



Decision Issued: March 14, 2014
Citation Issued: December 12, 2012
File No.: L [REDACTED]

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

AND

A HEARING CONCERNING

DEBRA IRENE PUNSHON

(an Authorized Person under the *Teachers Act*)

PANEL'S REASONS ON PUBLICATION

Written submissions on publication filed January 31, February 12 and March 3, 2014
Panel: Meg Gaily (Chair), Lynn Bosetti, John Hall
Counsel for the Commissioner: Maureen S. Boyd
Counsel for the Respondent: Gretchen Brown/Kerri Fisher

1. At the conclusion of the conduct hearing in this matter, the Respondent requested (and the Commissioner agreed) that she be able to make submissions regarding the publication of the panel's reasons once the panel reached its decision. The panel's decision dismissing the Citation was released to the parties on December 18, 2013. The Respondent filed written submissions on January 31, 2014, the Commissioner's submissions were filed on February 12, 2014 and the Respondent filed reply submissions on March 3, 2014.


2. The Respondent requests that her name be redacted from its published reasons for decision. She argues that the *Teachers Act* ("Act") does not bar the panel from making such a direction and that it should do so, both because the public interest does not require publication of a respondent's name where the citation has been dismissed, and because publication violates her privacy interests. The Commissioner submits that the panel does not have jurisdiction to redact the name of a respondent from its published reasons, regardless of whether the citation has been dismissed.

3. The central question is whether the Act gives the panel jurisdiction to direct that a respondent's name be redacted from publications of its reasons. The panel is created by statute and only has the powers conferred on it by statute. If it does not have the power to redact names as the Respondent requests, it cannot do so regardless of the general public interest or individual privacy concerns.
4. Section 66 of the Act mandates that a panel give reasons for decision, including a decision dismissing a citation, and expressly requires that those reasons be published, except in limited circumstances that do not apply here. It does not expressly permit redaction of identifying information where a citation is dismissed.
5. Further, other sections of the Act relating to the complaints process provide for non-publication of a respondent's name prior to the issuance of a citation and conduct of a hearing. Under s. 45, the Commissioner conducts a preliminary review of all complaints and may decide to take no further action. In that case, s. 45(3) expressly provides that the Commissioner may publish a summary of the decision to take no further action "excluding all identifying information." Similarly, after investigation of a complaint, the Commissioner may decide to take no further action. In that case, s. 52(3) authorizes publication of a summary of that decision "excluding all identifying information."
6. By contrast, if the complaint proceeds to consent resolution or to citation and hearing, ss. 54 and 66 require publication of the consent resolution agreement or reasons for decision, and the only exception is where doing so would cause significant hardship to a person who was "harmed, abused, or exploited by the authorized person" [see ss. 54(3) and 66(4)].
7. The statutory intention evident in the wording of s. 66 itself and related provisions governing the complaints process is that publication of a respondent's name is mandatory if the complaint is resolved by consent agreement or by citation and hearing, even if the panel dismisses the citation.
8. The Respondent points to relevant case law and to publications of privacy commissioners on the importance of professionals' privacy interests during and after discipline hearing processes. She also describes the growing practice by other professions in BC to restrict publication of the names of professionals where discipline hearings result in dismissal of citations. However, these considerations cannot displace the intention of the legislature.

9. The Respondent points to s. 79 of the Act, which establishes an online registry of teachers and mandates the information it must contain for each authorized person. The effect of that section is to mandate that admissions or conclusions of professional misconduct or conduct unbecoming must be included in the registry, but dismissals of citations are not included.

10 However, as the Commissioner argues, the online registry is separate from the complaints investigation and discipline process, and the two serve different purposes. In light of the express statutory language regarding when information identifying respondents may be excluded and when it must be published at the various stages of the complaints investigation and disciplinary hearing process, the panel finds that it has no jurisdiction to direct that the Respondent's name be redacted from publication of its reasons by the director of certification.

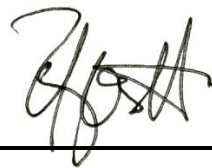
For the Panel
Date: March 14, 2014



Meg Gaily, Chair



John Hall



Lynn Bosetti