendered [REDACTED] resignation effective [REDACTED] following the investigation. The [REDACTED] is aware of the [REDACTED] recent investigation and as per Section 70 C the [REDACTED] will not be taking any further action on this matter.

Evidence Provided: See case file

Initial Assessment

<input type="checkbox"/> Notified teacher to request meeting	Date of meeting: Click or tap to enter a date.
<input type="checkbox"/> Meeting notes confirmed with teacher as accurate record	
<input type="checkbox"/> Decision independently reviewed	
<input type="checkbox"/> Assessment of teacher response and final decision discussed with Registration Review panel	

Notice in writing to teacher regarding determination if an action is taken.

This is written with statements of reason and advice regarding teacher's right of appeal to ACAT in 28 days.

Note: A decision NOT to suspend or cancel is NOT appealable – ie no decision under s.65

Note: Suspensions must have a specific end date- they can be extended but not over a renewal period of 12 months.

Final Determination

Factors influencing final determination:

Regulatory Assessment Report

Notification under s.67 and s70B of the ACT Teacher Quality Institute Act 2010



The nature of the event: the use of personal leave to conduct business elsewhere is not conduct expected of employees. However note the matter did not relate to inappropriate teaching and/or interactions with students, colleagues or community members. The response to the event: the matter was brought to the employee's attention, investigated and managed. All governing bodies were informed.

<input checked="" type="checkbox"/> Not action taken	<input type="checkbox"/> Formal Warning	<input type="checkbox"/> Condition	<input type="checkbox"/> Suspension	<input type="checkbox"/> Cancellation
If decision to take no action was a letter of final determination sent:			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Advised to employers of determination <input type="checkbox"/> Notified other jurisdictions in writing of determination was suspension or cancellation <input checked="" type="checkbox"/> Update regulatory Matrix <input type="checkbox"/> Advise Registration Review panel of actions taken				
<input type="checkbox"/> Review Suspension Date reviewed: Click or tap to enter a date.	Determination Date: [REDACTED]		<input checked="" type="checkbox"/> Case Closed Date: [REDACTED]	
Name Delegate Finalised		Corale McAlister	Date: [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	Record Date	Decision (Full release, Partial release, Non-release)	Reason for Partial release or Non-release
	2021 – Case 19 – Ongoing Case			
19.1	Section 70C Request for further information		Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
19.2	Section 70B Notification Form		Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function

19.3	Letter – RE: Letter to show cause as to why you should not be the subject of disciplinary action	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
19.4	Investigation Report Code of Conduct	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
19.5	Letter – Notification of a final finding	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
19.6	Regulatory Assessment Report	[REDACTED]	Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
19.7	Email – In Confidence	[REDACTED]	Partial release	Schedule 2.2(a)(ii)
19.8	Section 70B Notification Form	[REDACTED]	Partial release	Schedule 2.2(a)(ii)
19.9	Section 70C Request for further information	[REDACTED]	Partial release	Schedule 2.2(a)(ii)
19.10	Regulatory Assessment Report	[REDACTED]	Partial release	Schedule 2.2(a)(ii)

Section 70C

Request for further information



Under section 70C of the *ACT Teacher Quality Institute Act 2010*, an employer must respond to a request for further information in relation to a notification event within a stated timeframe.

Email TQINotifications@act.gov.au

Details of Teacher

Name: [REDACTED]	TQI Number: [REDACTED]
Date of Notification Event: [REDACTED]	Employment Status: [REDACTED]
Sector: [REDACTED]	School name: [REDACTED]

Information to be sent to TQI by [REDACTED] close of business

Cause for reporting a notification event under section 70B

- the employer of an approved teacher tells the teacher that the employer has decided to begin a formal investigation;

Information requested under s70C of the TQI Act:

Provide the following:

- a description of the notification event
 investigation report
 any other information related to the notification event

Details of notifier for the reported matter:

Name: [REDACTED]	
Telephone: [REDACTED]	Email: [REDACTED]

Details of TQI officer managing case:

Name: Claudia Hale	
Telephone: 62058207	Email: Claudia.Hale@act.gov.au

Section 70B Notification Form



Record 19.2



Office Use Only

TQI Reference:

Under section 70B of the *ACT Teacher Quality Institute Act 2010*, it is the employer's obligation to notify TQI of a notification event.

