



2026 TAHP 01
Decision issued: January 30, 2026
Citation issued: February 6, 2025
Citation amended: October 6, 2025
File No.: [REDACTED]

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

AND

A HEARING CONCERNING

David Joseph Lamb

(An Authorized Person under the *Teachers Act*)

SUMMARY OF REASONS FOR DECISION ON FINDINGS, DETERMINATION AND PUBLICATION

Date of Hearing: October 21 and 22, 2025
Location: Videoconference via MS Teams
Panel: Paul Singh (Chair), Lisa Kishkan, Dr. Michelle LaBounty
Counsel for the Commissioner: Maureen Boyd & Joanne Kuroyama
No appearance by the Respondent

INTRODUCTION

- [1] A panel was appointed by the Commissioner to conduct a hearing under section 56 of the *Teachers Act*, SBC 2011, c. 19 (“*Teachers Act*”) into a citation issued by the Commissioner on February 6, 2025 (“Original Citation”) and amended October 16, 2025 (the “Amended Citation”).
- [2] School District No. 39 (Vancouver) (“District”) employed David Joseph Lamb (the “Respondent”) as a high school teacher at David Thompson Secondary School (the “School”). The Respondent started teaching in the music program at the School in 2006. He continues to be employed by the District, although he started a medical leave on September 1, 2020 and has not returned to teaching since that date.

- [3] The Respondent holds a certificate of qualification issued under the *Teaching Profession Act* (the predecessor to the *Teachers Act*) on October 5, 2004, valid from September 1, 2004, and continuing under the *Teachers Act* as of January 9, 2012.
- [4] The Commissioner is proceeding with the following allegations in the Amended Citation, which can be grouped into two main allegations:
- (a) Between September 2016 and June 2020, while working at the School, the Respondent failed to observe professional boundaries in his interactions with students when:
 - (i) The Respondent took Student A (a female student) into his office during band class and stayed with her alone in his office for more than 15 minutes, on more than one occasion.
 - (ii) The Respondent often emailed students in his class in the evening, with instructions for the class the next day. He sometimes required students to reply to these emails to confirm receipt.
 - (iii) The Respondent gave some students information about quizzes and assessments that he did not give to other students in the class.
 - (b) Between September 2016 and June 2019, while working at the School, the Respondent failed to maintain appropriate professional boundaries with Student A:
 - (i) The Respondent emailed Student A, particularly in May and June 2019, and often at night.
 - (ii) The Respondent gave Student A gifts of music books and instrument accessories.
 - (iii) The Respondent wrote personal messages to Student A, particularly in June 2018 and June 2019.
 - (iv) The Respondent talked to Student A about personal matters, including religion and dating.
 - (v) The Respondent asked Student A to come to practice in the band room outside of school hours, sometimes starting at or after 5pm and was alone with her.
 - (vi) In the 2018-2019 school year, the Respondent told Student A that her personal life was negatively impacting her ability to play her instruments. He told her she was going to receive a mark of 50%, which was much lower than her usual grade of 100%. The Respondent gave Student A additional work to improve her grade and told her he would work with her to help her with it. The Respondent communicated with her by email about this additional work and met with her outside of class. The Respondent changed Student A's grade to 100% at the end of the school year.

- (vii) In June 2019, the Respondent invited Student A to come into the School to practice, after the end of the school year, and to keep in touch with him about playing her instruments over the summer.
- (viii) On several occasions, the Respondent drove by Student A when she was walking home, including after she changed her route.

- [5] The Commissioner submits that the above-noted allegations have been proven and, consequently, the Respondent has breached any or all of Standards # 1, 2, 3, or 5 of the *Standards for the Education, Competence and Professional Conduct of Educators in British Columbia* (4th Edition, January 2012) (the “Standards”) and is guilty of professional misconduct under s. 63(1)(b) of the *Teachers Act*.
- [6] The Commissioner is not proceeding with their position at paragraph 2 of the Amended Citation that the above-noted allegations constitute conduct unbecoming a teacher. The Commissioner is also not proceeding with allegation 1(a)(i) and 1(a)(ii) of the Amended Citation, namely:
- (a) The Respondent met with Student B alone at the School after 5pm in or about October 2016; and
 - (b) The Respondent met with Student A alone after 6pm in or about April 2018.
- [7] Pursuant to section 63(1)(e) of the *Teachers Act*, the panel directs the Commissioner to further amend the Amended Citation by deleting paragraph 1(a)(i) and 1(a)(ii) and the words “or alternatively, conduct unbecoming a teacher” at paragraph 2.

PROCEEDING WITH THE HEARING IN THE RESPONDENT’S ABSENCE

- [8] The Respondent did not attend the hearing and the Commissioner requested that the hearing proceed in his absence pursuant to section 62 of the *Teachers Act*.
- [9] After hearing submissions from Commissioner’s counsel, the panel ruled that the hearing would proceed in the Respondent’s absence, with reasons for the ruling to be provided in these Reasons for Decision.
- [10] The panel reviewed the affidavit of Melissa Tapia-Liebowitz, legal assistant to counsel for the Commissioner, and accepted the following evidence set out in her affidavit:
- (a) In February 2025, the Original Citation was mailed to the Respondent, along with other documents, via Xpresspost at his last known address. The Original Citation was also emailed to the Respondent at his personal email address.
 - (b) In June 2025, the Commissioner’s Disclosure Index was mailed via Xpresspost and emailed to the Respondent. A digital copy of the documents listed in the Disclosure Index was emailed to the Respondent using a Secure File Transfer System (SFTS).

