



BRITISH COLUMBIA
COMMISSIONER FOR
TEACHER REGULATION

IN THE MATTER OF THE *TEACHERS ACT*, SBC 2011 c. 19

AND

IN THE MATTER CONCERNING

KATHIE FAY FAIRCLOUGH



CONSENT RESOLUTION AGREEMENT

BETWEEN:

THE COMMISSIONER, APPOINTED UNDER THE *TEACHERS ACT*
(the “Commissioner”)

AND:

KATHIE FAY FAIRCLOUGH
(“Fairclough”)

BACKGROUND and FACTS

1. Fairclough held a Conditional Certificate of Qualification, No. [REDACTED]. It was issued by the Director of Certification (the “Director”) under the *Teachers Act* on October 9, 2012 and was valid from October 9, 2012 until June 30, 2017.
2. Fairclough holds a valid Professional Certificate of Qualification, No. [REDACTED] issued by the Director under the *Teachers Act* on February 10, 2017 and valid from February 10, 2017.
3. At all material times, Fairclough was employed as an elementary school teacher by School District No. 75 (Mission) (the “District”) at a District School (the “School”).
4. On May 27, 2021, the District made a report to the Commissioner regarding Fairclough, under section 16 of the *School Act*.

5. The following events occurred on April 26, 2021 when Fairclough was teaching a Grade 5/6 music class at the School:
 - a. Fairclough was in the student's classroom, standing at a laptop. Student A leaned around the computer and placed themselves between Fairclough and her computer and was looking at the screen. Fairclough was angry and alarmed that Student A was blocking the computer from her and was looking at the screen. Fairclough reacted by pushing Student A out of the way with one hand and telling them to respect her personal space. Student A lost their balance in their chair but did not fall over. After pushing Student A, Fairclough did not ask Student A if they were alright. She then quietly reminded Student A to respect her personal space. The incident occurred in front of the entire class.
6. On May 27, 2021, the District issued Fairclough a letter of discipline and suspended her without pay for three days. Fairclough served her suspension in June 2021. In addition, the District required Fairclough to complete the course, *Creating a Positive Learning Environment*, through the Justice Institute of B.C.
7. On August 27, 2021, the Commissioner considered this matter and determined to propose a consent resolution agreement to Fairclough, in accordance with section 53(1)(a) of the *Teachers Act*.

CONSEQUENCES

8. This Agreement is made under section 53 of the *Teachers Act*.
9. Fairclough understands and acknowledges that this Agreement is not effective until executed by the Commissioner, and that the date of execution by the Commissioner will be the effective date of this Agreement (the "Effective Date").
10. Fairclough admits that the facts set out in paragraphs 1 to 6 of this Agreement are true.
11. Fairclough admits that the conduct described in paragraph 5 of this Agreement constitutes professional misconduct and is contrary to Standard #1 of the *Professional Standards for BC Educators*, May 2019.
12. Fairclough agrees to a reprimand under sections 53 and 64(a) of the *Teachers Act*, which will take effect on the first business day following the Effective Date.
13. Fairclough agrees under section 64(f) and (h) of the *Teachers Act* that by **April 1, 2022** (the "Condition Date"):
 - a. She will successfully complete the course *Creating a Positive Learning Environment*

through the Justice Institute of British Columbia (the “Course”) and provide satisfactory proof of completion to the Commissioner by the Condition Date.

- b. If Fairclough does not successfully complete the Course by the Condition Date, she will immediately advise the Commissioner in writing of the reason(s) she has not successfully completed it and set out the date by which she proposes to do so, at which time the Commissioner may extend the Condition Date to a later date (the “Extended Date”).
 - c. If Fairclough fails to provide satisfactory proof of completion of the Course by the later of the Condition Date or the Extended Date, the Commissioner may require the Director of Certification (“the Director”) to suspend Fairclough’s certificate of qualification under section 64(f) of the *Teachers Act*, until such time as she successfully completes the Course.
14. In determining that a reprimand and course condition are appropriate consequences, the Commissioner considered the following factors:
- a. Fairclough failed to model appropriate behaviour expected of an educator; and
 - b. Fairclough failed to create a positive learning environment for her students.
15. Fairclough agrees not to make any statement orally or in writing which contradicts, disputes or calls into question the terms of this Agreement or the admissions made in it.

EFFECT OF THE AGREEMENT

16. The Director will record the terms of this Agreement on the Ministry of Education’s online registry under section 79(d) of the *Teachers Act*.
17. Fairclough acknowledges that this Agreement will be published in accordance with section 54 of the *Teachers Act*, which includes posting the Agreement, in full, on the following website: www.teacherregulation.gov.bc.ca.
18. A breach by Fairclough of any term in this Agreement may constitute professional misconduct which may be the subject of separate discipline proceedings.
19. Fairclough acknowledges and understands that if the Commissioner has reason to believe that she has breached any term of this Agreement:
 - a. the Commissioner may initiate an investigation under section 47(1)(b) of the *Teachers Act* into her conduct; and

b. the conduct and matters described in the "Background and Facts" to this Agreement are admissible in that inquiry as proof that Fairclough has admitted to the conduct and matters set out in this Agreement.

20. Fairclough acknowledges that she has voluntarily entered into this Agreement with the benefit of independent legal advice, and that he fully understands the terms and conditions set out in this Agreement.

Signed in Wolfville, ²⁴ B.C. ^{N.S.}
this 23rd day of February, ²⁴ ~~2021~~ 2022


Kathie Fay Fairclough ✓

Signed in Victoria, B.C.
this 23 day of February, ~~2021~~ 2022


Howard L. Kushner, Commissioner