

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	Notification Date	Decision (Full release, Partial release, Non-release)	Reason for Partial release or Non-release
	Case 1 – Refer to 2019 – Case 20 – Ongoing Investigation	[REDACTED]		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)

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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
	Case 4 – Refer to 2020 – Case 14		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)

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Freedom of Information Schedule

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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 7 – Refer to 2019 – Case 33 and 2020 – Case 7			
7.1	Investigation Report regarding allegations of possible misconduct		Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function
7.2	Letter – Investigation outcome		Partial release	Schedule 2.2(a)(ii)
7.3	Letter – Final misconduct determination		Partial release	Schedule 2.2(a)(ii)
7.4	Letter - Proposed sanction		Partial release	Schedule 2.2(a)(ii)

7.5	Letter - Final sanction		Partial release	Schedule 2.2(a)(ii)
7.6	Regulatory Assessment Report		Partial release	Schedule 2.2(a)(ii)
7.7	Letter - Final determination letter		Partial release	Schedule 2.2(a)(ii)



ACT
Government

Chief Minister, Treasury and
Economic Development

Investigation Report



Case Reference:



Prepared by:

**Gary Absalom
Senior Investigator
Professional Standards Unit**





Mr Rory Martin
Acting Executive Branch Manager
People and Performance
ACT Education Directorate

Dear Mr Martin

Investigation Report regarding allegations of possible misconduct [REDACTED]

Background

In [REDACTED] (Respondent) was employed as [REDACTED] Teacher at [REDACTED] has been employed as a Teacher with the ACT Government for approximately [REDACTED]

[REDACTED]

On 18 November 2019, [REDACTED] was notified in writing by Ms Alison Stott – Executive Branch Manager, of the investigation (Attachment 1). The preliminary allegations identified and notified to [REDACTED] were:

1. On [REDACTED] you made [REDACTED] uncomfortable when you asked [REDACTED] to teach a lesson on revenge porn to a year [REDACTED] class. During the lesson you discussed scenarios with students that involved [REDACTED] and made [REDACTED] feel unsafe and uncomfortable.
2. On [REDACTED] as part of the [REDACTED] program you conducted a self-defence class with [REDACTED] students. When no students volunteered, you requested [REDACTED] assist you in a demonstration and asked [REDACTED] to hold [REDACTED] hands up [REDACTED] You then threw two gentle swings towards [REDACTED] arms before swinging harder and contacting [REDACTED] arm hard enough to make a bruise.
3. You then told students that if they have their hands up and are struck 3 times, then they are entitled to punch back.
4. Following the demonstration, you grabbed [REDACTED] and threw [REDACTED] to the floor to demonstrate how to bring someone down. You then placed your hand on [REDACTED] back

pushing [redacted] into the floor and grabbed [redacted] arm pulling it up, stating that you could “break someone’s arm in this manoeuvre.”

5. Later on, [redacted] during a self-defence lesson with year [redacted] you demonstrated to the class how to defend against someone with a knife. You asked [redacted] to be a volunteer and proceed to make stabbing motions towards [redacted] with a knife that you got from the staffroom. It is alleged that students asked, “what are you doing [redacted]?”
6. Later on, [redacted] when you were alone in the staffroom with [redacted] you pointed out a female student and stated that she had large breasts and further stated “I don’t know where to look”. You then pointed out another female student who was wearing a short skirt and said again “I don’t know where to look”.

Investigative process

On [redacted] received a telephone call from [redacted] and was informed of a number of incidents involving [redacted].

On [redacted] held a meeting with [redacted] where further particulars of the incident were obtained for the purpose of a Preliminary Assessment.

On [redacted] was notified by Ms Stott that a formal Preliminary Assessment would be conducted by [redacted].

On [redacted] was notified by [redacted] of the outcome of the Preliminary Assessment and that the matter would be referred for investigation to the Professional Standards Unit (PSU).

On [redacted] the matter was referred to the PSU for investigation.

On [redacted] authority was obtained from Ms Katie Dunn – Senior Director, to withdraw Preliminary Allegation 3 – ‘You then told students that if they have their hands up and are struck 3 times, then they are entitled to punch back’. This was due to the content of the allegation being referenced within the other allegations.

This investigation was conducted in accordance with the provisions of the *ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-2022* under which [redacted] is employed.

During the investigation, relevant witnesses were identified and statements were obtained.

Information in relation to this matter was provided by:

Person	Position	Relevance to Investigation	Information source	Attachment
[redacted]	[redacted]	Witness	Statement dated [redacted]	2
[redacted]	[redacted]	Witness	Messages and photograph between [redacted] and [redacted]	2A

	dated, 14 November 2019	
Witness	— Incident Report Form	2B
Witness	Statement dated 12 March 2020	3
Complainant	Statement dated 16 March 2020	4
Complainant	Photograph of arm	4A
Witness	Statement dated 17 March 2020	5
Witness	Child Incident Report Form	5A
Witness	Child Incident Report Form	5B
Witness	Children Incident Report Form	5C
Witness	Child Incident Report Form	5D
Witness	Children Incident Report Form	5E
Witness		5F
Witness		5G
Witness	Units for each Term	5H

Other Documents/Evidence

Description	Attachment
- Dot points in email from dated	6
Teacher's Code of Professional Practice	7

On [redacted], [redacted] received in writing (**Attachment 8**) the following final allegations, particularised with the relevant information obtained and was offered an opportunity to respond:

1. On [redacted], at [redacted] you asked [redacted] to explain 'revenge porn' to the Year [redacted] class. In front of the class, you said words to the effect of "If me and [redacted] were in a relationship and [redacted] sends me some nudes and I forwarded them on to other people...". This caused [redacted] to feel 'really uncomfortable' in front of the students.
2. On [redacted] at [redacted] you conducted a self-defence lesson with Year [redacted] students which is not part of the curriculum. During the lesson, you requested [redacted] to assist you in a demonstration and in doing so you struck [redacted] multiple times in the arm causing bruising. Your actions made [redacted] feel 'unsupported, unsafe and powerless'.
3. On [redacted], at [redacted] in continuation of a self-defence lesson with Year [redacted] students which is not part of the curriculum, you grabbed [redacted]' right arm and pinned [redacted] to the ground. As [redacted] was on the ground, you placed your knee in [redacted] back and twisted [redacted] right arm causing [redacted] pain. Your actions made [redacted] feel 'scared, powerless and uncomfortable'.
4. On [redacted] at [redacted] you conducted a self-defence lesson with Year [redacted] students which is not part of the curriculum. During the lesson, you demonstrated to the class how to defend against someone with a knife. You asked [redacted] to be a volunteer and made stabbing motions towards [redacted] with a steak knife that you obtained from the staff room kitchen. Your actions made [redacted] feel 'unsupported, unsafe and powerless'.
5. On [redacted] at [redacted] whilst alone with [redacted] after the final lesson of the day, you said words to the effect of "Did you notice student [B] has such big boobs. I just don't know where to look sometimes". You then said words to the effect that another female student "Had a really short skirt on and that I could see right up it and throughout the lesson I felt like my eyes kept going back to it and I could see everything".

On [redacted], [redacted] provided a written response to the allegations (**Attachment 9**).

[redacted] – General response for Allegations 1-4

Direct excerpts from [redacted] written response:

- One of my objectives on [redacted] was to provide [redacted] practical direct involvement in the lessons [redacted]
- [redacted]

- Regarding self-defence lessons not being part of the curriculum, I note I have been teaching how to be safe and healthy [REDACTED] for many years both at [REDACTED] and other schools where I have taught within the directorate. At [REDACTED], under [REDACTED] supervision this practice continued. [REDACTED] was aware of my teaching methods and how I taught [REDACTED]. [REDACTED] and I have had many idea sharing sessions together and I have modelled my methods to both [REDACTED] and our combined classes in the past. At [REDACTED] I have taught self-defence as part of my [REDACTED] classes on at least [REDACTED] occasions in the last [REDACTED] years with the knowledge of all supervisors, including [REDACTED].
- Basic “self-defence” lessons are modelled on the training that I have received during my [REDACTED] years as a teacher, including The Rock and Water course, Team Teach and other independent training.
- Having taught self-defence at numerous schools, [REDACTED] and having conducted these lessons numerous times with various people of differing genders and ages, I had witnessed how such lessons can empower students, particularly women, by illustrating how a simple movement, like putting your hands up (in a stop position) could easily help them in a conflict. My approach is to give them the opportunity to plan, rehearse and evaluate options for managing situations where their own or others’ health, safety and wellbeing may be at immediate and/or long-term risk.
- My conducting of such lessons was widely known both by the teaching and student populations of [REDACTED] and no one with authority had questioned my actions. If either the [REDACTED] or [REDACTED] had reservations about whether these lessons were appropriate having regard to the requirements of the curriculum, I would have expected them to direct me to cease providing the lessons. No such directive was ever issued.

As a result of [REDACTED] written response, a further enquiry was made with [REDACTED] on [REDACTED] [REDACTED] by email. [REDACTED] responded to the enquiry by email on [REDACTED] (Attachment 10) to two statements made by [REDACTED] in [REDACTED] written response.

[REDACTED] stated:

Regarding self-defence lessons not being part of the curriculum, I note I have been teaching how to be safe and healthy [REDACTED] for many years both at [REDACTED] and other schools where I have taught within the directorate. At [REDACTED] under [REDACTED] supervision this practice continued. [REDACTED] was aware of my teaching methods and how I taught [REDACTED].

[REDACTED] replied:

Under [REDACTED] teachings, I was not aware of self-defence being taught, practiced, demonstrated or involving physical contact. The curriculum that was to be followed was [REDACTED] curriculum that was provided on the Scootle platform and this was explained to [REDACTED] and he was aware of this.

[REDACTED] stated:

At [REDACTED] I have taught self-defence as part of my [REDACTED] classes on at least [REDACTED] occasions in the last [REDACTED] years with the knowledge of all supervisors, including [REDACTED]

replied:

Under I was not aware of self-defence being taught, practiced, demonstrated or involving physical contact.

Allegation 1:

On , at asked to explain 'revenge porn' to the Year class. In front of the class, said words to the effect of "If me and were in a relationship and sends me some nudes and I forwarded them on to other people...". This caused to feel 'really uncomfortable' in front of the students.

Summary of Evidence

'Revenge Porn' definition:

<https://www.gotocourt.com.au/criminal-law/revenge-porn-distribution-criminal-offence/>

Revenge porn is the unauthorised public release, usually by an ex-partner, seeking revenge of intimate, indecent, or invasive images, videos, or other media produced during the course of a relationship, consensually or otherwise.