- (c) In August 2025, the Commissioner's 2nd Disclosure Index was mailed via Xpresspost and emailed to the Respondent. A digital copy of the documents listed in the 2nd Disclosure Index was emailed to the Respondent using the SFTS.
 - (d) In August 2025, the Notice of Hearing was emailed to the Respondent.
 - (e) In September 2025, the Commissioner's witness affidavits and a summary of evidence from Student A was emailed to the Respondent using the SFTS.
 - (f) The Respondent did not respond to any of the above documents.
- [11] The Amended Citation was emailed to the Respondent on or about October 16, 2025. The panel notes that the Amended Citation is almost identical to the Original Citation with the only difference being to allegation 1 (a)(iii). In the Original Citation, allegation 1 (a) (iii) states that the Respondent stayed alone with Student A once in September 2018 for more than 15 minutes. In the Amended Citation, allegation 1(a)(iii) states that the Respondent stayed with Student A alone in his office for more than 15 minutes "on more than one occasion".
- [12] The panel is satisfied that the Original Citation and Amended Citation were served on the Respondent in accordance with section 56(3) of the *Teachers Act*. The panel is also satisfied that the Commissioner's documents and affidavits entered into evidence at the hearing were served on the Respondent well in advance of the hearing date.
- [13] It appears clear that the Respondent was aware of the hearing date. On October 20, 2025 (i.e. the day before the hearing), the Respondent emailed Commissioner's counsel and attached a brief half-page note from a psychologist dated October 9, 2025. In the note, the psychologist stated that the Respondent presents with mental health issues including anxiety, depression, and post-traumatic stress disorder and is unable to work, instruct a lawyer, or attend an interview.
- [14] The panel notes from the evidence that the Respondent, who is 67 years old, has a history of mental health and other health issues. This has caused the Commissioner's investigation into the subject allegations to be placed in abeyance for about four years from August 2020 to July 2024. While the Respondent continues to be employed by the District, he started a medical leave of absence in September 2020 and has not returned to teaching since that date.
- [15] In an April 2023 medical report provided by the Respondent to the Commissioner in support of the abeyance of the investigation, the Respondent's doctor stated that the Respondent's diagnoses include "major depression" and "general anxiety" and he would "probably never" return to full-time or part-time work.

[16] On considering the submissions and evidence provided by the Commissioner, the panel determined that the hearing should proceed in the Respondent's absence for reasons set out below:

- (a) The Respondent was properly served by the Commissioner with the Original Citation, Amended Citation, and corresponding documents and affidavits relied upon by the Commissioner at the hearing. Although the Respondent did not respond to these documents, it is clear he was aware of the hearing date given his correspondence with Commissioner's counsel the day prior to the hearing. While the note provided to Commissioner's counsel suggests that the Respondent may have wished to adjourn the hearing, he failed to file a formal application to adjourn the hearing and failed to engage in any communication with the hearing coordinator to adjourn or reschedule the hearing. The Respondent's inaction in this regard weighs in favor of proceeding with the hearing in his absence.
- (b) It has been over five years since the Respondent first sought an abeyance of the investigation into the subject allegations, for health-related reasons. There is no evidence before the panel to suggest that the Respondent's medical condition has improved or is expected to improve in any meaningful way. If the hearing is adjourned, there is no indication that the Respondent will attend at a future date, given his history of inaction and lack of communication. The panel accepts the Commissioner's submission that an indefinite delay to the hearing is highly prejudicial to the Commissioner's ability to prosecute the case, given that witness recollections fade over time.
- (c) The panel notes that, although the Respondent has failed to participate in these proceedings, he has nevertheless paid the annual fee to keep his teaching certificate. He therefore holds a valid and unrestricted certificate despite facing serious allegations of misconduct. The panel accepts the Commissioner's concern that they are not privy to all the Respondent's potential teaching activities. For example, the Respondent is currently at liberty to act as a substitute teacher at a private school or teach outside of Canada. The panel accepts the Commissioner's submission that allowing an indefinite delay of the hearing negatively impacts the integrity of the regulatory system and may put students' well-being at risk.
- (d) The panel also notes that most of the evidence relied upon by the Commissioner consists of unambiguous written communication between the Respondent and students. The panel is satisfied that we can render a fair decision based on the evidence submitted, without necessarily requiring participation from the Respondent.

[17] For reasons set out above, the hearing will proceed in the Respondent's absence.

ISSUES

[18] The issues before the Panel are:

- (a) Has the Commissioner proved the conduct set out in the Amended Citation?
- (b) If so, does the proven conduct breach any of the Standards?
- (c) If so, does the conduct amount to professional misconduct such that the Respondent is guilty of professional misconduct under s.63(1)(b) of the *Teachers Act*.

ANALYSIS AND DECISION

Findings of fact

Witnesses

[19] The Commissioner tendered evidence from six witnesses.

[20] Five witnesses provided written evidence through affidavits, as set out below:

- (a) Ricardo (Rick) Antonio Lopez

Mr. Lopez has been employed by the District since 2000, initially working as a classroom teacher. In August 2016 he was appointed vice-principal and in January 2018 he was appointed principal of the School. He left that position in August 2022.

- (b) Melissa Tapia-Liebowitz

Ms. Tapia-Liebowitz is an employee of the Legal Services Branch of the Ministry of the Attorney General and is a legal assistant to counsel for the Commissioner.

- (c) Robert Watanabe

Mr. Watanabe is employed by the District as a supervisor in its learning and information technology department.

- (d) Stacey Alexander

Ms. Alexander has been employed by the District since 1995. She is presently the Director of Labour Relations.

- (e) Sophia Kraeling

Ms. Kraeling has been employed in the Teacher Regulation Branch of the Ministry of Education and Child Care since 2018. She was initially employed as an investigator and is presently employed as the Manager of the Professional Conduct Unit.

- [21] The panel accepts the affidavit evidence of the above-noted witnesses in their entirety. Their evidence is not controversial. They set out relevant background information regarding the Respondent and attach contemporaneous records to their affidavits to provide relevant context.
- [22] One witness (Student A, as described in the Amended Citation) provided oral evidence. The panel found her testimony to be credible and reliable. Her evidence was uncontradicted, reasonable, believable, internally consistent, and harmonious with contemporaneous records. Accordingly, the panel accepts Student A's testimony in its entirety.

