



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

AND

IN THE MATTER CONCERNING

ALLEN DAVID PENNER

[REDACTED]

CONSENT RESOLUTION AGREEMENT

BETWEEN:

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

AND:

ALLEN DAVID PENNER
(“Penner”)

BACKGROUND and FACTS

1. Penner holds a valid Professional Certificate of Qualification, [REDACTED]. It was issued by the B.C. College of Teachers under the *Teaching Profession Act* on July 22, 1992, is valid from September 1, 1992, and was continued under the *Teachers Act* as of January 9, 2012.
2. At all material times, Penner was employed as a secondary school teacher by School District No. 23 (Central Okanagan) (the “District”) at a District school (the “School”).
3. On September 20, 2018, the District made a report to the Commissioner regarding Penner, under section 16.
4. The following events occurred on February 16, 2018:
 - a. That afternoon, Penner conducted a demonstration for his Grade 9 science class. The demonstration involved the decomposition process of ammonium dichromate by making a chemical volcano.

- b. District science teachers are expected to be familiar with Material Safety Data Sheets (“MSD Sheets”) prior to using chemicals. They are also required to follow instructions and safe work procedures on Workplace Hazardous Materials Information System (“WHMIS”) labels. These labels consist of pictograms which are affixed to the containers in which chemicals are stored.
 - c. Before conducting the demonstration, Penner failed to review or follow specifications outlined in MSD Sheets for the safe handling of ammonium dichromate and chromium (III) oxide.
 - d. Before conducting the demonstration, Penner failed to review or follow the WHMIS label on the bottle of ammonium dichromate regarding its safe handling.
 - e. Penner conducted the demonstration contrary to safety guidelines on the MSD Sheets and the WHMIS label when he:
 - i. did not wear safety glasses or goggles;
 - ii. did not wear a lab coat and proper gloves; and
 - iii. when he conducted the demonstration without a ventilation system, such as a fume hood or vent hood, risking himself and students to exposure to the chemicals.
 - f. According to the MSD Sheets, ammonium dichromate and chromium (III) oxide are possibly hazardous and should be disposed of in accordance with local regulations. The WHMIS label on the bottle of the chromium dichromate indicates that it is a corrosive metal and may cause damage to the aquatic environment. In light of this information, the residue from the demonstration (consisting of ammonium dichromate and chromium (III) oxide) should have been disposed of in one of the School’s hazardous waste containers, which Penner did not do.
 - g. Instead, Penner used water to wet down the residue, wrapped it in paper towels and threw it in the garbage can in the classroom. In doing so, Penner did not consider the possibility that the residue contained unreduced amounts of an oxidizing chemical which was not sufficiently cooled down and which created a fire hazard when thrown in the garbage can.
 - h. The residue reacted with garbage in the can, and several hours later it started a fire which caused \$59,655.99 in damage.
5. On September 25, 2018, the District issued Penner a letter of discipline and suspended him without pay for 10 days. In addition, the District transferred Penner to a different District



school.

6. On June 4, 2019, the Commissioner considered this matter and determined to propose a consent resolution agreement to Penner, in accordance with section 53(1)(a) of the *Teachers Act*.

CONSEQUENCES

7. This Agreement is made under section 53 of the *Teachers Act*.
8. Penner 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").
9. Penner admits that the facts set out in paragraphs 1 to 5 of this Agreement are true.
10. Penner 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.
11. Penner agrees to a 3-day suspension of his certificate of qualification under sections 53 and 64(b) of the *Teachers Act* from June 10, 2020 to June 12, 2020, inclusive.
12. In determining that a suspension is an appropriate consequence, the Commissioner considered the following factors:
 - a. Penner failed to maintain currency on the handling of harmful substances; and
 - b. Penner created an unsafe environment by failing to follow appropriate safety guidelines.
13. Penner 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


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

16. Notification of this Agreement will be made in accordance with section 55 of the *Teachers Act*.
17. A breach by Penner of any term in this Agreement may constitute professional misconduct which may be the subject of separate discipline proceedings.
18. Penner 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 Penner has admitted to the conduct and matters set out in this Agreement.
19. Penner 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 Kelowna, B.C.
this 22 day of May, 2020.


Allen David Penner

Signed in Vancouver, B.C.
this 27 day of May, 2020.


Howard L. Kushner, Commissioner