Policy / Other Documents**Teachers' Code of Professional Practice (Attachment 7)****1.1.2 Demonstrate high standards of professional practice**

Teachers demonstrate a high standard in teaching and learning by:

- supporting the personal and professional development of others
- assisting in developing and mentoring beginning teachers

1.1.3 Protect students from harm

Teachers protect students from harm by:

- refraining from conduct that could assault or harm a student
- refraining from conduct that could cause psychological damage to a student

1.1.5 Discourage any form of discrimination or harassment in the workplace

Teachers act to help remove discrimination and harassment in the workplace by:

- acting as positive role models

1.1.6 Discourage any form of discrimination or harassment in the workplace

Teachers act to help remove discrimination and harassment in the workplace by:

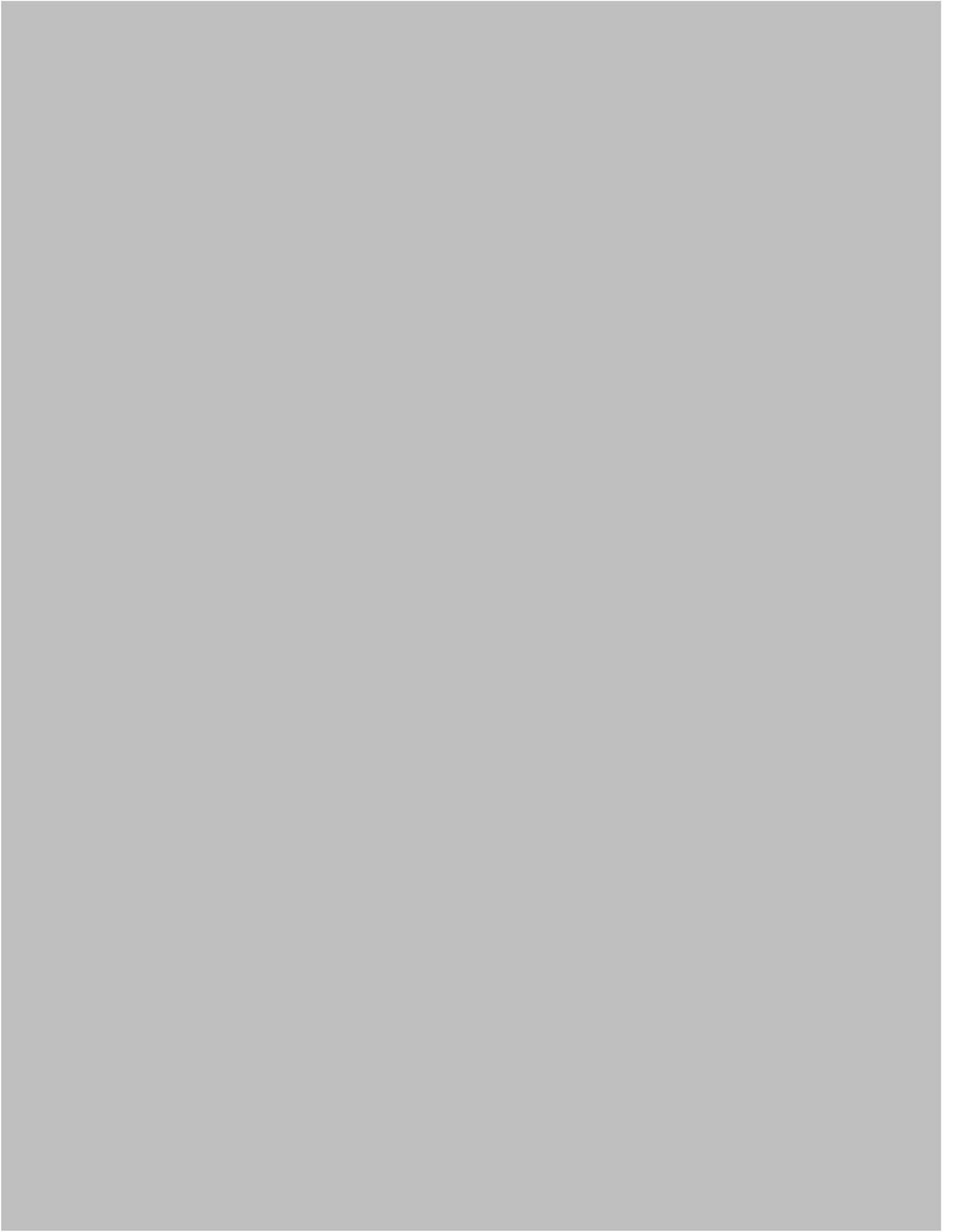
- promoting an environment that is accepting of and tolerant of diversity, and is free from intimidation, threat, humiliation and harassment

Principle 2: RESPONSIVENESS TO THE GOVERNMENT AND THE NEEDS OF THE PUBLIC

The ACT Public Service's primary responsibility is to the ACT community through serving the government that it has elected. This means that teachers must provide the same level of professionalism in the administration and delivery of government policies and services, irrespective of the political persuasion of the government.

Teachers are responsive to the government and the needs of the public by:

- respecting the rule of law and our system of democracy by upholding:
 - Commonwealth and Territory laws and regulations
 - government and Departmental policies
 - relevant professional codes of practice
 - relevant industrial agreements
- complying with and applying the policies of the Department



The evidence indicates that [REDACTED] did not discuss with [REDACTED] prior to the lesson taking place that he may use [REDACTED] in an example as stated in the allegation. You may wish to consider that [REDACTED] not having a discussion prior to the lesson did not allow [REDACTED] an opportunity to provide [REDACTED] input/feedback to the example that [REDACTED] used to explain what 'revenge porn' was.

The actions of [REDACTED] [REDACTED] [REDACTED] to help explain context and to increase clarity", left [REDACTED] feeling uncomfortable in front of the students.

You may wish to consider that using [REDACTED] as an example in [REDACTED] explanation was not respectful or courteous towards [REDACTED] or the students. [REDACTED] [REDACTED]

[REDACTED] was remorseful for [REDACTED] comments and stated:

'If my reference to an "intimate relationship" between us made [REDACTED] uncomfortable, then I am very sorry as that was not my intent. The context of the lesson was to pass on relevant and current information to the students and in the context of my objective to maximise [REDACTED] involvement.'

Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that, on [REDACTED], at [REDACTED], [REDACTED] asked [REDACTED] to explain 'revenge porn' to the Year [REDACTED] class. In front of the class, [REDACTED] said words to the effect of "If me and [REDACTED] were in a relationship and [REDACTED] sends me some nudes and I forwarded them on to other people...". This caused [REDACTED] to feel 'really uncomfortable' in front of the students

This finding is based on an analysis by the investigator of the relevant evidence obtained. It is not a determination that misconduct has or has not occurred, which is a decision for you, as the delegate, to make.

Regardless of the exact wording or phrases used by [REDACTED], it is a question for you as the delegate to determine whether [REDACTED] using [REDACTED] as an example in his explanation of 'revenge porn' was appropriate or not and if this action constitutes misconduct.

In determining whether this behaviour constitutes misconduct (as defined in clause H6.5 of the ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-2022), you may wish to consider whether [REDACTED] failed in [REDACTED] obligations under Section 9 of the Public Sector Management Act 1994, in particular:

- (1) A public servant must –
 - (c) when acting in connection with the public servant's job –
 - (iv) treat all people with courtesy and sensitivity to their rights and aspirations.
 - (d) do the public servants job with reasonable care and diligence, impartiality and honesty
- (2) A public servant must not –

(a) Behave in a way that –

(i) is inconsistent with the public sector values

(e) when acting in connection with the public servant’s job – bully, harass or intimidate anyone.

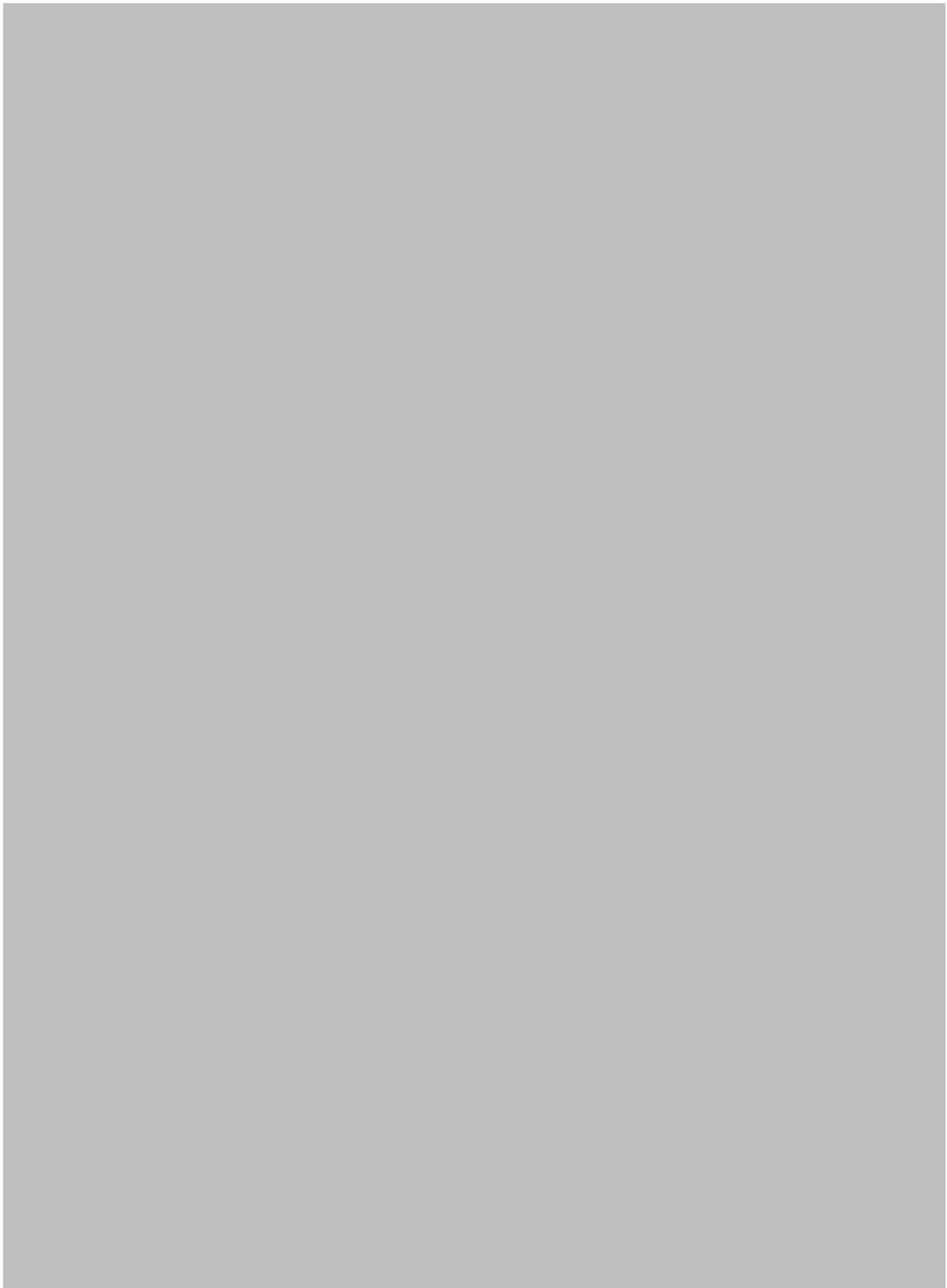
Allegation 2:

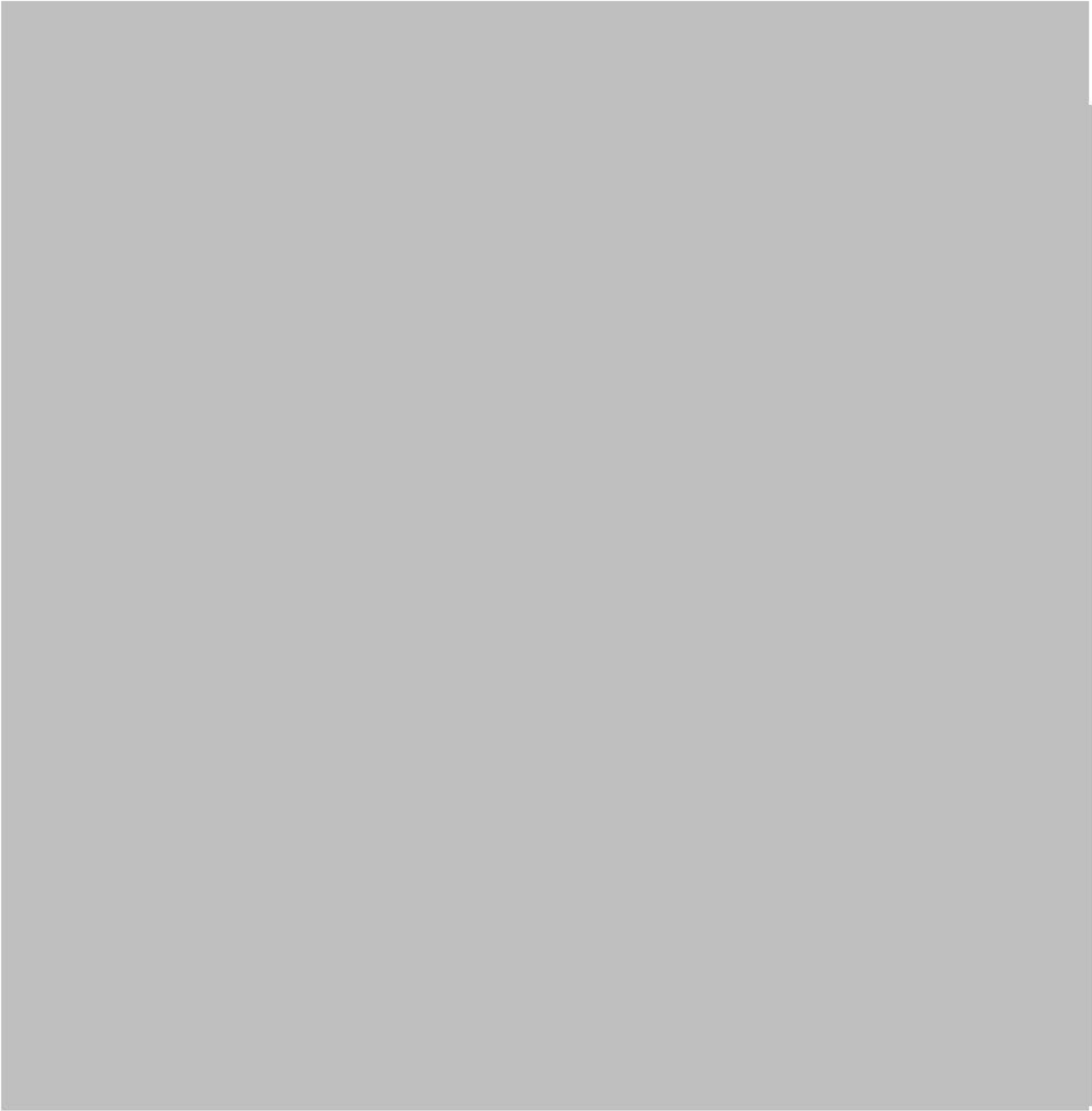
On [REDACTED], at [REDACTED] conducted a self-defence lesson with Year [REDACTED] students which is not part of the curriculum. During the lesson, he requested [REDACTED] to assist him in a demonstration and in doing so he struck [REDACTED] multiple times in the arm causing bruising. [REDACTED] actions made [REDACTED] feel *‘unsupported, unsafe and powerless’*.



Signed photograph of [REDACTED] arm on [REDACTED]







Policy / Other Documents

[Redacted text block consisting of three horizontal bars]

Teachers' Code of Professional Practice

1.1.2 Demonstrate high standards of professional practice

Teachers demonstrate a high standard in teaching and learning by:

- *supporting the personal and professional development of others*
- *assisting in developing and mentoring beginning teachers*

1.1.3 Protect students from harm

Teachers protect students from harm by:

- *refraining from conduct that could assault or harm a student*
- *refraining from conduct that could cause psychological damage to a student*

1.1.5 Discourage any form of discrimination or harassment in the workplace

Teachers act to help remove discrimination and harassment in the workplace by:

- *acting as positive role models*

1.1.6 Discourage any form of discrimination or harassment in the workplace

Teachers act to help remove discrimination and harassment in the workplace by:

- *promoting an environment that is accepting of and tolerant of diversity, and is free from intimidation, threat, humiliation and harassment*

Principle 2: RESPONSIVENESS TO THE GOVERNMENT AND THE NEEDS OF THE PUBLIC

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Teachers are responsive to the government and the needs of the public by:

- *respecting the rule of law and our system of democracy by upholding:*
 - *Commonwealth and Territory laws and regulations*
 - *government and Departmental policies*
 - *relevant professional codes of practice*
 - *relevant industrial agreements*
- *complying with and applying the policies of the Department*



Analysis

The evidence indicates that on 14 [REDACTED] requested [REDACTED] to assist [REDACTED] and then struck [REDACTED] a number of times on the arm whilst demonstrating self-defence to the [REDACTED] students. As a result of the strikes to [REDACTED] arm, [REDACTED] suffered bruising to [REDACTED] arm.

[REDACTED] recalled that prior to commencing the demonstration, [REDACTED] sought [REDACTED] permission to participate and that [REDACTED] continually checked to ensure [REDACTED] was comfortable during the demonstrations.

However, [REDACTED] recalled at no stage did [REDACTED] ask [REDACTED] if she wanted to participate in the demonstration and [REDACTED] recalled [REDACTED] was put on the spot when no one else volunteered. [REDACTED] recalled [REDACTED] said, "[REDACTED] you're going to help me demonstrate". In addition to this, [REDACTED] recalled [REDACTED] started talking about self-defence and said to the class "Here is a volunteer I prepared earlier" and pointed at [REDACTED].

A review of the [REDACTED] curriculum documents does reference 'Being healthy, safe and active' and covers off on topics including 'Safe Partying', however there is no mention or reference to teaching student's 'self-defence'.

[REDACTED] also confirmed that 'self-defence' is not a component of the [REDACTED] curriculum or any other curriculum within [REDACTED] lessons. [REDACTED] stated, [REDACTED]

[REDACTED] facilitated a number of incident reports from several students that were present in the lesson during the demonstration. [REDACTED] were able to recall the incident and provided information in relation to what had occurred.

As the Delegate, you may wish to consider the weight of evidence provided by any of the students via their 'Incident Report Forms' as these were taken 5 days after the incident and were not taken independently (ie on each occasion there were [REDACTED] [REDACTED] providing information to [REDACTED] at the same time, therefore their evidence and recollection may have been influenced by the [REDACTED] present)

stated, *does contain a component of physical wellbeing and I specifically aimed the lesson at possible real-life scenarios that both males and females may encounter when out for a night of partying. These include wrist escapes, when someone, usually a male grabs a female's wrist and skills in blocking a coward punch.'*

admitted to swinging arm towards and making contact with during demonstration, however stated movements were *'slow and controlled'* and stated was *'deeply sorry'* if the contact made bruised arm.

As the Delegate, you may wish to consider that behaviour on this occasion did not align with the *Teachers' Code of Professional Practice* in that failed to provide a learning and teaching environment that was:

- *supporting the personal and professional development of others*
- *assisting in developing and mentoring beginning teachers*
- *acting as positive role model*
- *refraining from conduct that could cause psychological damage to a student*
- *promoting an environment that is accepting of and tolerant of diversity, and is free from intimidation, threat, humiliation and harassment*

You may also wish to consider that whilst was attempting to give his students examples of *'real life scenarios'*, actions were outside of the scope of the approved curriculum and behaviour resulted in sustaining bruising/injury to arm which was unnecessary and disrespectful towards.

The situation also made feel *'unsupported, unsafe and powerless'*.

Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that, on , at , conducted a self-defence lesson with Year students which is not part of the curriculum. During the lesson, requested to assist in a demonstration and in doing so e struck multiple times in the arm causing bruising. actions made feel *'unsupported, unsafe and powerless'*.

This finding is based on an analysis by the investigator of the relevant evidence obtained. It is not a determination that misconduct has or has not occurred, which is a decision for you, as the delegate, to make.

In determining whether this behaviour constitutes misconduct (as defined in clause H6.5 of the *ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-2022*), you may wish to consider whether failed in obligations under Section 9 of the *Public Sector Management Act 1994*, in particular:

- (1) A public servant must –
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 - (i) comply with the laws applying in the Territory

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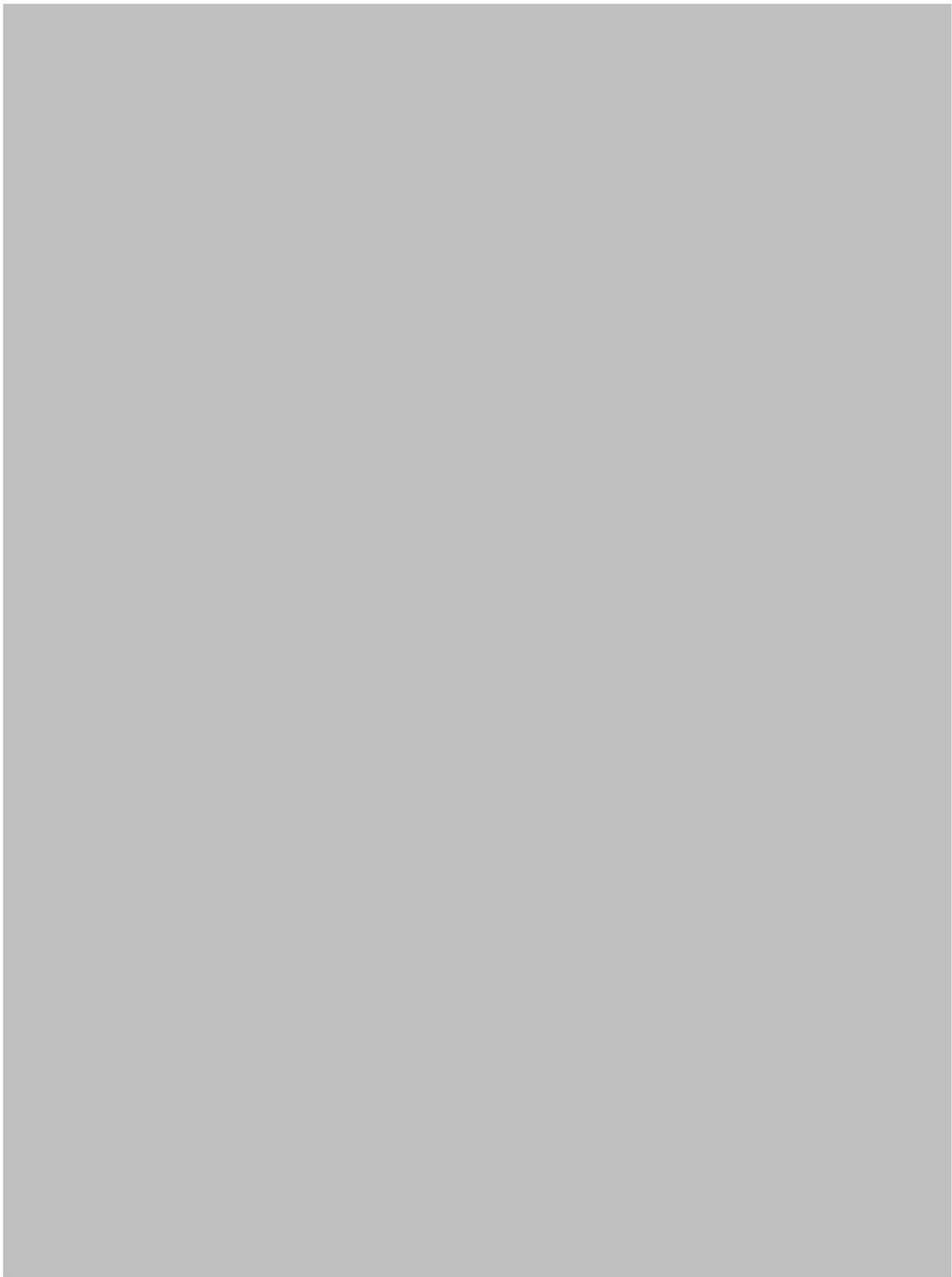
The ACT Public Service values include;

- Respect

Allegation 3:

On [redacted] at [redacted] in continuation of a self-defence lesson with Year [redacted] students which is not part of the curriculum, [redacted] grabbed [redacted] right arm and pinned [redacted] to the ground. As [redacted] was on the ground, [redacted] placed [redacted] knee in her [redacted] and twisted [redacted] right arm causing [redacted] pain. [redacted] actions made [redacted] feel *'scared, powerless and uncomfortable'*.





Policy / Other Documents



Teachers' Code of Professional Practice (Attachment 7)

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 - *government and Departmental policies*
 - *relevant professional codes of practice*
 - *relevant industrial agreements*
- *complying with and applying the policies of the Department*



Analysis

The evidence indicates that on [redacted], [redacted] took hold of [redacted] arm and pinned [redacted] on the ground. [redacted] then twisted [redacted] arm and then placed [redacted] knee into [redacted] back.