Background Facts

- [23] The panel makes the following findings of fact based on the affidavit evidence of the witnesses.
- [24] The Respondent was born in 1958. He was issued a Professional Certificate of Qualification in 2004 and began employment with the District in September 2004. He started teaching in the music program at the School in 2006. He continues to be employed by the District, although he started a medical leave of absence in September 2020 and has not returned to teaching since that date.
- [25] The Respondent paid his annual fee required under section 37 of the *Teachers Act* in May 2025.
- [26] During his employment, the Respondent was previously notified by the District that his interactions with students were not appropriate:
- (a) In June 2006, he was given a letter of expectation about the need to treat students respectfully and to demonstrate professional teacher-student relationships.
 - (b) In October 2009, he was given a letter of expectation about the need to maintain professional teacher-student boundaries and treat students in a respectful way.
 - (c) In May 2011, he was given a letter of discipline about violating the professional boundaries of a teacher towards students.
 - (d) In February 2012, he was given a letter of expectation about the expectation that teachers treat students in a respectful way by dealing judiciously with them and always being mindful of their individual rights and sensibilities. The following expectations were set out:
 - (i) No students in his office area at any time, including lunch hour and breaks.
 - (ii) No transporting of students to school or personal events.
 - (iii) No eating meals with students whether on or off school property.
 - (iv) No discussion either on the cellphone or texting with students.
 - (v) No evening practices without the knowledge and consent of the administration.

[27] The District made a report to the Commissioner in 2011. That report resulted in the Respondent entering into a consent resolution agreement in December 2014 in which he agreed to a reprimand and to complete the JIBC Boundaries course. The Respondent agreed that in the 2010-2011 school year:

- (a) He spoke disrespectfully to a student, whom he asked to help another student with their homework, by saying words along the lines that students in the band help each other and that he did not appreciate the student's attitude and then told the student to go do their homework elsewhere.
- (b) During rehearsal, he asked a student to call other students who were absent and tell them to attend the rehearsal. Later, he asked another student to call students who were missing, and told them "don't fake it the way [the other student] did".
- (c) He frequently held after-hour band practices after being directed in writing by the School principal not to hold music practice of any type after 5pm unless approved by the principal. He also arranged to hold a practice on the weekend at a church, to which only some students were invited.
- (d) He held after-hours practices in the evening, sometimes with only two or three students and sometimes lasting as late as 10pm.
- (e) He failed to observe appropriate professional boundaries with a male student, often calling him at home between 7pm and 10pm to discuss music and other matters. The Respondent also attended this student's home on two occasions and discussed personal matters.
- (f) He failed to observe appropriate professional boundaries with a female student. His conduct included picking her up and driving her to the School in the morning, as well as driving her to and from tutoring jobs that he had arranged for her. He had long phone calls with the student in the evening, during which she sometimes played her instrument and he provided advice. He was also found by two colleagues alone in his office with this student during class time.

[28] Towards the end of the 2018 school year, the District again investigated the Respondent regarding his interactions with students. The investigation started in April 2018 when the School principal brought forward concerns of several students wanting to withdraw from the Respondent's classes or not take band the next year. The students said they felt uncomfortable, stressed, and anxious. The behaviours of the Respondent are set out in Ricardo Lopez' affidavit as follows:

The specific behaviours included: Lamb asking students about their personal matters or for information about other students; becoming stressed; making students feel that they had to come in at lunch or stay after school in order to get a good mark; and Lamb questioning them about taking band in the following year, which they perceived as pressure to continue in band. Students also told me and the counsellors that Lamb occasionally called teachers in their other classes when the student was in that class, to have the teacher send the student to the band room. In early May, I received a request from the parent of a student..., to withdraw this

student from his courses with Lamb, including as one of Lamb's Community Service students. Later, another parent wrote to me wanting to withdraw her daughter from band for the next school year, because the student felt uncomfortable in band.

- [29] The investigation concluded in October 2018 as a result of which the Respondent was suspended for one day and received a disciplinary letter. The District Superintendent reported this discipline to the Commissioner in October 2018 in accordance with the *School Act* and the Commissioner ordered an investigation in January 2019.
- [30] In June 2019, Student A brought forward her concerns about the Respondent. After an investigation, the Respondent was given a letter of discipline and suspended for three days in January 2020. The District Superintendent reported this discipline to the Commissioner in January 2020 and the Commissioner ordered an investigation in April 2020.

The Respondent's conduct towards Student A and other students

- [31] In written closing submissions, the Commissioner comprehensively summarizes the relevant documentary evidence in support of the allegations in the Amended Citation. The panel has reviewed the documentary evidence, accepted it, and accepted the Commissioner's summary as accurately reflecting the evidence, as set out below.

Allegation 1(b) of Amended Citation – inappropriate emails

- [32] A review of the emails entered into evidence shows that the Respondent sent many emails to students about band, and often did so in the evening, with instructions for the next day. Often, those instructions were for jazz band, which was supposed to start at 7:10 a.m. The evidence includes the following emails from the Respondent:
- January 24, 2019 at 7:46 p.m. - reminding students to pick up a parent invite letter from him the next day and instructing them to listen to and study an audio recording of two songs “[f]or tomorrow’s rehearsal”.
 - January 27, 2019 at 7:28 p.m. - asking students to be sure to bring pencils and to remember that they have “concert band tomorrow morning instead of jazz band”.
 - May 1, 2019 at 7:59 p.m. - asking student to “all move with dispatch” to band class, because the earthquake drill would be during class, allowing only a short time for rehearsal.
 - May 18, 2019 (Saturday) at 5:03 p.m. - asking a student to “check for the precise speed that you can tongue with accuracy”, because the Respondent was writing solos and needed that information.
 - May 21, 2019 at 7:14 p.m. - setting out three charts that he would focus on the next morning and requesting students to “please prepare tonight as best you’re able to”, asking students to listen to the selections, and adding that “we’ll need to be quite good even by tomorrow”.

- On May 29, 2019 at 8:18 p.m. - he emailed students asking them to have three pieces “studio performance ready for rehearsal the next morning”.
- June 10, 2019 at 7:31 p.m. - advising that there were major changes to the selections, so students should “please arrive for class on time” (including the response from a student about her difficulty of getting to band immediately because the teacher in the class before band taught up until or after the bell, and explaining that she did not check her emails every day).
- June 10, 2019 at 7:33 p.m. - instructing three students not to come to rehearsal the next morning.
- June 15, 2019 (Saturday) at 6:00 p.m. - providing lengthy instructions for a performance the next day.
- June 16, 2019 (Sunday) - a student emailed the Respondent asking if it was “for sure” that there would be senior jazz rehearsals every morning, to which the Respondent replied “[t]here is a class tomorrow, beyond that I will let you know tomorrow”.