Email TQINotifications@act.gov.au

Details of Teacher

Name:

Employment Status:

Date of Notification Event:

TQI Number:

Sector:

School name:

Cause for reporting a notification event under section 70B

the employer of an approved teacher tells the teacher that the employer has decided to begin a formal investigation;

the employer takes disciplinary action against the teacher under the terms of the teacher's employment;

Tick if the following information is available:

- At time of notification the teacher's employment has been terminated Yes No
- At time of notification a formal investigation has been completed or full admission by the teacher has occurred and the teacher has select

the employer removes, cancels or ends the access of the teacher to casual employment;

an approved teacher, who is the subject of a formal investigation or preliminary factual inquiry by the employer, resigns.

Details of notifier for the reported matter:

Name:

Telephone:

Email:

The employer must notify TQI within 5 working days of a notification event. The employer commits an offence (with a maximum penalty of 50 points) if they fail to notify a 'notification event' within the 5 working days timeframe.

RE: LETTER TO SHOW CAUSE AS TO WHY YOU SHOULD NOT BE THE SUBJECT OF DISCIPLINARY ACTION

The [REDACTED] has been conducting an investigation into allegations you have breached the [REDACTED] Enterprise Agreement [REDACTED] (the Agreement).

During this investigation it has been identified that your recent conduct may have breached the Agreement and [REDACTED] due to your failure to follow written directions when participating in this investigation.

I am writing to you in relation to what appears a breach of a written direction to maintain confidentiality regarding the *Show Cause* notice provided to you in writing on [REDACTED]. This breach it may result in disciplinary action against you, up to and including, the termination of your employment as a teacher at [REDACTED]

Your professional obligations

The [REDACTED] Enterprise Agreement [REDACTED] (**Attachment B**) in particular [REDACTED] of the [REDACTED] which states:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Background

In the *Show Cause* notification provided to you dated [REDACTED] by [REDACTED], a written direction was issued stating:

'I am directing you to keep all matters set out in this letter strictly confidential. While you are at liberty to discuss this matter with your union or legal adviser to obtain advice, we have a corresponding expectation that your representative will likewise keep this matter strictly confidential. Failure to abide by this requirement of confidentiality could result in further disciplinary action, including termination of your employment. For the avoidance of doubt, I am further directing you to not contact or discuss any of the people in the photographs referred to in this letter.'

Allegations

Allegation 1

It is alleged that you were in possession of a co-respondent [REDACTED] written response to a *Show Cause* notice that had been issued to [REDACTED] for this same matter. It is alleged that you shared that written response with another party, [REDACTED]

The particulars of this allegation are:

- On [REDACTED] you provided a written response to the *Show Cause* to [REDACTED]
- On [REDACTED], you were preparing for your interview to the *Show Cause* scheduled for [REDACTED]
- At 7:47PM on [REDACTED], you sent an email containing a written response from [REDACTED] to the same *Show Cause* [REDACTED] had been issued, from your personal email address to your [REDACTED] email address
- At 7:49PM you forwarded that email from your [REDACTED] email address to the email address of a [REDACTED]
- Your possession of another respondent's written response indicates that you have breached the written direction to not contact or discuss any of the people in the photographs referred to in the *Show Cause* notification.

Allegation 2

It is alleged that on the evening of [REDACTED], you participated in correspondence with [REDACTED] regarding allegations you were both subject to, in an effort to prepare for the interview being conducted on [REDACTED] and interfere with the investigation process.