[redacted] admitted during the demonstration [redacted] took hold of [redacted] right wrist and right shoulder and moved [redacted] to the ground by applying force. However, [redacted] stated [redacted] did not place [redacted] knee in [redacted] back, nor did [redacted] recall bending or twisting [redacted] arm/s behind [redacted] back. The recollection given by [redacted] is not supported by other witnesses including [redacted].

[redacted] support [redacted] account in that [redacted] did twist [redacted] arm/s behind [redacted] back and that [redacted] also placed [redacted] knee into the back of [redacted].



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- [REDACTED]

[REDACTED] facilitated a number of incident reports from several students that were present in the lesson during the demonstration. [REDACTED] was able to recall the incident and provided information in relation to what they observed.

However, as the Delegate, you may wish to consider the weight of evidence provided by any of the students via their 'Incident Report Forms' as these were taken 5 days after the incident and were not taken independently (ie on each occasion there were [REDACTED] providing information to [REDACTED] at the same time, therefore their evidence and recollection may have been influenced by the [REDACTED] present)

A review of the [REDACTED] curriculum documents does reference [REDACTED]' and covers off on topics including [REDACTED] however there is no mention or reference to teaching student's 'self-defence'.

[REDACTED] confirmed that 'self-defence' is not a component of the [REDACTED] curriculum or any other curriculum within [REDACTED] lessons. [REDACTED] stated, 'Self-defence is not part of the teachings for [REDACTED] and [REDACTED] stated 'Nowhere in the curriculum does it say that we teach self-defence. It has never been part of the curriculum since I have been at the school.'

As the Delegate, you may wish to consider that [REDACTED] behaviour on this occasion did not align with the *Teachers' Code of Professional Practice* in that [REDACTED] failed to provide a learning and teaching environment that was:

- *supporting the personal and professional development of others*
- *assisting in developing and mentoring beginning teachers*
- *acting as positive role models*
- *refraining from conduct that could cause psychological damage to a student*
- *promoting an environment that is accepting of and tolerant of diversity, and is free from intimidation, threat, humiliation and harassment*

You may also wish to consider that whilst [REDACTED] was attempting to give his students examples of 'real life scenarios', [REDACTED] actions were outside of the scope of the approved [REDACTED] curriculum and [REDACTED] behaviour resulted in [REDACTED] being pinned to the ground causing pain to [REDACTED] shoulder which was unnecessary and disrespectful towards [REDACTED].

The situation also made [REDACTED] feel 'scared, powerless and uncomfortable'.

Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that, on [REDACTED], at [REDACTED], in continuation of a self-defence lesson with Year [REDACTED] students which is not part of the curriculum, [REDACTED] grabbed [REDACTED] right arm and pinned [REDACTED] to the ground. As [REDACTED] was on the ground, [REDACTED] placed [REDACTED] knee in [REDACTED] back and twisted [REDACTED] right arm causing [REDACTED] r pain. [REDACTED] actions made [REDACTED] feel 'scared, powerless and uncomfortable'.

This finding is based on an analysis by the investigator of the relevant evidence obtained. It is not a determination that misconduct has or has not occurred, which is a decision for you, as the delegate, to make.

In determining whether this behaviour constitutes misconduct (as defined in clause H6.5 of the *ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-2022*), you may wish to consider whether [REDACTED] failed in [REDACTED] obligations under Section 9 of the *Public Sector Management Act 1994*, in particular:

1 A public servant must –

(c) when acting in connection with the public servant’s job –

(iv) treat all people with courtesy and sensitivity to their rights and aspirations.

(d) do the public servants job with reasonable care and diligence, impartiality and honesty

2 A public servant must not –

(b) Behave in a way that –

(ii) is inconsistent with the public sector values

(e) when acting in connection with the public servant’s job – bully, harass or intimidate anyone.

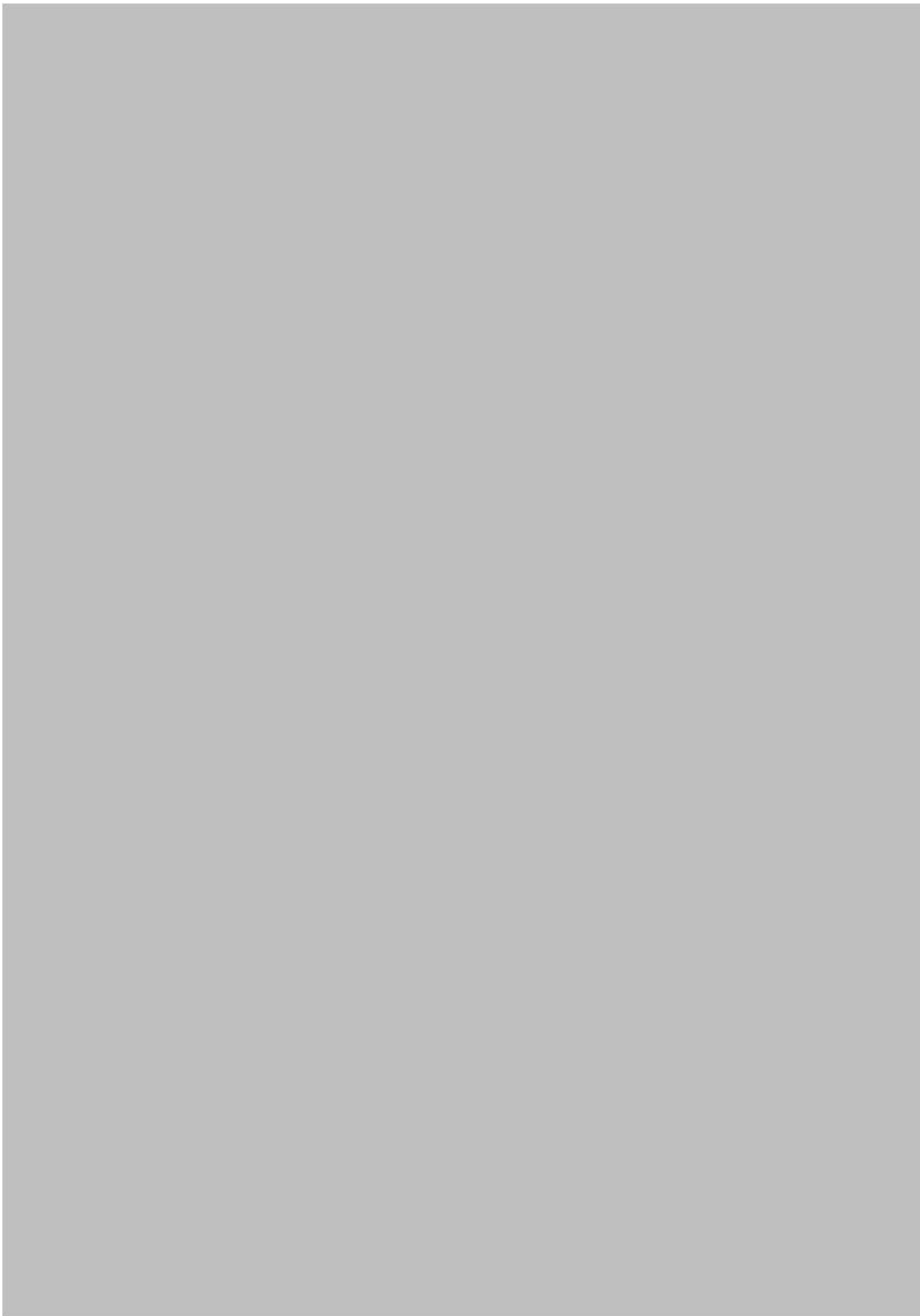
The ACT Public Service values include;

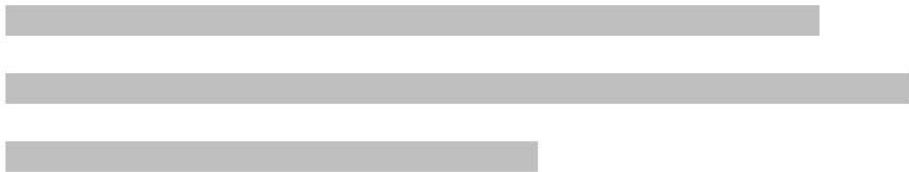
- Respect

Allegation 4:

On [REDACTED], at [REDACTED] [REDACTED] conducted a self-defence lesson with Year [REDACTED] students which is not part of the curriculum. During the lesson, [REDACTED] demonstrated to the class how to defend against someone with a knife. [REDACTED] asked [REDACTED] to be a volunteer and made stabbing motions towards [REDACTED] with a steak knife that [REDACTED] obtained from the staff room kitchen. [REDACTED] actions made [REDACTED] feel ‘*unsupported, unsafe and powerless*’.





Policy / Other Documents***Teachers' Code of Professional Practice (Attachment 7)******1.1.2 Demonstrate high standards of professional practice***

Teachers demonstrate a high standard in teaching and learning by:

- *supporting the personal and professional development of others*
- *assisting in developing and mentoring beginning teachers*

1.1.3 Protect students from harm

Teachers protect students from harm by:

- *refraining from conduct that could assault or harm a student*
- *refraining from conduct that could cause psychological damage to a student*

1.1.5 Discourage any form of discrimination or harassment in the workplace

Teachers act to help remove discrimination and harassment in the workplace by:

- *acting as positive role models*

1.1.6 Discourage any form of discrimination or harassment in the workplace

Teachers act to help remove discrimination and harassment in the workplace by:

- *promoting an environment that is accepting of and tolerant of diversity, and is free from intimidation, threat, humiliation and harassment*

Principle 2: RESPONSIVENESS TO THE GOVERNMENT AND THE NEEDS OF THE PUBLIC

The ACT Public Service's primary responsibility is to the ACT community through serving the government that it has elected. This means that teachers must provide the same level of professionalism in the administration and delivery of government policies and services, irrespective of the political persuasion of the government.

Teachers are responsive to the government and the needs of the public by:

- *respecting the rule of law and our system of democracy by upholding:*
 - *Commonwealth and Territory laws and regulations*
 - *government and Departmental policies*
 - *relevant professional codes of practice*
 - *relevant industrial agreements*
- *complying with and applying the policies of the Department*

-
-
-
-

Analysis

██████ made admissions that on ██████████, whilst teaching a self-defence lesson with Year ████ students, ████ took a knife from the staff room and proceeded to demonstrate to the class how to defend against someone that had a knife.

During this demonstration to the class ████████ made stabbing motions towards ██████████.

██████ stated *'Any motion that was done by either ██████████ or myself was done in a slow and controlled manner. At no time did I make any uncontrolled stabbing motions towards anybody in the class, especially not ██████████'*. However, ██████████ stated that the knife was brought to within 1cm of ████ head and body by ████████ on multiple occasions.

██████ facilitated a number of incident reports from several students that were present in the lesson during the demonstration. ██████████ were able to recall the incident and provided information in relation to what they observed.

However, as the Delegate, you may wish to consider the weight of evidence provided by any of the students via their *'Incident Report Forms'* as these were taken 5 days after the incident and were not taken independently (*ie on each occasion there were ██████████ providing information to ██████████ at the same time, therefore their evidence and recollection may have been influenced by the ██████████ present*)

Whilst ████████ did not witness the incident involving ██████████, ████ stated ████████ was walking towards the class, ████████ pretended to throw the knife at ████. When ████ was closer, ████ also performed a stabbing motion towards ████. ██████████ stated ████ did not feel threatened by ████ actions and simply returned the knife to the staffroom when ████ handed it to ████

A review of the [redacted] curriculum documents does reference [redacted] and covers off on topics including [redacted] however there is no mention or reference to teaching student's 'self-defence', nor does it make mention on how to defend yourself when someone has a knife.

The evidence of [redacted] is that self-defence and teaching students how to defend themselves when someone has a knife is not part of any curriculum and at no point should a knife or knives be brought into the [redacted] classes.

As the Delegate, you may wish to consider that the actions of [redacted] bringing a real knife into the classroom and performing stabbing motions towards [redacted] [redacted] may have subjected and exposed the Year [redacted] students to unnecessary psychological/violent trauma.