[33] The Respondent sent emails to which he required students to respond on:

- January 27, 2019 (Sunday);
- April 16, 2019; and
- June 15, 2019 (Saturday) at 6:00 p.m., in respect of a scheduled jazz performance, writing that “[y]our response is much appreciated”. When a student did not respond, the Respondent emailed two other students asking them to message that student with a reminder for the arrival time for a performance.

[34] The Respondent asked students to come early in the morning before the start of jazz band at 7:10 am, on:

- April 16, 2019, advising students that the rehearsal was on Thursday at 6:58 a.m.
- April 17, 2019, asking students to “be sure to arrive a few minutes before 7 to get prepared for class” and to “please plan on being early”.

[35] The Respondent emailed students asking them to come by the band room at various times:

- April 25, 2019 at 7:58 p.m. - asking students to “all check in with me tomorrow sometime after school for updates on performances”.
- May 22, 2019 at 8:23 p.m. - asking a student “can you play tomorrow after school – duets etc with [student] and me”.
- May 27, 2019 at 7:42 p.m. - asking a student if he could “go over a few charts at lunch tomorrow” and asking him to bring his best flute.

- June 2, 2019 at 6:30 p.m. - reminding students in jazz band about a meeting at lunch and rehearsal after school the next day.
- June 12, 2019 at 8:12 p.m. - asking a student if he could bring his concert dress and food with him the next day “and maybe just relax here as I need everyone arriving at 4:15 anyway” and that he wanted to go over all the charts with students “a bit earlier than that”.
- June 18, 2019 at 7:18 p.m. - asking students to “please pop in tomorrow morning at 8:20 so we can go over the playing test”.

[36] The Respondent also selectively emailed individual students to offer assistance:

- He emailed a student on March 10, 2019 (Sunday) at 8:17 p.m. asking her how her playing tests were coming along and if she needed help with anything. She replied at 9:10 p.m., explaining she had been sick, and apologizing for just seeing his emails. The Respondent replied at 9:18 that she had an extension “for all the work” but asked her to come see him tomorrow.
- He also emailed another student on March 9, 2019 (Saturday) about a missing flash drive with his playing on it, and gave him an extension to get it done. The student replied the next day that he had a sore on his upper lip making it painful to play and asking for suggestions to reduce the pain. The Respondent replied telling him to do his best, to check in with him the next day “maybe at lunch to go over the tests” and telling him to come to junior jazz on Tuesday, and not to come to jazz on Monday morning, unless he would like to come both days. On March 12, the Respondent emailed the student, writing “be sure to rest your lip at least until you know for sure what’s causing the pain. Play periodically for a few seconds to see if the pain is lessening”. The Respondent then wrote: “Please bring your trumpet tomorrow so I can hear you and try to see what might be causing the pain. If you can’t play, then don’t come tomorrow morning to help out the juniors”.
- He exchanged emails with the same student between May 15 and 30, 2019, offering advice about playing, offering the “pocket trumpet” to use on a camping trip, giving advice about practising by “buzzing” on his mouthpiece, and asking him to come in at 8:10 a.m. the next day to play the lead part on a piece. On June 15, 2019 (Saturday), he exchanged emails with the student about a jazz performance the next day, including tips for his face and lips.

Allegation 1(c) of Amended Citation – Giving only some students but not others information about assessments.

[37] The documentary evidence demonstrates that the Respondent offered only some students assistance with assessments, or gave information about quizzes to only some students:

- On May 5, 2019, a student asked for an extension of time as she was stuck on some scales and the clapping portion of the test, to which the Respondent replied inviting the student to “come in and get some help”.

- On May 13, 2019, a student emailed, writing that he was repetitively making different mistakes in his scales and did not think they were accurate enough to hand in, and also that he had had issues exporting his videos from his computer to the USB stick. The Respondent replied at 11:25 p.m., advising the student “do not do anymore tonight then” and writing that he would go over it with the student the next day, asking him to “pop in at say 8:20 or so to go over the playing test”.
- On May 14, 2019, the Respondent emailed students at 7:50 p.m., reminding them to view a video for a “Quick quiz tomorrow on it”. He told them to “have a look” that night. He received responses from only some students. Prior to sending that email, the Respondent sent a more detailed email to Student A at 7:41 p.m. about the quiz, writing that she would not “need to remember or make any reference to specific food but know the general use of each chord tone as it is used playing the Blues”.
- On June 18, 2019, the Respondent emailed a student at 7:15 p.m., asking if she preferred to “play the bells and only the bells” for her playing test, and if so, he would choose some of her best selections.

Allegation 1(c)(iii) of Amended Citation – Meeting alone with Student A during class

- The panel accepts Student A’s testimony that she met alone with the Respondent during class on several occasions between September 2016 and June 2020.

Allegation 2 of Amended Citation – Conduct towards Student A

[38] The Commissioner alleges that the Respondent failed to maintain appropriate professional boundaries with Student A. In written closing submissions, the Commissioner summarizes the documentary evidence as set out below, which the panel confirms as accurate and which is corroborated by the testimony of Student A.

Allegation 2 (a) of Amended Citation – The Respondent emailed Student A, often at night

[39] The evidence establishes that the Respondent frequently emailed Student A, and often at night. She received many of the emails set out above that were sent to all senior jazz band students or concert band students.

[40] In addition, there are several direct email exchanges between the Respondent and Student A. The panel is satisfied that these emails clearly demonstrate the Respondent’s attempts to build a personal relationship with Student A by, for example, complimenting her, asking her to come for extra help outside of class, and asking personal questions. The Respondent also asked to have Student A come in for help in June 2019, after the end of the school year.

[41] Between June 10 and 28, 2019, the Respondent and Student A exchanged many messages about extra assignments to improve Student A’s grades in both concert band and jazz band. Student A was initially told she would receive a 50% grade but ultimately received a 100% grade.