The particulars of this allegation are:

- On [REDACTED], you were preparing for your interview to the *Show Cause* scheduled for [REDACTED]

- At 7:47PM on [REDACTED], you sent an email containing a written response from [REDACTED] to a *Show Cause* [REDACTED] had been issued from your personal email address to your [REDACTED] email address
- At 7:49PM on [REDACTED], you forwarded that email from your [REDACTED] email address to the email address of a [REDACTED]
- At 11:10PM on [REDACTED], [REDACTED] provided a written response to [REDACTED]
- The act of engaging in correspondence with another respondent in the matter you were also a respondent in is considered to be contrary to the written direction provided to you in the *Show Cause* notice dated [REDACTED]
- Further, your actions of engaging with [REDACTED] at a time that [REDACTED] was preparing [REDACTED] written response and prior to your interview on [REDACTED] was seeking to ensure the evidence of both yourself and [REDACTED] was consistent so as to influence the ultimate outcome.

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

Potential sanction

While I am satisfied that a prima facie breach has occurred, and there has been an associated breach of the Enterprise Agreement, it is incumbent on me to invite you to respond to my understanding of the factual circumstances associated with the events outlined above.

Invitation to respond

In light of the above, I invite you to respond to the content of this letter and to show cause as to why you should not be subjected to an employment sanction based on your actions of [REDACTED]

You are required to provide the response to me in writing to me by **9:00am** on [REDACTED] by email to [REDACTED] email address. I am also directing you to participate in a meeting with myself and [REDACTED] on [REDACTED] at **10:00am**. At this meeting you are welcome to bring a support person or representative as appropriate. I will then proceed to determine the appropriate sanction based on the information gathered.

Confidentiality & Support

I am directing you to keep all matters set out in this letter strictly confidential. While you are at liberty to discuss this matter with your union or legal adviser to obtain advice, we have a corresponding expectation that your representative will likewise keep this matter strictly confidential.

Failure to abide by this requirement of confidentiality could result in further disciplinary action, including termination of your employment. For the avoidance of doubt, I am further directing you to not contact or discuss this matter with any current and/or former [REDACTED] staff or students, in particular [REDACTED].

Given the gravity of this situation, including the potential for this matter to result in the termination of your employment, I can appreciate this is a difficult time for you. Should you wish to access the Employee Assistance Program, please contact [REDACTED].

Victimisation

If any person seeks to, or does victimise or retaliate against you, as a result of these matters, you should immediately contact me.

Similarly, you must not victimise or retaliate against anyone as a result of their involvement in these matters. Any person who engages in such conduct, including you, may be subject to disciplinary action, which may include termination of their employment.

Contact

Should you have any questions or require clarification of any of the above prior to providing your response please contact [REDACTED].

Yours sincerely,

[REDACTED]



AUTHOR: [REDACTED]
DATE: [REDACTED]
CONFIDENTIAL

CONFIDENTIAL

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1. EXECUTIVE SUMMARY & BACKGROUND

- 1.1 [REDACTED]
- 1.2 On [REDACTED] emailed [REDACTED] raising concerns as to the conduct of a [REDACTED] staff member, [REDACTED]
- 1.3 Attached to the email were 3 photographs which had been taken by the official photographer at the [REDACTED], which was held at the [REDACTED] on [REDACTED] (Annexure 1).
- 1.4 The photographs [REDACTED] provided depicted a group of students with [REDACTED] staff members, [REDACTED] engaged in different poses (Annexures 2, 3 and 4).
- 1.5 Following assessment of the photographs provided it was assessed that [REDACTED] should be the subject of a formal investigation for possible breaches of [REDACTED] policies and procedures and the [REDACTED] EA. Subsequently, on [REDACTED] [REDACTED] provided [REDACTED] with a *Show Cause* notice (Annexure 5).
- 1.6 On [REDACTED] [REDACTED] provided [REDACTED] with a written response to the *Show Cause* notice (Annexure 6).
- 1.7 On [REDACTED] [REDACTED] of [REDACTED] provided information to [REDACTED] that [REDACTED] did not have concerns about the photographs that had been taken on the night (Annexure 7). [REDACTED] had been engaged by [REDACTED] to document the evening.
- 1.8 A review of all the photographs taken by [REDACTED] on the night did not show any other images of staff engaging in inappropriate behaviour.
- 1.9 On [REDACTED] [REDACTED] provided [REDACTED] with a written account of the circumstances in which the photograph was taken (Annexure 8).
- 1.10 On [REDACTED] [REDACTED] participated in an interview at [REDACTED] (Annexure 9). Present at the interview was [REDACTED] and [REDACTED]
- 1.11 On [REDACTED], as part of email discovery conducted for the purposes of a preliminary assessment into an un-related matter, a prima facie breach of a lawful direction for [REDACTED] to maintain confidentiality regarding the investigation was uncovered. This possible breach involved [REDACTED] being in possession of and sharing the written response of [REDACTED], who was a respondent in the same matter as [REDACTED] (Annexure 10).