[redacted] in [redacted] evidence stated that 'I began to move backwards as I was nervous because the knife was coming very close to me'. This left [redacted] feeling scared, powerless and uncomfortable.

[redacted] behaviour on this occasion did not align with the *Teachers' Code of Professional Practice* in that [redacted] failed to provide a learning and teaching environment that was:

- *supporting the personal and professional development of others*
- *assisting in developing and mentoring beginning teachers*
- *acting as positive role models*
- *refraining from conduct that could cause psychological damage to a student*
- *promoting an environment that is accepting of and tolerant of diversity, and is free from intimidation, threat, humiliation and harassment*

As the Delegate, you may wish to consider that [redacted] behaviour on this occasion whilst demonstrating self-defence techniques with a knife was unnecessary and potentially dangerous to: [redacted] self, [redacted] and the students.

Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that on [redacted], at [redacted], [redacted] conducted a self-defence lesson with Year [redacted] students which is not part of the curriculum. During the lesson, [redacted] demonstrated to the class how to defend against someone with a knife. [redacted] asked [redacted] to be a volunteer and made stabbing motions towards [redacted] with a steak knife that [redacted] obtained from the staff room kitchen. [redacted] actions made [redacted] feel 'unsupported, unsafe and powerless'.

This finding is based on an analysis by the investigator of the relevant evidence obtained. It is not a determination that misconduct has or has not occurred, which is a decision for you, as the delegate, to make.

In determining whether this behaviour constitutes misconduct (as defined in clause H6.5 of the *ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-2022*), you may wish to consider whether [redacted] failed in [redacted] obligations under Section 9 of the *Public Sector Management Act 1994*, in particular:

- 1 A public servant must –

(c) when acting in connection with the public servant's job –

(iv) treat all people with courtesy and sensitivity to their rights and aspirations.

(d) do the public servants job with reasonable care and diligence, impartiality and honesty

2 A public servant must not –

(a) behave in a way that –

(iii) is inconsistent with the public sector values

(e) when acting in connection with the public servant's job – bully, harass or intimidate anyone.

The ACT Public Service values include;

- Respect

Allegation 5:

On [REDACTED] at [REDACTED] whilst alone with [REDACTED] after the final lesson of the day, [REDACTED] said words to the effect of *"Did you notice student [B] has such big boobs. I just don't know where to look sometimes"*. [REDACTED] then said words to the effect that another female student *"Had a really short skirt on and that I could see right up it and throughout the lesson I felt like my eyes kept going back to it and I could see everything"*.



Analysis

The evidence indicates that [REDACTED] [REDACTED] were present together in a classroom at the end of the day on [REDACTED]. [REDACTED] stated they were discussing the issues [REDACTED] faced that day and [REDACTED] was also providing advice to [REDACTED] for the following days lessons.

[REDACTED] stated that [REDACTED] brought up the topic about dress standards within the school [REDACTED]

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

[REDACTED]

The wording used in relation to observing [Student B's] breasts in [REDACTED] workout class' by [REDACTED] is similar to that given in [REDACTED] evidence, in which [REDACTED] stated [REDACTED] had said words to the effect of *"Did you notice student [B] has such big boobs. I just don't know where to look sometimes"*.

By [REDACTED] own admission, [REDACTED] stated [REDACTED] had told [REDACTED] a story about seeing [Student B] in a 'workout class' and stated *'[REDACTED] sets up directly next to me wearing unsupportive clothes and that, during the workouts, [REDACTED] breasts bounce around' and 'I don't know where to look, I don't want to look at [REDACTED], so I focus on the floor'*.

In regard to the second comment, [REDACTED] denied saying words to the effect *"that I could see right up it and throughout the lesson I felt like my eyes kept going back to it and I could see everything"*.

Without an independent witness that is able to give weight to the evidence of [REDACTED] or that of [REDACTED], it cannot be determined that [REDACTED] whilst discussing a female student said, *"She had a really short skirt on and that I could see right up it and throughout the lesson I felt like my eyes kept going back to it and I could see everything"*.

Given the contrasting evidence provided by [REDACTED] [REDACTED] the seriousness of the allegation and the absence of any independent witnesses to confirm or validate the exact wording and dialogue used by [REDACTED] a determination on whether [REDACTED] said words to the effect of *"Did you notice student [B] has such big boobs. I just don't know where to look sometimes"* and *"Another female student had a really short skirt on and that I could see right up it and throughout the lesson I felt like my eyes kept going back to it and I could see everything"* cannot be made.

However, as the Delegate, you may wish to consider whether or not the acknowledged comment made by [REDACTED] [REDACTED] regarding a female student [Student B] was inappropriate or not. In particular, when [REDACTED] stated he had observed a [Student B] wearing *"unsupportive clothes and noticing her breasts moving around"* during an 'external workout' class.

You may wish to consider that whilst it is more than likely that [REDACTED] made this comment without malice or intent and was continuing on the conversation regarding the dress code, the comment [REDACTED] made was disrespectful to both the student [Student B] and [REDACTED]. The discussion also made [REDACTED] feel 'awkward and uncomfortable'.

Conclusion

On the basis of the information provided, it cannot be determined on the balance of probabilities that, on [REDACTED], at [REDACTED], whilst alone with [REDACTED] after the final lesson of the day, [REDACTED] said words to the effect of "Did you notice student [B] has such big boobs. I just don't know where to look sometimes". [REDACTED] then said words to the effect that another female student "Had a really short skirt on and that I could see right up it and throughout the lesson I felt like my eyes kept going back to it and I could see everything".

This finding is based on an analysis by the investigator of the relevant evidence obtained. It is not a determination that misconduct has or has not occurred, which is a decision for you, as the delegate, to make.

In determining whether this behaviour constitutes misconduct (as defined in clause H6.5 of the *ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-2022*), you may wish to consider whether [REDACTED] failed in [REDACTED] obligations under Section 9 of the *Public Sector Management Act 1994*, in particular:

- (1) A public servant must –
 - (a) when acting in connection with the public servant's job –
 - (i) comply with laws applying in the Territory
 - (iv) treat all people with courtesy and sensitivity to their rights and aspirations.
- (2) A public servant must not –
 - (a) Behave in a way that –
 - (i) is inconsistent with the public sector values
 - (e) when acting in connection with the public servant's job – bully, harass or intimidate anyone.

The ACT Public Service values include;

- Respect

Other Considerations

The following information is not relevant to determine whether the alleged behaviour occurred and whether the behaviour amounts to misconduct, however it may assist you in determining an appropriate sanction if misconduct is found to have occurred.

[redacted] - Direct excerpts from written response:

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-



Recommendations

It is recommended that, as the delegate, you:

- a) review this report, along with the accompanying evidence, to determine on the balance of probabilities whether misconduct has occurred;
- b) if misconduct is found, determine an appropriate sanction in accordance with the *ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-2022*; and
- c) notify [redacted] of the outcome.



.....
Gary Absalom
Senior Investigator
Professional Standards Unit

1 May 2020



Peter Boyle
Investigations Manager
Professional Standards Unit

1 May 2020



Jim Venn
Senior Director
Professional Standards Unit

1 May 2020

Reportable Conduct

Enquiry process

This enquiry has been conducted by the Professional Standards Unit in accordance with Section 17EB of the Ombudsman Act 1989. Reportable Conduct is defined in the *ACT Ombudsman Act 1989* and further outlined in the *ACT Ombudsman Practice Guide No.2 - Identifying Reportable Conduct* (The Practice Guide). Reportable Conduct includes the following categories:

1. sexual offences and convictions where a child is a victim or is present;
2. offences against the person, including physical offences and convictions, where a child is a victim or is present;
3. conviction, or finding of guilt, under a territory law or a state or Commonwealth law, involving reportable conduct;
4. offences against the Education and Care Service National Law (inappropriate discipline or offences relating to protecting children from harm);
5. ill-treatment of a child (including emotional abuse, hostile use of force/physical contact, neglect and restrictive intervention);
6. psychological harm; and
7. misconduct of a sexual nature.

Consideration of Reportable Conduct

The Reportable Conduct allegations may fall into the category of: Ill Treatment or Neglect of the Child as defined in Section 17 E (1)(a)(b)(i) of the *ACT Ombudsman Act 1989*. This category is further outlined in the *ACT Ombudsman Practice Guide No.2 – Identifying Reportable Conduct*.

Ill-treatment of a child

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

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:

- frightened by threats of violence or exposure to violence.

Conclusion

For the purpose of the ACT Reportable Conduct Scheme, there are five possible findings for you as the delegate to determine;

- Sustained
- Not sustained – insufficient evidence
- Not sustained – lack of evidence of weight
- False
- Not reportable conduct

Recommendations

It is recommended that, as the delegate, you:

- a) review this report, along with the accompanying evidence, to determine if Reportable Conduct has or has not occurred;
- b) notify the ACT Ombudsman via a 17J form of the finding;
- c) if Reportable Conduct is found, determine an appropriate course of action; and
- d) notify [REDACTED] of the outcome.



Gary Absalom
Senior Investigator
Professional Standards Unit

1 May 2020



...
Peter Boyle
Investigations Manager
Professional Standards Unit

1 May 2020



Jim Venn
Senior Director
Professional Standards Unit

1 May 2020

Attachments to report:

- 1 - Letter to [REDACTED] re notice of investigation, dated [REDACTED]
- 2 - Signed statement – [REDACTED], dated [REDACTED]
- 2A - Messages and photograph between [REDACTED] [REDACTED] dated, [REDACTED]
- 2B - [REDACTED] School Incident Report Form
- 3 - Signed statement – [REDACTED], dated [REDACTED]
- 4 - Signed statement – [REDACTED], dated [REDACTED]
- 4A - Photograph of [REDACTED] arm
- 5 - Signed statement – [REDACTED], dated [REDACTED]
- 5A - [REDACTED] Incident Report Form
- 5B - [REDACTED] Incident Report Form
- 5C - [REDACTED] – [REDACTED] Incident Report Form
- 5D - [REDACTED] [REDACTED] Incident Report Form
- 5E - [REDACTED] [REDACTED] Incident Report Form
- 5F - [REDACTED]
- 5G - [REDACTED]
- 5H - [REDACTED]
- 6 - [REDACTED] – Dot points in email from [REDACTED], dated [REDACTED]
- 7 - Teacher's Code of Professional Practice
- 8 - Letter to [REDACTED] re final allegations and opportunity to respond, dated [REDACTED]
- 9 – [REDACTED] written response, dated 14 [REDACTED]
- 10 - Email from [REDACTED] in response to matters raised by [REDACTED]
- 11 - Email from [REDACTED] [REDACTED] dated [REDACTED]

[REDACTED]

[REDACTED]

Investigation outcome

On [REDACTED] you received a letter advising you that a preliminary assessment had been conducted into allegations of inappropriate behaviour towards a [REDACTED] and that the matter had been referred to the Professional Standards Unit (PSU) for investigation in accordance with clause [REDACTED] of the [REDACTED] Enterprise Agreement [REDACTED] (the Agreement).

The investigation is now complete, and the PSU's investigation report has been received. The allegations and investigation findings are detailed below. A copy of the investigation report is included at Attachment A.

Allegations

The following allegations were investigated by the PSU:

1. On [REDACTED] at [REDACTED] you asked [REDACTED] to explain 'revenge porn' to the Year [REDACTED] class. In front of the class, you said words to the effect of "If me and [REDACTED] were in a relationship and [REDACTED] sends me some nudes and I forwarded them on to other people...". This caused [REDACTED] to feel 'really uncomfortable' in front of the students.
2. On [REDACTED] at [REDACTED] you conducted a self-defence lesson with Year [REDACTED] students which is not part of the curriculum. During the lesson, you requested [REDACTED] to assist you in a demonstration and in doing so you struck [REDACTED] multiple times in the arm causing bruising. Your actions made [REDACTED] feel 'unsupported, unsafe and powerless'.
3. On [REDACTED] at [REDACTED] in continuation of a self-defence lesson with Year [REDACTED] students which is not part of the curriculum, you grabbed [REDACTED] right arm and pinned [REDACTED] to the ground. As [REDACTED] was on the ground, you placed your knee in [REDACTED] back and twisted [REDACTED] right arm causing [REDACTED] pain. Your actions made [REDACTED] feel 'scared, powerless and uncomfortable'.
4. On [REDACTED] at [REDACTED] you conducted a self-defence lesson with Year [REDACTED] students which is not part of the curriculum. During the lesson, you demonstrated to the class how to defend against someone with a knife. You asked [REDACTED] to be a volunteer and made stabbing motions towards [REDACTED] with a steak knife that you obtained from the staff room kitchen. Your actions made [REDACTED] feel 'unsupported, unsafe and powerless'.