- On June 15, 2019, he emailed her at 9:41 p.m., writing that he was “always very proud” of her, and adding “Please, no need to respond”. He wrote that he had always known that she was “a brave one” and referred to her “leadership sensibilities”.
- He emailed her on June 19, referring to her “Skyfall” solo as “simply magnificent”, “stunning” and “better than the studio player who played it!!”.
- On Wednesday, June 19 at 8:23 p.m., he emailed her asking her to try a new mouthpiece for her instrument that night.
- He emailed her on June 21 (Friday) at 7:29 p.m., about her instrument warranty expiring and telling her to “renew it tonight just to be sure”. He followed up with an email sent on June 26 (Wednesday) at 8:35 p.m., writing “I forgot to ask – did you renew your [instrument] warranty yet? If not, I can see if you can still get it.”.
- On June 26 at 7:53 p.m., he wrote that he would “be very happy to hear you again play [your instruments]... as we reevaluate your band marks” and referred to her resolving her “playing issues”. In the same email, he encouraged her to work hard and to listen to a particular professional musician, adding that it “Could be you one day”.
- He sought to extend the relationship into the summer, by referring to future conversations. On June 26, he urged her to listen to certain recordings of a musician and wrote: “I’ll fill you in about him another time. As always, the lyrics are very important and we can (*sic*) over them later.”
- In his last email on June 28, he stated that she had 100% in both courses, as her playing was “exemplary”, although he again referred to her “experiencing some major playing issues”. He also wrote on June 28 “that he would help her with her playing and invited her and other players to “pop in and play and get some help for a bit of time”. At this time, school was finished for the year.

[42] Other emails from the Respondent show similar conduct towards Student A. For example:

- He offered her help with the assignment to write a solo. On February 24, 2019, he wrote that “I’ll help you rewrite it. You’ll come up with new notes based on the chords/scales and new rhythms (with my help)” On March 4, 2019, the Respondent emailed Student A at 8:04 p.m., offering her a tip for the assignment to write a solo and two days later, he wrote that he would be helping her through the entire process of this assignment and asked her to bring in her instrument and book for the next day so he could help her.
- He asked her to come outside of class time: on March 9, 2019 (Saturday) he gave her an extension on the clapping exercises, then told her to come in to “go over the date on Monday”.

- He offered many compliments: he told her that her “sound was great today”; she did “a superb job writing out [her] ...solo”; she had “great ears”; “It’s time to let your talent shine!!”
- He made personal comments to draw Student A into personal discussion. For example, on January 28, 2019 at 8:58 p.m., he emailed her, writing about Student A’s career goals, which were not related to music. He asked what music she would listen to for inspiration in her career stating, “Ponder and let me know sometime...not tonight or even soon necessarily” and suggesting her chosen career was a metaphor for music.
- He similarly tried to draw Student A into a personal discussion in June 2019. When Student A emailed on June 7, 2019 about being able to go to the wrap up party with her mentor through the YWCA, he replied “great news about the party – the YWCA program is so good. Fill me in tomorrow about how it helped you”.
- He told her how happy she made him. For example, on May 22 and May 30, 2019, he wrote in an email that he was always “happy to help her” and on June 5, 2019, he wrote that he was “very happy” to see her in the morning.

Allegation 2(b) of Amended Citation – The Respondent gave gifts to Student A

[43] Student A provided photographs of various instrument accessories and music books that the Respondent gifted her, which were entered into evidence.

Allegation 2(c) of Amended Citation – The Respondent wrote personal messages to Student A

[44] Student A testified that the Respondent gave her many handwritten cards and letters, which were entered into evidence. These include the following:

- A January 2017 Thank You card for her Christmas card, which “made [him] so happy and it made [his] Christmas very special and wonderful”. He stated he would always keep it. He complimented her by writing that her “talent for music is incredible”. He stated he believed in her, and that he was “very much looking forward to helping [her] achieve all” that she wanted.
- In June 2017 he gave her a card that complimented her, writing that her talent for music is “unmatched by most”. He then wrote about the impact she had on him, referencing the lyrics from “For Good”, adding “when you watch and listen to the whole song, I know you’ll understand – you’re very smart!”. He wrote that he would “always be on [her] side, always pulling for” her. The panel notes that the lyrics of “For Good” include the following lines:

You'll be with me
 Like a handprint on my heart
 And now whatever way our stories end
 I know you have re-written mine
 By being my friend

- In June 2018 he gave her a long letter about why she needed to re-take a course in order to be successful. The letter casts the Respondent in a leading role to help Student A achieve her dream of a particular professional career, as he wrote that “this is where I step in [Student A]” and that whether she liked it or not, he was going to help her. He assumed a role of guiding her decisions, including whether a particular university was the best university for her and offering to “fundraise” for scholarships.
- In a June 2019 letter he states that she did not know how much talent she has for music, she has a heart of gold, and she always brightens everything up for him. He also says that he “just may have to go”, adding that there would not “be much of a music program” and if he did not get to work with her anymore, it would break his heart.

Allegation 2(d) of Amended Citation – The Respondent discussed personal matters with Student A

[45] Student A testified that the Respondent talked to her about personal matters, including religion and her personal circumstances . She stated the Respondent told her she had “playing issues” which he tied to her personal circumstances . Her testimony is corroborated by contemporaneous email communication between her and the Respondent. The email evidence also indicates that the Respondent asked Student A to come in at lunch and after school, which created further opportunity to discuss personal matters.

Allegation 2(e) of Amended Citation – The Respondent asked Student A to practice in the band room outside of school hours

[46] The email evidence and Student A’s testimony demonstrates that the Respondent asked Student A to drop by at lunch or after school for help.

Allegation 2(f) – Student A’s third term mark in June 2019

[47] Student A testified that the Respondent told her she had a “playing issue” and her mark was only 50%. She had previously received a grade of 100% in both concert and jazz band. The email evidence corroborates Student A’s testimony that the Respondent offered her an opportunity to improve her grade by doing extra work.

- Student A emailed on June 10, asking if her assignment was to watch videos. The Respondent replied the next day, writing, “[w]e can go over the other assignments tomorrow... I’ll help you with everything then. Although not part of the main work, I’m very happy to hear you really like all the clips you saw! I knew you would!”.