- 1.12 On [redacted] provided answers to a set of questions regarding the circumstances in which [redacted] had obtained [redacted] response to the *show cause* notice (Annexure 11).
- 1.13 On [redacted] was issued with a *Show Cause* notice (Annexure 12) and a *letter of suspension* regarding the prima facie breach mentioned above (Annexure 13). Both letters were issued to [redacted] at a meeting at [redacted] by [redacted]. In attendance at that meeting were [redacted]. File notes of that meeting are contained in (Annexure 14).
- 1.14 On [redacted] provided a written response, on behalf of [redacted] to the *show cause* notice dated [redacted] (Annexure 15).
- 1.15 On [redacted] emailed [redacted] identifying a typographical error contained in the *show cause* (Annexure 16).
- 1.16 On [redacted] provided a list of questions for [redacted] to answer (Annexure 17).
- 1.17 On [redacted], rang [redacted] to provide answers to the questions [redacted] had asked. A file note of this can be found in Annexure 18.
- 1.18 On [redacted] provided confirmation that the responses [redacted] provided [redacted] were correct (Annexure 19).
- 1.19 On [redacted] participated in an electronically recorded interview with [redacted] at [redacted] (Annexure 20). Present at the interview with [redacted] was [redacted] and [redacted].
- 1.20 On [redacted] provided a witness statement (Annexure 21).
- 1.21 Two of the three allegations have been sustained, with one allegation not sustained.
- [redacted]

2. SUMMARY OF ALLEGATIONS AND FINDINGS

Allegation Number	Allegation	Outcome
1	<p>This matter came to my attention through a concern that was raised with the School executive following the posting of photographs from the formal.</p> <p>On the basis of the images I have viewed it is apparent to me that on [redacted], while attending the Year [redacted] Formal in your capacity as a teacher, photographs were taken of yourself with a group of students: [redacted] and staff member and [redacted]. In these photographs you appear to:</p> <ul style="list-style-type: none"> - Be holding a glass of wine, despite a direction to remained seated while consuming alcohol, given by [redacted]. - Making a gesture in which [redacted] <p>[redacted] It is widely accepted that this gesture indicates [redacted] It is noted that a number of other people in the photograph are making the same gesture.</p>	Sustained
2	<p>It is alleged that you were in possession of a co-respondent [redacted] written response to a Show Cause notice that had been issued to [redacted] for this same matter. It is alleged that you shared that written response with another party, [redacted].</p> <p>The particulars of this allegation are:</p> <ul style="list-style-type: none"> - On [redacted] you provided a written response to the Show Cause to [redacted] - On [redacted] you were preparing for your interview to the Show Cause scheduled for [redacted] - At 7:47PM on [redacted] you sent an email containing a written response from [redacted] to the same Show Cause [redacted] had been issued, from your personal email address to your [redacted] email address - At 7:49PM you forwarded that email from your [redacted] email address to the email address of a [redacted] - Your possession of another respondent’s written response indicates that you have breached the written direction to not contact or discuss any of the people in the photographs referred to in the Show Cause notification. 	Sustained
3	<p>It is alleged that on the evening of [redacted] you participated in correspondence with [redacted] regarding allegations you were both</p>	Not sustained

subject to, in an effort to prepare for the interview being conducted on [REDACTED] and interfere with the investigation process.