5. On [REDACTED] at [REDACTED] whilst alone with [REDACTED] after the final lesson of the day, you said words to the effect of “Did you notice student [B] has such big boobs. I just don’t know where to look sometimes”. You then said words to the effect that another female student “Had a really short skirt on and that I could see right up it and throughout the lesson I felt like my eyes kept going back to it and I could see everything”.

Outcome and reasons for decision

The investigation findings, my proposed determinations and reasons for my decision in relation to each allegation are outlined below.

Allegation one

The investigator found, on the balance of probabilities, that there was sufficient information to conclude that on [REDACTED], at [REDACTED] you asked [REDACTED] to explain ‘revenge porn’ to the Year [REDACTED] class. In front of the class, you said words to the effect of “if me and [REDACTED] were in a relationship and [REDACTED] send me some nudes and I forwarded them on to other people...”. This caused [REDACTED] to feel ‘really uncomfortable in front of the students.

I have accepted the investigation findings and my proposed determination is that **misconduct has occurred**, as defined in clause H6.5 of the Agreement.

Although there were differing accounts of the exact words used, I accept there was sufficient evidence to support that you used [REDACTED] as an example in your explanation on revenge porn. That regardless of the words used, in using [REDACTED] as an example, your actions were inappropriate, humiliating and made [REDACTED] feel uncomfortable.

I acknowledge that you asked [REDACTED] to prepare and present to the Year [REDACTED] class on revenge porn and the [REDACTED] was aware this was occurring. As an experienced teacher, you would have anticipated the discomfort for [REDACTED] to present on this topic and there were many other topics you could have asked [REDACTED] to present on that were included in the [REDACTED] curriculum.

I do not accept that your actions on [REDACTED] were intended to “advance [REDACTED] confidence in [REDACTED] capabilities” as you claimed in your response.

Clause H6.5 of the Agreement states:

H6.5 For the purposes of this section, misconduct includes any of the following:

H6.5.1 The employee fails to meet the obligations set out in section 9 of the PSM Act;

H6.5.2 The employee engages in conduct that the head of service or the Public Standards Commissioner is satisfied may bring, or has brought, the Directorate or the ACTPS into disrepute.

Your actions in relation to allegation one were in breach of the PSM Act, specifically:

(1) A public servant must –

- (c) when acting in connection with the public servant's job –
- (iv) treat all people with courtesy and sensitivity to their rights and aspirations;
- (d) do the public servant's job with reasonable care and diligence, impartiality and honesty

(2) A public servant must not –

- (a) behave in a way that-
 - (i) is inconsistent with the public sector values
 - (e) when acting in connection with the public servant's job – bully, harass or intimidate anyone

Further, your actions were in breach of the Teachers Code of Professional Practice including:

1.1.2 Demonstrate high standards of professional practice.

Teachers demonstrate a high standard in teaching and learning by:

- *Supporting the personal and professional development of others*
- *Assisting in developing and mentoring beginning teachers*

1.1.5 Discourage any form of discrimination or harassment in the workplace

Teachers act to help remove discrimination and harassment in the workplace by:

- *Acting as positive role models*

1.1.6 Discourage any form of discrimination or harassment in the workplace

Teachers act to help remove discrimination and harassment in the workplace by:

- *Promoting an environment that is accepting of and tolerant of diversity, and is free from intimidation, threat, humiliation and harassment*

Allegation two

The investigator found, on the balance of probabilities, that there was **sufficient information** to conclude that on [REDACTED], at [REDACTED], you conduct a self defence lesson with you [REDACTED] students which is not part of the curriculum. During the lesson, you requested [REDACTED] to assist you in a demonstration and in doing so you struck [REDACTED] multiple times in the arm causing bruising. Your actions made [REDACTED] feel 'unsupported, unsafe and powerless'.

I have accepted the investigation findings and my proposed determination is that **serious misconduct has occurred**, as defined in clause H6.6 of the Agreement.

Your actions in striking [REDACTED] a number of times on the arm during the demonstration resulting in bruising to [REDACTED] arm was inappropriate, intimidating and caused physical harm to [REDACTED]. The evidence does not support that you sought

██████████ permission to participate in the demonstration. In striking ██████████ the evidence supported that you used considerable force, and your warning ██████████ that you were going to swing your arm towards ██████████ in a more forceful way indicates that your force was intentional and deliberate.

Further your actions towards ██████████ ██████████ has brought the Directorate's reputation into disrepute ██████████

Clause H6.6 of the Agreement defines serious misconduct as:

"conduct that is so serious that it may be inconsistent with the continuation of the employee's employment with the Territory. Serious misconduct includes but is not limited to the kinds of serious misconduct defined within the Fair Work Regulations."

The Fair Work Regulations 2009 define serious misconduct as:

1.07 Meaning of serious misconduct

(1) For the definition of serious misconduct in section 12 of the Act, serious misconduct has its ordinary meaning.

(2) For sub regulation (1), conduct that is serious misconduct includes both of the following:

- (a) wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment;*
- (b) conduct that causes serious and imminent risk to:

 - (i) the health or safety of a person; or*
 - (ii) the reputation, viability or profitability of the employer's business.**

I consider that your conduct in relation to allegation two was in breach of section 9 (1)(c)(i)(iv)(d) and (2)(a)(i)(e) of the PSM Act and paragraphs 1.1.2, 1.1.5 and 1.1.6 of the Teachers Code of Professional Practice as outlined above.

Allegation three

The investigator found, on the balance of probabilities, that there was sufficient evidence to conclude that on ██████████, at ██████████ in continuation of a self defence lesson with Year ██████████ students which is not part of the curriculum, you grabbed ██████████ right arm and pinned ██████████ to the ground. As ██████████ was on the ground, you placed your knee in ██████████ back and twisted ██████████ right arm causing her pain. Your actions made ██████████ feel 'scared, powerless and uncomfortable'.

I have accepted the investigation findings and my proposed determination is that serious misconduct has occurred, as defined in clause H6.6 of the Agreement.

Your conduct towards ██████████ in grabbing ██████████ arm, pinning ██████████ to the ground, placing your knee in ██████████ back and twisting ██████████ right arm in front of the class of Year

█ students was inappropriate, physically intimidating, humiliating and had potential to cause physical harm to █.

You did not seek permission from █ to demonstrate the move with █ and your actions left █ feeling 'scared, powerless and uncomfortable'.

I cannot accept that your actions in pinning █ to the ground were intended to "advance █ confidence in █ capabilities to lead a class" or to "help █ address the nervousness █ had expressed about working with students who █ found to be █" as you claimed. In contrast, your actions were physically intimidating towards █.

Your actions in relation to allegation three have caused imminent risk to the health and safety of █ and brought the reputation of the Directorate into disrepute.

I consider that your conduct in relation to allegation three was in breach of section 9 (1)(c)(iv)(d) and (2)(b)(ii)(e) of the PSM Act and paragraphs 1.1.2, 1.1.5 and 1.1.6 of the Teachers Code of Professional Practice.

Allegation four

The investigator found, on the balance of probabilities, that there was sufficient evidence to conclude that on █, at █ you conducted a self-defence lesson with Year █ students which is not part of the curriculum. During the lesson, you demonstrated to the class how to defend against someone with a knife. You asked █ to be a volunteer and made stabbing motions towards █ with a steak knife that you obtained from the staffroom kitchen. Your actions made █ feel 'unsupported, unsafe and powerless'.

I have accepted the investigation findings and my proposed determination is that serious misconduct has occurred, as defined in clause H6.6 of the Agreement.

Your actions in making stabbing motions towards █ with a knife were highly inappropriate. It was intimidating, threatening and disrespectful towards █ and was highly inappropriate and violent behaviour in front of students.

Your actions in relation to allegation four had potential to cause injury to █ and has brought the reputation of the Directorate into disrepute.

I consider that your conduct in relation to allegation four was in breach of section 9 (1)(c)(iv)(d) and (2)(a)(i)(e) of the PSM Act and paragraphs 1.1.2, 1.1.5 and 1.1.6 of the Teachers Code of Professional Practice.

Allegation five

The investigator found, it **cannot be determined** on the balance of probabilities, that on [REDACTED], at [REDACTED], whilst alone with [REDACTED] after the final lesson of the day, you said words to the effect of “Did you notice student [B] has such big boobs. I just don’t know where to look sometimes”. You then said words to the effect that another female student “Had a really short skirt on and that I could see right up it and throughout the lesson I felt like my eyes kept going back to it and I could see everything”.

However, I have determined that you made an inappropriate comment to [REDACTED] in the context of a continuing discussion regarding the dress code, regarding a female student whereby you stated you observed a student wearing “unsupportive clothes and noticing her breasts moving around” during an external workout class.

My proposed determination, in relation to the inappropriate comment, is that **misconduct has occurred** as defined in clause H6.5 of the Agreement.

The comment was inappropriate and disrespectful to the student and [REDACTED]. The discussion also made [REDACTED] feel awkward and uncomfortable.

I consider that your conduct in relation to allegation five was in breach of section 9 (1)(a)(iv) and (2)(a)(i)(e) of the PSM Act.

Opportunity to respond

You have 14 calendar days from the date of this letter pursuant to H10.3.4 of the Agreement to provide your written response to the investigation and misconduct findings. Your response should be provided to EDUpeoplecases@act.gov.au.

Following consideration of your response, or if no response is received from you, you will be informed in writing of my final determination and if the determination is that misconduct has occurred the matter will be referred to the delegate for the head of service to determine whether or not disciplinary action is appropriate in accordance with H11 Disciplinary Action and Sanctions of the Agreement.

Suspension with pay

Given the seriousness of the allegations and my proposed finding that serious misconduct has occurred, I have determined that your suspension with pay, in accordance with clause H8 of the Agreement, will continue as it is not in the best interests of the Directorate for you to be teaching whilst we work through the outcome of the investigation. Your continuing suspension will also provide you with sufficient time to prepare any response you wish to provide in relation to the proposed determination.

During the period of suspension, you must be available to attend work and participate in the disciplinary process within 48 hours of receiving notice. The Directorate may periodically review your suspension with pay.

The directions outlined to you in your suspension letter of [REDACTED] continue to apply.

Reportable conduct

In the letter of [REDACTED], you were advised that the allegations of misconduct also constituted allegations of reportable conduct. The PSU investigation has been conducted in accordance with the requirements of the Reportable Conduct Scheme and section 17EB of the *Ombudsman Act 1989*.

Having considered the investigation report and evidence I have determined that reportable conduct in relation to allegations two, three and four, in the category of Ill-treatment of a Child – Emotional Abuse, is **sustained**.

Following consideration of any response that you provide to the investigation findings, a report will be forwarded to the ACT Ombudsman for their consideration in accordance with clause 17J of the *Ombudsman Act 1989*.

Information sharing

The Directorate will give consideration to sharing the outcome of the reportable conduct matter with the Commissioner for Fair Trading and the ACT Teacher Quality Institute in accordance with Section 863CA of the *Children and Young Peoples Act 2008*.

In addition, any disciplinary sanction will be notified to the ACT Teacher Quality Institute in accordance with section 70B of the *ACT Teacher Quality Institute Act 2010*.

Confidentiality

You are directed not to share or disclose the contents of the investigation report or this letter to any person, except your identified support person or employee representative, without my prior permission.

