



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

AND

IN THE MATTER CONCERNING
MEGAN JULIA DAPHNE SMYE

██████████

CONSENT RESOLUTION AGREEMENT

BETWEEN:

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

AND:

MEGAN JULIA DAPHNE SMYE
 (“Smye”)

BACKGROUND and FACTS

1. Smye holds a valid Professional Certificate of Qualification, ██████████. It was issued by the B.C. College of Teachers under the *Teaching Profession Act* on September 27, 2007, is valid from September 1, 2007 and was continued under the *Teachers Act* as of January 9, 2012.
2. At all material times, Smye was employed as a teacher, by School District No. 39 (Vancouver) (the “District”) at a District school (the “School”).

Matter 1 – ██████████

3. On April 9, 2018 the District made a report to the Commissioner regarding Smye, under section 16 of the *School Act*. This is designated Matter 1.
4. The following events occurred during the 2017/2018 school year when Smye was teaching at the School:

- a. Between January 15, 2018 and March 1, 2018, Smye called in sick less than an hour before the beginning of her shift on five occasions. Smye had been previously told that she was required to provide a minimum of one hour's notice of any absences so that coverage could be arranged for her classes.
 - b. Between September 2017 and April 2018, Smye frequently failed to provide day plans to teachers teaching on call ("TOC") who covered Smye's classes during her absences from work, despite having been reminded of the importance of doing so.
 - c. Smye had members of the School's extracurricular dance squad provide her with commitment letters with included emergency contact information for each student. Smye kept the signed forms in a bag which was stolen in early February, 2018. Smye failed to report the loss of the personal information contained on these forms until she was interviewed by the District on March 2, 2018, in the course of its investigation of her conduct.
5. On April 20, 2018, the District issued Smye a letter of discipline and suspended her for one day without pay. Smye served her suspension on April 20, 2018.

Matter 2 – [REDACTED]

6. On July 6, 2018, the District made a report to the Commissioner regarding Smye, under section 16 of the *School Act*. This is designated Matter 2.
7. The following events occurred in April, 2018:
- a. Smye was absent from work 14 out of 20 working days.
 - b. Smye left no day plans for the TOCs covering her classes on two of the 14 days she was absent.
 - c. On the balance of the days she was absent, the day plans left by Smye for the TOCs were inadequate, in that they lacked sufficient detail for a TOC to follow.
8. On June 29, 2018, the District issued Smye a letter of discipline and suspended her without pay for three days. Smye served the suspension on June 11, 13, and 15, 2018.
9. The District had previously raised its concerns with Smye as follows:
- a. On May 15, 2012, the District issued Smye a letter of discipline after she called in sick to attend a non-school related dance competition. The District suspended Smye for one day without pay and reclassified the two sick days Smye had taken as personal days, which were then deducted from her pay.

- b. On February 5, 2013, the District issued Smye a letter of expectation after she failed to report absences from work in a timely manner. In its letter, the District set out its expectations of Smye as follows:
- Teachers are expected to arrive at work on time each day.
 - Teachers must sign in first thing upon arrival.
 - Teachers are aware of the expectations and commitments they have made around supervision duty and follow through.
 - Teachers must report their absences in a timely manner to ensure that a TOC is in place should they be unable to come to work.
- c. On May 10, 2017, the District issued Smye a letter of discipline after she failed to report her absence on April 5, 2017 and had failed to report three other absences in a timely manner.
10. On November 9, 2012, the Commissioner entered a Consent Resolution Agreement with Smye arising from the conduct described at paragraph 9(a) above. Under the terms of that agreement, Smye agreed to a one-day suspension of her certificate of qualification.
11. On September 14, 2018, the Commissioner combined Matter 1 and Matter 2.
12. On September 14, 2018 the Commissioner considered Matter 1 and Matter 2 and determined to propose a consent resolution agreement to Smye in respect of both, in accordance with section 53(1)(a) of the *Teachers Act*.

DISPOSITION

13. This Agreement is made under section 53 of the *Teachers Act*.
14. Smye 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").
15. Smye admits that the facts set out in paragraphs 1 to 10 of this Agreement are true.
16. Smye admits that the conduct described in paragraphs 4 and 9 of this Agreement constitutes professional misconduct and is contrary to Standard #2 of the *Standards for the Education, Competence and Professional Conduct of Educators in British Columbia*, Fourth Edition, January 2012.
17. Smye agrees to a one-day suspension of her certificate of qualification under sections 53

and 64(b) of the *Teachers Act*. The suspension will take effect on September 24, 2019.

18. In determining that a suspension is an appropriate consequence, the Commissioner considered the following factors:
 - a. Smye had been previously disciplined for matters related to her absence from work, both by the District and by the Commissioner;
 - b. Smye's actions created a negative impact on the learning environment of her students; and
 - c. Smye failed to appreciate the seriousness of the issues, in particular the loss of personal information contained in the commitment letters provided by members of her extracurricular dance squad and the failure to provide appropriate lesson plans for TOCs when she knows that she is frequently absent from work.
19. Smye 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

20. The Director of Certification will record the terms of this Agreement on the Teacher Regulation Branch's online registry under section 79(d) of the *Teachers Act*.
21. Smye 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.
22. Notification of this Agreement will be made in accordance with section 55 of the *Teachers Act*.
23. A breach by Smye of any term in this Agreement may constitute professional misconduct which may be the subject of separate discipline proceedings.
24. Smye acknowledges and understands that if the Commissioner has reason to believe that she has breached any term of this Agreement:
 - a. the Commissioner may initiate an investigation under section 47(1)(b) of the *Teachers Act* into her conduct; and
 - b. the conduct and matters described in the "Background and Facts" to this Agreement are admissible in that inquiry as proof that Smye has admitted to the conduct and matters set out in this Agreement.

25. Smye acknowledges that she has voluntarily entered into this Agreement with the benefit of independent legal advice, and that she fully understands the terms and conditions set out in this Agreement.

Signed in VANCOUVER, B.C.
this 15 day of AUGUST, 2019.


Megan Julia ~~Julia~~ Daphne Smye

Signed in Vancouver, B.C.
this 27 day of August, 2019.


Howard L. Kushner, Commissioner