The particulars of this allegation are:

- On [REDACTED] you were preparing for your interview to the Show Cause scheduled for [REDACTED]
- At 7:47PM on [REDACTED] you sent an email containing a written response from [REDACTED] to a Show Cause [REDACTED] had been issued from your personal email address to your [REDACTED] email address
- At 7:49PM on [REDACTED] you forwarded that email from your [REDACTED] email address to the email address of a [REDACTED]
- At 11:10PM on [REDACTED], [REDACTED] provided a written response to [REDACTED]
- The act of engaging in correspondence with another respondent in the matter you were also a respondent in is considered to be contrary to the written direction provided to you in the Show Cause notice dated [REDACTED]
- Further, your actions of engaging with [REDACTED] at a time that she was preparing [REDACTED] written response and prior to your interview on [REDACTED] was seeking to ensure the evidence of both yourself and [REDACTED] was consistent so as to influence the ultimate outcome.

3. METHODOLOGY

3.1 The allegations against [REDACTED] were assessed against the following policies and/or procedures:

- [REDACTED] Enterprise Agreement [REDACTED]

4. SUMMARY OF EVIDENCE

5. ANALYSIS: ALLEGATION ONE

- 5.1 [redacted] account provided in [redacted] written response and in [redacted] interview are largely consistent. No evidence was present in the investigation which demonstrated significant discrepancies between either account.
- 5.2 The evidence of [redacted] indicated that [redacted] understood the COVID restrictions in [redacted] role as [redacted] Teacher, [redacted]
- 5.3 The evidence of [redacted] indicates that the information provided to staff regarding the COVID restrictions and other protocols for the formal was limited. Further, no evidence was present in the investigation to demonstrate that clear and comprehensive guidance during the night was provided to formal guests on procedures that were required to be followed.
- 5.4 It is therefore assessed as plausible that a reasonable person would not expect [redacted] to understand that standing while holding or consuming alcohol was in breach of the COVID restrictions.
- 5.5 The evidence of [redacted] demonstrates that [redacted]:
- 5.5.1 Has extensive experience working with high school students.
 - 5.5.2 Understands that colloquially, emojis can and do have sexual connotations.
 - 5.5.3 Acceptance that [redacted] understood the meaning of *WAP*, had heard the students sing the song and dance to it.
 - 5.5.4 That [redacted] had heard the students use the phrase 'Pussy Mouth' and that [redacted] was aware that the word 'pussy' is slang for female genitalia.

- 5.5.5 That [redacted] thought the gesture might have been something related to Gene Simmons and that [redacted] understood the sexual implication of the link to that person.
- 5.6 It is therefore assessed that a reasonable person would find it implausible that [redacted] did not know the sexual connotations associated with the gesture.
- 5.7 It is noted that the investigation was not able to obtain a large amount of evidence. A number of possible witnesses were contacted as part of the investigation, specifically students who were in the photo. None of the witnesses contacted wished to participate in the investigation.
- 5.8 It is noted that [redacted] has not disputed the description of [redacted] actions in the photograph.
- 5.9 It is noted [redacted] stated there were numerous photos being taken throughout the night of people using the supposed inappropriate hand gestures. However, all available photographs officially taken by [redacted] have been examined. No further photographs of inappropriate gestures by staff were identified. Note. personal photographs taken by students, parents and staff were not reviewed.
- 5.10 The evidence of [redacted] supports [redacted] evidence that the process of taking the photograph was very short.
- 5.11 The evidence of [redacted] supports [redacted] evidence that [redacted] was not aware of who in the group of people was suggesting which poses be undertaken by the participants. No other evidence was present in the investigation to indicate who that person was.

[redacted]
(Enterprise Agreement),

Enterprise Agreement the following conclusions are made:

- 5.12 [redacted]
- 5.12.1 It is assessed that [redacted] has breached section (b) by using a gesture that has a sexual connotation in a photograph with a group of students, at a school event, in which students and parents are in attendance.
- 5.13 [redacted]
- 5.13.1 It is assessed that [redacted] has not breached section [redacted] as there is insufficient evidence to demonstrate that adequate general or specific instructions regarding the consumption of alcohol were provided to staff including [redacted].

5.14 [redacted]