Support available

Should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related and personal issues. Please call one of the providers below to arrange an appointment.

- **Assure**
Phone: 1800 808 374 and website: www.assureprograms.com.au
- **Converge International**
Phone: 1300 687 327 and website www.convergeinternational.com.au
- **Benestar**
Phone: 1300 360 364 and website: www.davcorp.com.au
- **People Sense**

Phone: (08) 9388 9000 and website: www.peoplesense.com.au

If you have any questions in relation to the information contained in this letter, please contact me at EDUpeoplecases@act.gov.au.

Yours sincerely



Rory Martin
Executive Branch Manager
People and Performance





[REDACTED]

[REDACTED]

Final misconduct determination

On [REDACTED] Megan Moriarty, Director People Cases and Anthony Goodwin, Director HR Business Partners met with you to provide you with the outcome of the Professional Standards Unit (PSU) investigation and my determination that misconduct and serious misconduct had occurred.

In the letter provided to you in the meeting on [REDACTED] you were provided with 14 days to respond to the determination that misconduct and serious misconduct had occurred, and following your request for an extension, you provided a response through your legal representative, [REDACTED] on [REDACTED]

As the delegate in this matter, I have carefully considered all of the matters raised in your response and I have reconsidered my determinations.

In respect of allegations 1 and 5, I accept the findings of the investigation however on reconsideration I have determined that your conduct in relation to these allegations does not constitute misconduct.

In respect of allegations, 2, 3 and 4, my determination stands that serious misconduct occurred.

The reasons for my decisions are outlined below.

Reasons for decision

Allegation one

The investigator found, on the balance of probabilities, that there was sufficient information to conclude that you asked [REDACTED] to explain 'revenge porn' to the year [REDACTED] class and that you said words to the effect of 'if me and [REDACTED] were in a relationship and [REDACTED] sent me some nudes and I forwarded them on to other people..'. This caused [REDACTED] to feel 'really uncomfortable' in front of the students.

In my initial finding I accepted the finding and determined that misconduct had occurred. Upon reconsideration I accept the investigation findings however I have determined that your conduct in relation to allegation one does not constitute misconduct.

I accept that you asked [REDACTED] to prepare and present to the year [REDACTED] class on the topic of revenge porn as part of the [REDACTED] subject and that [REDACTED] had adequate time to prepare and raise any concerns in relation to the topic. Although this topic is not specifically part of the curriculum, it is not inconsistent with the scope of the curriculum.

As an experienced teacher you should have anticipated [REDACTED] [REDACTED] may have felt uncomfortable and should have planned the outline better in conjunction with [REDACTED] and debriefed after the presentation [REDACTED].

In reconsidering the information, I have determined that misconduct did not occur in relation to allegation one.

Allegation two

The investigator found, on the balance of probabilities, that there was sufficient evidence to conclude that you conducted a self-defence lesson with year [REDACTED] students which is not part of the curriculum. During the lesson you requested [REDACTED] to assist you in a demonstration and in doing so you struck [REDACTED] multiple times in the arm causing bruising. Your actions made [REDACTED] feel 'unsupported, unsafe and powerless'.

In my initial review I accepted these findings. Upon reconsideration I have determined that my decision stands, and I have determined that serious misconduct occurred.

I accept that basic self-defence forms part of the [REDACTED] course and I have reviewed the video demonstrations provided. However, the witness statements supported that [REDACTED] was not a willing participant and in demonstrating the technique, you did so with sufficient force to cause bruising or at the very least discomfort and left [REDACTED] feeling embarrassed and humiliated. It is my view that you did not act with reasonable care; and as an experienced teacher, you should have expected your actions to cause intimidation.

I maintain that your actions in relation to allegation two were in breach of section 9 of the *Public Sector Management Act 1994* and the Teachers' Code of Professional Practice and constitute serious misconduct.

Allegation three

The investigator found, on the balance of probabilities, that there was sufficient evidence to conclude that in continuation of a self-defence lesson with [REDACTED] students which is not part of the curriculum, you grabbed [REDACTED] right arm and pinned [REDACTED] to the ground. As [REDACTED] was on the ground you placed your knee in [REDACTED] back and twisted [REDACTED] right arm causing [REDACTED] pain. Your actions made [REDACTED] feel 'scared, powerless and uncomfortable'.

In my initial review I accepted these findings. Upon reconsideration I have determined that my decision stands, and I have concluded that misconduct occurred.

I maintain that your actions in relation to allegation three were in breach of section 9 of the *Public Sector Management Act 1994* and the Teachers' Code of Professional Practice and constitute serious misconduct.

Allegation four

The investigator found, on the balance of probabilities, that there was sufficient evidence to conclude that you conducted a self-defence lesson with Year 11 students which is not part of the curriculum. During the lesson you demonstrated to the class how to defend against someone with a knife. You asked [REDACTED] to be a volunteer and made stabbing motions towards [REDACTED] with a steak knife that you obtained from the staff room kitchen. Your actions made [REDACTED] feel 'unsupported, unsafe and powerless'.

In my initial review I accepted these findings. Upon reconsideration I have determined that my decision stands, and I have concluded that serious misconduct has occurred.

I maintain that your actions in relation to allegation four were in breach of section 9 of the *Public Sector Management Act 1994* and the Teachers' Code of Professional Practice and constitute serious misconduct.

Allegation five

The investigator found, it cannot be determined that on the balance of probabilities, whilst alone with [REDACTED] after the final lesson of the day, you said words to the effect of "Did you notice student [B] has such big boobs. I just don't know where to look sometimes'. You then said words to the effect another female student 'had a really short skirt on and that I could see right up it and throughout the lesson I felt my eyes kept going back to it and I could see everything'.

I accept that you and [REDACTED] were together in a classroom and had engaged in conversation regarding dress standards of students.

I accept that the discussion made [REDACTED] feel 'awkward and uncomfortable', however, it is my view that you did not intend to be disrespectful.

In my initial review, I determined that you made inappropriate comments to [REDACTED] and that you had engaged in misconduct. Upon reconsideration, I note that while these comments were unprofessional and therefore inappropriate, I have determined that this did not constitute as misconduct. However, you should be reminded about engaging in such conversation relating to student's appearance with other [REDACTED].

Next steps

I will now proceed to refer the matter to the head of service for consideration of whether or not disciplinary action is to be taken in accordance with clause H11 of the *ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-2022*. You will be informed in writing of any disciplinary action to be taken and provided with seven calendar days to respond.

Support available

A reminder that should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related and personal issues. Please call one of the providers below to arrange an appointment.

- **Assure**
Phone: 1800 808 374 and website: www.assureprograms.com.au
- **Converge International**
Phone: 1300 687 327 and website www.convergeinternational.com.au
- **Benestar**
Phone: 1300 360 364 and website: www.davcorp.com.au
- **People Sense**
Phone: (08) 9388 9000 and website: www.peoplesense.com.au

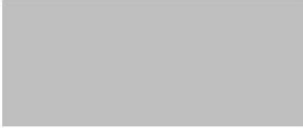
If you have any questions please contact Megan Moriarty, Director People Cases on 6205 8271 or megan.moriarty@act.gov.au.

Yours sincerely



Rory Martin
Executive Branch Manager
People and Performance





Proposed sanction

Further to (acting) Executive Branch Manager People and Performance, Mr Rory Martin's letter of [REDACTED] regarding the outcome of the PSU investigation and final misconduct determination, you were informed that the matter would be referred to the head of service for consideration of whether or not disciplinary action is to be taken in accordance with clause H11 of the ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-2022 (the Agreement).

As the sanction delegate for the head of service, I have carefully considered all relevant information including the investigation report and attachments, your responses and the misconduct determination, and propose the following disciplinary action in accordance with clause H11 of the Agreement:

- Written reprimand
- Financial penalty by way of reduction of salary increment points from [REDACTED] to [REDACTED] for a period of 12 months

I consider the proposed sanction to be proportionate to the degree of misconduct. The reasons for my decision are outlined in Attachment A.

I can confirm that your paid suspension will be lifted following the finalisation of the disciplinary action [REDACTED]

However, given the seriousness of the misconduct, the impact on [REDACTED] and that the behaviour occurred in front of students, I consider extensive remedial actions are also required to ensure that any future risks to the health, safety and wellbeing of [REDACTED] and any repetition of misconduct is mitigated so far as is possible.

You are required to adhere to the following formal directions which are considered reasonable and lawful and enduring throughout the course of your employment:

- You are directed not to [REDACTED] for the duration of your employment in the ACT Public Service and in ACT public schools
- You are directed not to engage in any inappropriate behaviour towards or in front of [REDACTED]
- You are directed to ensure that all lessons comply with the school's approved curriculum

The following remedial actions are also required:

- You provide a written apology to [REDACTED]
- A Performance Development Plan is developed and implemented to support you [REDACTED] including key performance goals aligning with the approved curriculum and appropriate teaching pedagogy
- Close and regular monitoring and observations of your teaching pedagogy by relevant Executive staff [REDACTED]
- Completion of the new Code of Conduct for Teachers and School Leaders mandatory online training

Response

In accordance with clause H11.6 of the Agreement, you have 7 calendar days from the date of this letter to respond to the proposed disciplinary action. After considering your response to the proposed sanction or if no response is received, I will confirm any disciplinary action in writing.

Reporting Obligations

As previously indicated, the Directorate has a number of reporting obligations in relation to this matter. My consideration of these obligations is outlined below.

a) ACT Ombudsman - Reportable Conduct

As indicated in previous correspondence reportable conduct in the category of Ill Treatment of a Child – Emotional Abuse is sustained. The Directorate will proceed to prepare a final report for the ACT Ombudsman in accordance with section 17J of the *Ombudsman Act 1989*.

b) TQI Notification

In accordance with Section 70(B) of the *ACT Teacher Quality Institute Act 2010*, the Directorate is required to notify TQI when disciplinary action is taken against a teacher. Therefore, the Directorate will notify TQI when a final sanction decision is made.

c) Working with Vulnerable People

Reportable conduct information in relation to this matter will be shared with the Commissioner for Fair Trading in accordance with section 863CA of the *Children and Young People Act 2008*.

The above entities may contact you to seek further information in relation to this matter.

Support Available

I would like to remind you that should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related or personal issues. Please contact one of the providers directly should you wish to utilise their services.

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Phone: 1300 687 327 and website: <https://www.convergeinternational.com.au>
- **Benestar Pty Ltd**
Phone: 1300 360 364 and website: <https://benestar.com>
- **Assure**
Phone: 1300 505 015 and website: <https://assureprograms.com.au>
- **People Sense**
Phone: (08) 9388 9000 and website: <http://www.peoplesense.com.au>

Should you have any questions in relation to this matter please contact Megan Moriarty, Director People Cases on 6205 8271 or Megan.Moriarty@act.gov.au.

Yours sincerely



Deb Efthymiades
Deputy Director General
System, Policy and Reform



Attachment A - Reasons for decision

Having carefully considered the relevant information including the investigation report and attachments, [REDACTED] responses and the misconduct determination, the reasons for my decision are outlined below.

The nature and seriousness of the misconduct

[REDACTED] actions in relation to the substantiated allegations were a serious breach of the Teachers' Code of Professional Practice. I accept the assessment of the misconduct delegate that [REDACTED] actions constituted serious misconduct.

Careful consideration was given to the appropriateness of the continuation of [REDACTED] employment. Taking into account the mitigating factors including the circumstances of the misconduct, that the conduct occurred on one day and there were no previous findings of misconduct relating to [REDACTED] I consider the disciplinary sanction of termination of employment to be potentially harsh.

However, for [REDACTED] employment to continue, extensive remedial actions are required to ensure that any risk to the health and safety of [REDACTED] and any repetition of misconduct is mitigated so far as is possible.

The degree of relevance to the employee's duties or to the reputation of the Directorate or the ACTPS

[REDACTED] actions occurred during the course of [REDACTED] duties as a classroom teacher, whilst the [REDACTED] conduct occurred in front of students.