- On June 20, the Respondent emailed her two songs to get started on and stated, “[b]oth songs are incredibly beautiful. See if you can play them as the artists played them...from an era when music meant something. I’ll help you with your assignment tomorrow, okay”.
- Student A went in to see the Respondent on June 26. That evening, he emailed her, telling her to listen to Gregory Porter and asked about whether her instruments needed to be repaired, but it could wait until he heard her play again. He ended the email by stating, “I would be very happy to hear you again play[your instruments] as we reevaluate your band marks. Enjoy playing over the next few weeks and I know you will resolve your playing issues. Please let me know how your playing is coming along over the next while...just ask lots of questions. I am always happy to hear from you. Work hard it’s your time”.
- On June 28, the Respondent changed her marks in both concert band and jazz band to 100%, stating that she was “deserving of 101%”

Allegation 2(g) of Amended Citation – invitation to play and keep in touch over the summer

[48] Student A testified that the Respondent invited her to play her instrument and keep in touch after the school year had concluded. This is corroborated by her email correspondence with the Respondent. In an email to Student A dated June 28, 2019, the Respondent wrote, “[o]ver the next while, perhaps you and the other [students] can pop in and play and get some help for a bit of time. [Certain students] all want to come in a few times. And please don’t stress...your playing chops will be back before you know it. Please let me know how your playing is going currently”.

Allegation 2(h) of Amended Citation – The Respondent drove by Student A after she changed her route

[49] Student A testified that on one occasion, she felt that the Respondent was following her in his car as she walked home. She usually walked down a certain path each day. One day, she did not want to see the Respondent, so she took a different route. She testified that the Respondent usually drove down the usual path she took. Instead, that day he drove past her on a different path at a slow pace. She saw his head turn towards her, but they did not make eye contact. She stated it made her feel anxious.

Legal Principles

Standards

[50] All certificate holders are required to adhere to the Standards.

[51] The Standards are described in their manual as “a way of communicating to certificate holders and the public the description of the work of educators – what they know, what they are able to do, and how they comport themselves as they serve the public”. The Standards set out, “the knowledge, skills and attitudes that educators shall possess as well as the responsibilities that accrue to them as certified educators who hold the public trust”.

- [52] The commentary to the Standards sets out their application:
- establish commonly held standards of practice and conduct that guide teacher education, teaching practice and ongoing professional growth;
 - communicate to the public the standards that educators hold; and
 - establish a framework that guides the Council and Ministry of Education in setting requirements and making decisions related to teacher education programs, certification of applications, and fitness to practice and discipline.

[53] The Commissioner submits that the applicable Standards that the Respondent violated in this case are # 1, 2, 3, and 5. Those Standards provide as follows:

- (a) Standard 1 – *Educators value and care for all students and act in their best interests*

Educators are responsible for fostering the emotional, esthetic, intellectual, physical, social and vocational development of students. They are responsible for the emotional and physical safety of students. Educators treat students with respect and dignity. Educators respect the diversity in their classrooms, schools and communities. Educators have a privileged position of power and trust. They respect confidentiality unless disclosure is required by law. Educators do not abuse or exploit students or minors for personal, sexual, ideological, material or other advantage.

- (b) Standard 2 – *Educators are role models who act ethically and honestly.*

Educators act with integrity, maintaining the dignity and credibility of the profession. They understand that their individual conduct contributes to the perception of the profession as a whole. Educators are accountable for their conduct while on duty, as well as off duty, where that conduct has an effect on the education system. Educators have an understanding of the education system in BC and the law as it relates to their duties.

- (c) Standard 3 – *Educators understand and apply knowledge of student growth and development.*

Educators are knowledgeable about how children develop as learners and as social beings and demonstrate an understanding of individual learning differences and special needs. This knowledge is used to assist educators in making decisions about curriculum, instruction, assessment and classroom management.

- (d) Standard 5 - *Educators implement effective practice in areas of classroom management, planning, instruction, assessment, evaluation and reporting.*

Educators have the knowledge and skills to facilitate learning for all students and know when to seek additional support for their practice. Educators thoughtfully consider all aspects of teaching, from planning through reporting, and understand the relationships among them. Educators apply a variety of instructional and assessment strategies.

Legal principles underlying the Standards

- [54] The Standards must be interpreted and applied in a manner that is consistent with the legal principles set by the courts.
- [55] Case law demonstrates that teachers are held to a high standard of conduct because of their position of trust, confidence and influence over students. This concept of trust is incorporated into the Standards, particularly Standard #1 which refers to teachers' position of power and trust and obligation to act in students' best interests. The presence of trust in a relationship in which one party holds a position of power often gives rise to a fiduciary duty that requires the person in the position of power to act in the best interests of the other person: *R. v Audet*, [1996] S.C.R. 171 (“*Audet*”); *Ross v. New Brunswick School District No. 15*, [1996] 1 S.C.R. 825.
- [56] As stated by LaForest J, writing for the majority in *Audet*:

41. In my view, no evidence is required to prove that teachers play a key role in our society that places them in a direct position of trust and authority towards their students. Parents delegate their parental authority to teachers and entrust them with the responsibility of instilling in their children a large part of the store of learning they will acquire during their development. In the recent case of *Ross v. New Brunswick School District No. 15*, [1996] 1 S.C.R. 825, this Court had occasion to discuss the role and social status of teachers...I there wrote at para. 43-44:

Teachers are inextricably linked to the integrity of the school system. Teachers occupy positions of trust and confidence and exert considerable influence over their students as a result of their positions. The conduct of a teacher bears directly upon the community's perception of the ability of the teacher to fulfil such a position of trust and influence, and upon the community's confidence in the public school system as a whole.

- [57] These legal principles are fundamental to the Standards and the *Teachers Act*. Further, protection of students is not simply restricted to their bodily integrity through protection from physical harm or sexual abuse. It also includes protection from significant emotional harm (see, for example, s. 50(1) of the *Teachers Act*).

Legal principles underlying a finding of professional misconduct

- [58] The onus to prove the allegations in the Amended Citation and that those allegations constitute professional misconduct rests with the Commissioner. The standard of proof is on the balance of probabilities: *In the Matter of the Teachers Act – and –Ammon*, 2016 TAHP 07 (“*Ammon*”) at para. 97; *F.H. v. McDougall*, 2008 SCC 53 at para. 49 (“*McDougall*”). The evidence “must always be sufficiently clear, convincing and cogent to meet the balance of probabilities test”: *McDougall* at para. 46.
- [59] A breach of the Standards does not necessarily result in a finding of professional misconduct. While the term “professional misconduct” is not defined in the *Teacher's Act*, the panel accepts the definition set out in the case-law that professional misconduct is conduct that represents a marked departure from the norms expected of a teacher.

