BRITISH COLUMBIA
COMMISSIONER FOR
TEACHER REGULATION

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

AND

IN THE MATTER CONCERNING

TRACY JOSEPH FAIRLEY

[redacted]

CONSENT RESOLUTION AGREEMENT

BETWEEN:

THE COMMISSIONER, APPOINTED UNDER THE *TEACHERS ACT*

(the "Commissioner")

AND:

TRACY JOSEPH FAIRLEY

("Fairley")

BACKGROUND and FACTS

1. Fairley held a Professional Certificate, No. [redacted] It was issued by the Ministry of Education on October 10, 1984 and was valid from January 9, 1984.

2. Fairley holds a valid Professional Certificate of Qualification, N° [redacted] It was issued by the B.C. College of Teachers on June 3, 1991, is valid from January 1, 1988 and was continued under the *Teachers Act* as of January 9, 2012.

3. At all material times, Fairley was employed as a teacher on call ("TOC") by School District No. 42 (Maple Ridge-Pitt Meadows) (the "District") at a District school (the "School").

4. On May 5, 2018, the District made a report to the Commissioner regarding Fairley, under section 16 of the *School Act*.

5. The following events occurred on January 8, 2018 when Fairley was TOC at the School:

a. Fairley was teaching a Grade 6/7 music class at the School. Instead of teaching the curriculum, Fairley engaged in inappropriate discussions with the students, which included the following:

i. He told students about watching a teenager die in an undertow in Hawaii.

ii. He told students about a bar he went to where a beautiful young woman asked him to buy her a drink. The drink turned out to be very expensive, so he said he was not paying it and when he went to leave, the bouncer stopped him. He described this as a scam or trick the bar played on drunk male customers.

iii. He told students that a serial killer could get them if they ever went hitchhiking, and they might go missing.

iv. He told the students about the Pickton murders, and described how prostitutes were lured to Pickton's home, killed, and then fed to the pigs.

v. He talked about how he hitchhiked through Europe when he was young.

b. Fairley was teaching a Grade 5 music class where students were playing the marimbas. Fairley made a video recording of the students, telling them that he would give the recording to his friend, a music producer, and that he would provide them with copies of it. Fairley did not make inquiries of School administrators about whether video-recording the students was permissible. Further, Fairley made the video recording so that he could show his wife. He never had any intention of sharing it with a music producer. In this regard, he misled the students in the class.

6. On April 23, 2018, Fairley resigned from the District.

7. On July 6, 2018, the Commissioner considered this matter and determined to propose a consent resolution agreement to Fairley, in accordance with section 53(1)(a) of the *Teachers Act*.

DISPOSITION

8. This Agreement is made under section 53 of the *Teachers Act*.

9. Fairley 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. Fairley admits that the facts set out in paragraphs 1 to 6 of this Agreement are true.

11. Fairley admits that the conduct described in paragraph 4 of this Agreement constitutes professional misconduct and is contrary to Standard #1 of the *Standards for the Education, Competence and Professional Conduct of Educators in British Columbia*, Fourth Edition, January 2012.

12. Fairley agrees to a reprimand under sections 53 and 64(a) of the *Teachers Act*. The reprimand will take effect on the first business day following the Effective Date.

13. In determining that a reprimand is an appropriate consequence, the Commissioner considered the following factors:

    a. Fairley lacked insight into his conduct;

    b. The material Fairley discussed with students had nothing to do with the subject-matter he was supposed to be teaching; and

    c. Fairley made a video to share with his wife, and misled the students about the purpose of the video.

14. Fairley 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.

CONSEQUENCES OF THE AGREEMENT

15. The Director of Certification will record the terms of this Agreement on the Branch's online registry under section 79(d) of the *Teachers Act*.

16. Fairley 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.bcteacherregulation.ca.

17. A breach by Fairley of any term in this Agreement may constitute professional misconduct which may be the subject of separate discipline proceedings.

18. Fairley acknowledges and understands that if the Commissioner has reason to believe that he has breached any term of this Agreement:

    a. the Commissioner may initiate an investigation under section 47(1)(b) of the *Teachers Act* into his conduct; and

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

19. Fairley acknowledges that he has voluntarily entered into this Agreement after being advised of his right to obtain independent legal advice, and that he fully understands the terms and conditions set out in this Agreement.

Signed in New Westminster, B.C.
this 6th day of December, 2018.

[redacted]
Tracy Joseph Fairley

Signed in Vancouver, B.C.
this 4 day of January, ~~2018~~ 2019.

Howard L. Kushner, Commissioner