



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

AND

IN THE MATTER CONCERNING

BORIS PEKARSKY

██████████

CONSENT RESOLUTION AGREEMENT

BETWEEN:

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

AND:

BORIS PEKARSKY
(“Pekarsky”)

BACKGROUND and FACTS

1. Pekarsky holds a valid Independent School Teaching Certificate, No. ██████████, with a subject restriction of Fine Arts (Music). It was issued by the Teacher Regulation Branch (the “Branch”) under the *Teachers Act* on November 8, 2017 and was valid from September 30, 2011 and continued under the *Teachers Act* as of January 9, 2012.
2. At all material times, Pekarsky was employed as a music teacher at ██████████ (the “School”), an independent school in Delta, British Columbia.
3. On January 25, 2017, the authority made a report to the Commissioner regarding Pekarsky, under section 7 of the *Independent Schools Act*.
4. On November 28, 2016, Pekarsky was teaching a Band 9 class, when:
 - a. Pekarsky yelled at a student (Student A) who was not on task. Student A moved to sit ██████████

down and as he was doing so, he tripped over a percussion instrument, causing a loud noise.

- b. Pekarsky then told Student A and another student, also in the percussion section, to leave class.
 - c. As Student A and the other student were leaving the classroom, Pekarsky said to Student A words to the effect of “go kill yourself, it won’t matter anyway”.
 - d. Several students in the class heard what Pekarsky said to Student A. Some of the students were shocked and upset by Pekarsky’s comment.
5. In late January 2017, Pekarsky met during the school day with a small group of students from the Band 9 class, most of whom were in the Honours Band. At this meeting, Pekarsky:
- a. told these students that he did not know what to do about the behaviour of a few students in the class whom he felt had been “acting out”;
 - b. singled out specific students whom he felt were acting out by using their names; and
 - c. asked this group of students for their advice on how to address the behaviour of the other students, and then discussed with them their ideas.
6. On January 25, 2017, the School disciplined Pekarsky by suspending him from work without pay for a period of ten days from March 13 to 24, 2017.
7. On November 1, 2018, the Commissioner considered this matter and determined to propose a consent resolution agreement to Pekarsky, 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. Pekarsky 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. Pekarsky admits that the facts set out in paragraphs 1 to 6 of this Agreement are true.

11. Pekarsky admits that the conduct described in paragraphs 4 and 5 of this Agreement constitutes professional misconduct and is contrary to Standard #1 of the *Independent School Teacher Conduct & Competence Standards*, April 2013.
12. Pekarsky agrees to a three day suspension of his Independent School Teaching Certificate under sections 53 and 64(b) of the *Teachers Act*. The suspension will be served on June 25, 26 and 27, 2019.
13. In determining that a suspension is an appropriate consequence, the Commissioner considered the following factors:
 - a. Pekarsky failed to treat all students in his class with respect and dignity;
 - b. he failed to consider the hurtful impact of his words on Student A and on the other students present in the class;
 - c. he showed a lack of insight into why his discussion with some students in January 2017 was inappropriate;
 - d. his discussion with students in January 2017 about other students in the Band 9 class created an unhealthy dynamic in the classroom and undermined a respectful and inclusive learning environment; and
 - e. he was suspended without pay by the School for ten days.
14. Pekarsky 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. Pekarsky 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. Notification of this Agreement will be made in accordance with section 55 of the *Teachers Act*.
18. A breach by Pekarsky of any term in this Agreement may constitute professional misconduct which may be the subject of separate discipline proceedings.

19. Pekarsky 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 Pekarsky has admitted to the conduct and matters set out in this Agreement.
20. Pekarsky acknowledges that he 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 Surrey, B.C.
this 23 day of June, 2019.
BP May BP


Boris Pekarsky

Signed in Vancouver, B.C.
this 28 day of May, 2019.


Howard L. Kushner, Commissioner