[60] As noted by the panel in *Ammon*:

The Act does not define “professional misconduct”; however, there is a large body of jurisprudence arising in the teaching context and other professional regulatory contexts, which guide the application of that test. Other cases considered under the *Teachers Act* have adopted the test for professional misconduct set out in the Law Society of British Columbia’s decision in *Re Martin*, 2005 LSBC 16, namely whether the conduct at issue represents a marked departure from the norms expected of the professional. See for example, *In the Matter of the Teachers Act and Hankey*, 2016 TAHP 03. (at para. 102)

[61] The case-law demonstrates that a wide variety of teacher behaviour towards students can breach professional boundaries and constitute professional misconduct depending on a variety of factors including the student’s age and vulnerabilities, the educational context, and the nature of the teacher’s emotional or personal pursuits with students.

[62] The panel in *Ammon* discussed the nature of professional misconduct in the context of a teacher’s relationship with students. Specifically, the panel stated the following:

Professional misconduct arising out of a relationship with a student must be considered in the context of Standard #1, and with the recognition that educators are responsible for the emotional and physical safety of students; that educators have a privileged position of power and trust, and that educators do not abuse or exploit students or minors for personal, sexual, ideological, material or other advantage. There have been several court and tribunal decisions that have considered the question of professional misconduct in the context of a teacher’s relationship with a student.

The responsibilities articulated in Standard #1 encompass the obligation on a teacher to maintain appropriate professional boundaries in order to protect students from harm, whether physical, emotional or sexual. The case law underscores that teachers are in a direct position of “trust and authority” over students (*R. v. Audet...*). The cases in this area clearly establish that the failure to maintain appropriate and professional boundaries by entering into personal relationships with students constitutes professional misconduct. (at para. 105-106)

[63] The panel in *Ammon* summarized some non-exhaustive principles concerning relationships between teachers and students, as follows:

115. The following principles can be distilled from the cases that have addressed the boundaries of professional relationships between teachers and students:

(1) A teacher-student relationship may be professional misconduct even where there is no sexual element to the relationship.

(2) Various types of activity may provide indicia of an overly personal relationship such as:

(i) Sharing personal information with a student (*McGeough*)

(ii) Using a relationship with a student to fulfill the teacher's own emotional needs (*McGeough*)

(iii) Sending unsolicited communications to a student on matters not related to school (*McGeough*)

(iv) Encouraging a student to keep communication with the teacher a secret from others; or encouraging a student to confide in the teacher and depend on the teacher (*McCuaig, Kelley*)

(v) Assuming an important role in the student's life, including, for example, protector or counsellor (*McCuaig, De Marchi*)

[64] Another relevant case that the panel considered is *Ontario College of Teachers v. Dalamba*, 2024 LNONCTD 1. In that case, the panel accepted that a three-year relationship between a teacher and student, in which the teacher communicated about non-school issues, including the student's family life and dating choices, and engaged in some physical contact including hugging and placing her hand on top of the student's hand and touching the student's thigh, constituted professional misconduct. The panel concluded that the teacher breached professional boundaries and demonstrated a disregard for how her actions affected the student. The panel also concluded that the teacher exploited her position of power by sending personal emails to the student about topics unrelated to school and outside of school hours. The panel noted that the teacher ought to have known that her conduct fell far below the standards of the profession considering her past history of discipline.

[65] Similarly, in *Ontario College of Teachers v. Grima*, 2020 LNONCTD 61, the panel found that the teacher committed professional misconduct by actions including discussing a prior disciplinary matter with a parent, disclosing confidential information about the parent to students, disparaging other teachers and yelling in class, and touching a student on the face and shoulder in the context of discussing personal feelings. The panel noted that teachers should encourage students to learn and act as positive role models, and that the teacher's inappropriate comments and physical contact with the student failed to prioritize her learning and well-being and had a negative impact on her. The panel also noted that:

11. ...It is psychologically or emotionally abusive for members to make suggestive comments about personal feelings to students. Members of the profession hold a unique position of trust and authority and must always interact professionally with students.

Application of the law to the facts of this case

[66] Regarding Allegation 2(h) of the Amended Citation, the panel finds there is insufficient evidence to conclude that the Respondent knowingly or intentionally followed Student A in his car while she was walking home, including after she changed her route. Student A testified that on one occasion, she felt that the Respondent was following her in his car as she walked home. She stated she usually walked down a certain path each day which the Respondent usually drove down as well. One day, she did not want to see the Respondent, so she took a different path, and the Respondent drove by her on that path. Student A

explained in her testimony that people at the School routinely used both paths to drive to and from the School. It is therefore unclear whether and to what extent the Respondent used both paths to drive to and from the School, and why he specifically used the path in question on the date in question.

[67] The panel, however, is satisfied that the remaining allegations which the Commissioner proceeded with in the Amended Citation have been proven on a balance of probabilities. This is based on the panel's findings of fact in respect of each allegation as set out above.

[68] The allegations are substantiated by the extensive email correspondence from the Respondent to Student A and other students, key documents such as personal cards and letters from the Respondent, and the testimony of Student A. In written closing submissions, the Commissioner summarizes the key evidence as set out below, which the panel has reviewed and accepts as accurately reflecting the record.

[69] The documentary evidence shows a pattern of conduct by the Respondent to attempt to build a personal relationship with Student A including:

- (a) He met with her alone and often complimented her skills and talents, often gushingly. His remarks include:
 - he was “proud” of her;
 - she was “a brave one” with “leadership sensibilities”;
 - her instrument playing was “magnificent” and “stunning”;
 - she did a “superb job” preparing her solo;
 - she has “so much talent”, her “talent for music is incredible”, and “unmatched by most”;
 - she had a “caring heart” and a “heart of gold”; and
 - she was “great”.
- (b) He repeatedly told her he “believed in her” through cards, letters, and emails.
- (c) He stated he would always be there for her. For example, in his card dated June 29, 2017 he wrote, “I will always be on your side, always pulling for you and hoping for the best for you”.
- (d) He solicited dialogue on personal matters unrelated to band class. For example, in an email dated January 28, 2019, he asked her what music she would listen to for inspiration in her future career . In an email dated June 26, 2019, he invited further personal contact when he discussed the musician Gregory Porter and said he would fill Student A in “another time”.