Teachers play important role models not only for [REDACTED] but also for [REDACTED]. Further, [REDACTED] plays a critical part in the development of [REDACTED]. [REDACTED] actions towards and whilst [REDACTED] were highly inappropriate and posed a significant risk [REDACTED]. The fact that [REDACTED] is not required to [REDACTED] in the performance of [REDACTED] was a key factor in my decision making and I consider it is necessary to mitigate any further risk to future [REDACTED] by ensuring [REDACTED] does not [REDACTED] now and into the future.

Further, [REDACTED] actions had potential to bring the Directorate's reputation into disrepute with the [REDACTED] as a result of the incidents. [REDACTED]

The circumstances of the misconduct

██████████ is an experienced teacher who was aware of ██████ obligations under the Teachers' Code of Professional Practice. It is difficult to understand how a teacher with ██████ experience did not anticipate the seriousness of ██████ actions and their potential impact. It is my view that the disciplinary sanctions and extensive remedial actions proposed will assist ██████ to understand the seriousness of ██████ behaviour and learn from this experience. Further, the remedial action will assist ██████ to ensure ██████ lessons comply with the approved curriculum and ensure appropriate teaching pedagogy.

Any mitigating factors including any full admission of guilt

██████████ made partial admissions to the conduct during the investigation and stated ██████ was exceptionally sorry for the impact to ████████████████████. I have taken into consideration ██████ ██████ remorse as stated in ██████ response in recommending ██████ make a written apology to ████████████████████. I believe this will be important closure for ████████████████████ and ████████████████████.

The previous employment history and the general conduct of the employee

██████████ is an experienced teacher with more than ██████ years' service with the Education Directorate. There were no records of previous misconduct matters relating to ████████████████████ and I acknowledge the allegations relate to one day in ██████ extensive employment history with the Directorate. However, as a highly experienced teacher, ████████████████████ was aware of ██████ obligations under the Teachers Code of Professional Practice and should have been aware of the inappropriateness of ██████ actions and anticipated the impact on ████████████████████.



Final sanction

Further to the proposed sanction of written reprimand and reduction in salary increment points, provided to you in a meeting with People and Performance on [REDACTED] you were provided with an opportunity to respond to the proposed sanction and a response and draft written apology was received from you on [REDACTED]

Having carefully considered your response, I have determined the following final sanction in accordance with clause H11 of the ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-22 (the Enterprise Agreement):

- Written reprimand
- Financial penalty by way of reduction of [REDACTED] salary increment point from [REDACTED] to [REDACTED] for a period of 12 months, effective from the first day of the next pay period.

I consider the sanction to be proportionate to the degree of misconduct. My assessment and the reasons for my decision as provided to you in the proposed sanction letter have not changed. The reasons for my final decision and consideration of your response are provided below.

You engaged in serious misconduct that resulted in harm [REDACTED]. This inappropriate conduct occurred in front of children. As a result, it was reasonably open to [REDACTED] Directorate to consider whether your conduct was consistent with the continuation of your employment and serious consideration was given to the discipline sanction of termination of employment in accordance with clause H11.1.7 of the Enterprise Agreement.

In my initial assessment, the proposed sanction of written reprimand and reduction in [REDACTED] increment points was not intended to be a punitive measure but to reflect the seriousness of the misconduct that occurred and recognise that your conduct was not commensurate with the expectations of an experienced teacher [REDACTED]

I acknowledge your response in relation to the impact of the substantial reduction in salary on your personal circumstances [REDACTED]. In this context, I have

reconsidered my decision and determined that a reduction of █ increment point for a period of 12 months is more appropriate in the circumstances.

Written reprimand

This letter constitutes a written reprimand in accordance with clause H11.1.3 of the Enterprise Agreement. Your conduct in relation to the substantiated allegations was in breach of the *Public Sector Management Act 1994* and the Teachers Code of Professional Practice (in place at the time).

Specifically, section 9 of the *Public Sector Management Act 1994* requires:

(1) A public servant must –

(c) when acting in connection with the public servant's job –

(iv) treat all people with courtesy and sensitivity to their rights and aspirations

(d) do the public servant's job with reasonable care and diligence, impartiality and honesty

(2) A public servant must not –

(a) behave in a way that-

(i) is inconsistent with the public sector values

(e) when acting in connection with the public servant's job – bully, harass or intimidate anyone

Further, your conduct was also in breach of the Teachers Code of Professional Practice including:

1.1.2 Demonstrate high standards of professional practice.

Teachers demonstrate a high standard in teaching and learning by:

- *Supporting the personal and professional development of others*
- *Assisting in developing and mentoring beginning teachers*

1.1.5 Discourage any form of discrimination or harassment in the workplace

Teachers act to help remove discrimination and harassment in the workplace by:

- *Acting as positive role models*

1.1.6 Discourage any form of discrimination or harassment in the workplace

Teachers act to help remove discrimination and harassment in the workplace by:

- *Promoting an environment that is accepting of and tolerant of diversity, and is free from intimidation, threat, humiliation and harassment*

You are required to adhere to the following formal directions which are considered reasonable and lawful and are enduring throughout the course of your employment:

- You are directed not to [REDACTED] for the duration of your employment in the ACT Public Service and in ACT public schools
- You are directed not to engage in any inappropriate behaviour towards or in front of [REDACTED]
- You are directed to ensure that all lessons comply with the school's approved curriculum

You are also required to participate in the following remedial actions in good faith:

- Provide a written apology to [REDACTED] (draft provided [REDACTED])
- A Performance Development Plan is developed and implemented to support you in your position at [REDACTED] including key performance goals aligning with the approved curriculum and appropriate teaching pedagogy
- Close and regular monitoring and observations of your teaching pedagogy by relevant Executive staff [REDACTED]
- You are required to complete the new Code of Conduct for Teachers, School Leaders and Principals mandatory online training by [REDACTED]

It is important that you understand that any repetition of misconduct may result in a further misconduct process and disciplinary action may be taken, up to and including termination of employment.

You should also be aware that the Teachers Code of Professional Practice has been replaced by the Code of Conduct for Teachers, School Leaders and Principals. Although your conduct was assessed against the Teachers Code of Professional Practice in place at the time, you are required to familiarise yourself with the Code of Conduct (copy provided) and complete the online training.

Reporting obligations

As previously indicated, the Directorate has a number of reporting obligations in relation to this matter. The Directorate will proceed to:

- Provide a final report to the ACT Ombudsman in accordance with s17J of the *Ombudsman Act 1989*
- Notify TQI that disciplinary action has been taken in accordance with s70B of the *ACT Teacher Quality Institute 2010*
- Share information with Working with Vulnerable People in accordance with section 863CA of the *Children and Young People Act 2008*.

The above entities may contact you to seek further information in relation to this matter.

Right of appeal

In accordance with Section J Appeal Mechanism of the Enterprise Agreement, you have the right to appeal any decision to take disciplinary action, except a decision to terminate your employment. I have attached a copy of section J for your information (Attachment A) and

further information regarding the appeals process provided by the ACTPS Appeals Convenor is also included (Attachment B).

Suspension and return to work

I can confirm that your paid suspension will be lifted following your receipt of this letter and you are required to return to work [REDACTED] understand that you have met with [REDACTED] regarding your transition back to work this year. Please report to [REDACTED] on [REDACTED].

Confidentiality

You are directed not to share or disclose the allegations, investigation or outcome to any person, except your identified support person or employee representative, without first seeking permission from People and Performance. Any breaches of confidentiality may constitute misconduct and further disciplinary action may apply.

Support available

I would like to remind you that should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related or personal issues. Please contact one of the providers directly should you wish to utilise their services.

- **Converge International**
Phone: 1300 687 327 and website: <https://www.convergeinternational.com.au>
- **Benestar Pty Ltd**
Phone: 1300 360 364 and website: <https://benestar.com>
- **Assure**
Phone: 1300 505 015 and website: <https://assureprograms.com.au>
- **People Sense**
Phone: (08) 9388 9000 and website: <http://www.peoplesense.com.au>

Should you have any questions in relation to this matter please contact Megan Moriarty, Director People Cases on 6205 8271 or Megan.Moriarty@act.gov.au.

Yours sincerely

[REDACTED]

Deb Efthymiades
Deputy Director General
System, Policy and Reform
[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: [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 checked="" type="checkbox"/> Meeting scheduled with Registration Review panel	Date of meeting: 04/02/2021
<input checked="" type="checkbox"/> s70C request sent to employer	Date of request: 13/01/2021

Background

TQI advised by the Education Directorate under s.70B of the ACT Teacher Quality Institute Act 2010 of several incidents that occurred in November 2019 at [REDACTED] relating to a [REDACTED]. Investigation and sanctions from EDU included directed not to [REDACTED] for the duration of your employment in the ACT Public Service and in ACT public schools; directed not to engage in any inappropriate behaviour towards or in front of [REDACTED]; directed to ensure that all lessons comply with the school's approved curriculum. [REDACTED] also asked to participate in remedial actions in good faith: Provide a written apology; A Performance Development Plan is developed and implemented to support you in your position [REDACTED] including key performance goals aligning with the approved curriculum and appropriate teaching pedagogy; Close and regular monitoring and observations of your teaching pedagogy by relevant Executive staff [REDACTED]; required to complete the new Code of Conduct for Teachers, School Leaders and Principals mandatory online training by [REDACTED] TQI assessment of whether a condition should be placed upon registration renewal relating to close and regular monitoring was required. [REDACTED] asked to participate in meeting to provide further information which would enable a decision regarding a condition to be made.

Evidence Provided: See case file.

Initial Assessment

<input checked="" type="checkbox"/> Notified teacher to request meeting	Date of meeting [REDACTED]
<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 purposes of the meeting of [REDACTED] was to emphasise the requirement to uphold the standards of the teaching profession. From the information provided at the meeting, it was evident that close and regular monitoring and observations of your teaching pedagogy by relevant Executive staff [REDACTED] is occurring and that [REDACTED] is participating in this [REDACTED]. Delegate considers that no further action in relating to the renewal of registration, as it relates to the information provided under s70B, is required. Delegate to organize an independent review of this decision.

<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 checked="" type="checkbox"/> Yes	<input 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 checked="" 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]	



ACT
Government



TQI Reference: [REDACTED]



Sent via: [REDACTED]



Final determination letter

I have been advised by the Education Directorate under s.70B of the *ACT Teacher Quality Institute Act 2010* of several incidents that occurred in [REDACTED] at [REDACTED] [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 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.

Following our meeting on the [REDACTED], I have reviewed all the relevant information and taken into account the information provided at our meeting relating to remedial actions proposed by your employer, taken in good faith. 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 at our meeting of [REDACTED], I am satisfied that *close and regular monitoring and observations of your teaching pedagogy by relevant Executive staff* [REDACTED] is occurring and that you are participating in this remedial action in good faith.

I consider therefore that no further action in relating to the renewal of registration, as it relates to the information provided under s70B, is required.

Registration renewal

At our meeting we discussed the requirement for 20 hours of professional learning for [REDACTED] and suggested ways in which professional learning undertaken in [REDACTED] [REDACTED] could be reflected upon and allocated to the hours required for registration renewal purposes. We remain available to assist you with this aspect of registration renewal if required.

If you have any queries about this matter please contact Ms Claudia Hale on 6205 8207 or email Claudia.Hale@act.gov.au .

Yours sincerely

[REDACTED]

Coralie McAlister
Chief Executive Officer

[REDACTED]

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

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

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

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Freedom of Information Act 2016, Schedule 2.2(a)(iii)

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 12 – Refer to 2020 – Case 20			
12.1	Letter to the ACT Ombudsman		Non-release	Schedule 2.2(a)(ii)
12.2	Letter – Private and Confidential		Partial release	Schedule 2.2(a)(ii)
12.3	Letter – Preliminary Findings		Partial release	Schedule 2.2(a)(ii)
12.4	Letter – Final Findings		Partial release	Schedule 2.2(a)(ii)
12.5	Final Investigation Report		Partial release	Schedule 2.2(a)(ii) and Confidential Information and Management Function Appendix A is not released

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