[70] The Respondent communicated to Student A about her importance to him in personal ways. Examples include the following:

- (a) On January 3, 2017, he wrote that Student A's Christmas card made him “so happy” and it made his Christmas “very special and wonderful”. He added that he still had the card “and always will” and that her words “changed things for me on that day”.

- (b) On June 14, 2018, he wrote, “Thank you for being such a wonderful student of mine. I have so many happy memories of you in class and the band room. Your sense of humor always brightened my days and your smile and laugh (and clicking sounds) always made me feel happy!”.
- (c) In a card, the Respondent referred to the lyrics of “For Good” and wrote that, “I feel that because I knew you, I have been changed For Good”. He quoted some of the lyrics, including “I know I’m who I am today, Because I know you”.

[71] The Respondent assumed a parental or mentor role towards Student A. For example:

- (a) On June 22, 2018, he wrote the following to her:
Well, this is where I step in, [... Student A]!
[Now] is the perfect time to feel 100% confident that you will make it.
So today is the day it changes for the better for you
And whether you like it or not, I’m going to help you
- (b) He told her to re-take a particular course, after noting that he had spoken with her teacher about her grade. He questioned whether Student A should go to a particular university by stating he did not believe that it had a good program in the area in which Student A was interested. Student A did not ask for this advice.

[72] The Respondent manipulated Student A’s grades contrary to any reasonable assessment practice. In the 2018-2019 school year, he told Student A that her grades for both concert band and jazz band were only 50% despite her receiving 100% in the past. He told her she had “playing issues” which related to her personal life. He provided contradictory feedback by also stating her solo play was “stunning”. The Respondent gave Student A additional work to improve her grade and told her that he would work with her to help her with it. He communicated with her by email about this additional work and met with her outside of class. He then doubled Student A’s grade to 100% at the end of the school year. The emails about additional work appear to be devised by the Respondent to enhance personal contact with Student A and not for any substantive effort to improve her grade. As noted in the affidavit of Ricardo Lopez, at the District interview on November 28, 2019, the Respondent stated that Student A’s extra work which resulted in a doubling of her grade was “after school, for about fifteen minutes”.

[73] The Respondent also engaged in emotional manipulation by linking his emotions and happiness to Student A. For example, in his letter to her about her desire to do both sports and music in May/June 2019, he wrote that maybe he had to be unhappy so that Student A could be happy, thereby casting himself as a victim.

- [74] The evidence demonstrates that the Respondent engaged in a pattern of professional boundary violations by attempting to cross-over into Student A's personal life, make decisions for her, and manipulate her for his personal goals. Student A testified that she felt anxious, unhappy, and manipulated by the Respondent's conduct.
- [75] Even at the end of the school year in June 2019, the Respondent still invited Student A to practice at the school. As stated by Mr. Lopez in his affidavit, arrangements had to be made to allow Student A to leave the school on June 27 without her having to see the Respondent, who was in the vicinity. Given that Mr. Lopez had spoken with the Respondent the prior year to tell him he did not have approval to plan events or activities during the summer, Mr. Lopez emailed the Respondent to remind him not to have any students in the band room during the summer.
- [76] As stated by Mr. Lopez, the Respondent was present at the School at the beginning of July 2019 when Student A was taking a summer school course. Mr. Lopez sought help to keep the Respondent away from Student A.
- [77] The panel finds that the Respondent's conduct breached several Standards. The evidence proves a breach of Standard #1 as the Respondent failed to act in the students' best interest. He disregarded students' emotional safety by sending emails in the evening to which they were expected to respond and which included information for the next day's class. He requested acknowledgment of receipt which placed a further burden on the students. He gave some students and not others information about assessments by, for example, sending late night emails about assessments the next day which all students could not reasonably be expected to review.
- [78] The Respondent's conduct was also inconsistent with Standard #3 as it did not demonstrate an understanding of individual learning differences and needs. His emails contained information that could have been communicated in class and were based on an expectation that students were free in the evenings to check his emails and to complete his instructions that evening.
- [79] The Respondent manipulated Student A's grades contrary to Standard #5, which holds educators accountable for effective assessment and evaluation of student performance. The evidence shows that Student A received 100% every term in both concert and jazz band, including the term in which she had "playing issues" such that the Respondent was going to give her 50% but ended up giving her 100% after 15 minutes of "extra work". In addition, Standard #5 holds educators accountable for effective management and planning of courses, which the Respondent breached by routinely and unreasonably delivering late night emails to students, often with instructions for the next day.
- [80] Given that the Respondent's misconduct continued even after the District disciplined him in October 2018 and began an investigation into his conduct January 2019 demonstrates to the panel that he breached Standard #2 by failing to act ethically and with integrity.
- [81] The panel is satisfied that the Respondent's conduct, when considered in its totality, amounts to a marked departure from the conduct expected of teachers in the province and constitutes professional misconduct.

ORDER

[82] The Respondent's conduct constitutes professional misconduct under section 63(1)(b) of the *Teachers Act*.

PENALTY

[83] Having found the Respondent guilty of professional misconduct, the panel is empowered to impose a penalty on the Respondent. The panel directs that submissions on penalty be made in writing by all parties. The deadlines for these submissions shall be set by the Hearing Coordinator of the Teacher Regulation Branch.

PUBLICATION OF REASONS

[84] These reasons will be made public in accordance with section 66 of the *Teachers Act* unless an application is made to the panel under section 66(4) for non-publication or publication of a summary. If either party intends to make an application under section 66(4) regarding publication, they must either file their written submissions or provide written notice of their intent to make such an application to the hearing coordinator within two weeks of the release of these reasons.

SEALING OF RECORD


[85] The Commissioner applies for an order sealing from the public the Commissioner's Book of Documents, the recording of the hearing, the affidavits and other exhibits filed for the hearing, and the transcript of Student A's testimony (the "Records").

[86] The panel orders that the Records be sealed and not be available to the public. The purpose of this order is to protect the privacy of the students who were minors at the relevant time.

Dated this 30th day of January 2026



Paul Singh, Panel Chair



Lisa Kishkan, Panel Member



Dr. Michelle LaBounty, Panel Member