BRITISH COLUMBIA
COMMISSIONER FOR
TEACHER REGULATION

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

AND

IN THE MATTER CONCERNING

MALCOM MURRAY MCTAGGART

[redacted]

CONSENT RESOLUTION AGREEMENT

BETWEEN:

THE COMMISSIONER, APPOINTED UNDER THE *TEACHERS ACT*

(the "Commissioner")

AND:

MALCOM MURRAY MCTAGGART

("McTaggart")

BACKGROUND and FACTS

1. McTaggart held a Professional Certificate, No [redacted]. It was issued by the B.C. Ministry of Education on August 30, 1977, and was valid from January 1, 1977.

2. McTaggart holds a valid Professional Certificate of Qualification, No [redacted]. It was issued by the B.C. College of Teachers under the *Teaching Profession Act* on June 3, 1991, is valid from January 1, 1988 and continued under the *Teachers Act* as of January 9, 2012.

3. At all material times, McTaggart was employed as a high school teacher by School District No. 39 (Vancouver) (the "District") at a District school (the "School").

Matter-01 [redacted]

4. On April 27, 2015, the District made a report to the Commissioner regarding McTaggart, under section 16(6) of the *School Act*.

5. The following events occurred in 2015 when McTaggart was teaching a Grade 10 ceramics class at the School, which included students from Grades 10 to 12:

   a. On January 26, 2015, McTaggart told a female student in his class to "stop acting like a little bitch" in front of her classmates and a School employee.

   b. On March 4, 2015, in response to a student who had left the class early, McTaggart stated "that was an asshole move" loud enough that some students and one school employee heard it.

6. On April 22, 2015, the District issued McTaggart a letter of discipline.

Matter 02 [redacted]

7. On April 5, 2016, the District made a report to the Commissioner regarding McTaggart under section 16(3) of the *School Act*.

8. The following happened during the 2015-2016 school year:

   a. Student A was a female Grade 10 student in one of McTaggart's art classes, beginning in September 2015.

   b. During class, McTaggart would sometimes breach professional boundaries by giving Student A a sideways hug, placing his hands on her shoulder, or touching and patting her back when reviewing her work.

   c. When McTaggart discussed his vacation in Mexico with Student A, telling her: "it would be so neat if you could come [with me] as my daughter and speak Spanish so I could find a wife."

   d. McTaggart gave Student A a nickname of a famous musician from the 1960s which Student A did not like.

   e. When Student A expressed concern about her grades in McTaggart's class, McTaggart jokingly told her, in order to calm her worry: "you know you're a good looking kid…good looking kids…you know you'll get a great mark" before proceeding to explain in detail his criteria and process for evaluating students. Student A reported feeling uncomfortable by this remark.

   f. On another occasion, McTaggart said to Student A: "Good morning, you look nice today." Student A reported feeling uncomfortable as a result.

9. On March 31, 2016 the District issued McTaggart a letter of discipline and issued him a

10-day suspension. McTaggart served the suspension from May 2-13, 2016. In addition, the District required McTaggart to complete a course on the maintenance of appropriate boundaries. McTaggart has yet to complete a boundaries course.

Prior incidents

10. The District had previously addressed issues with McTaggart as follows:

    a. In 1993 he reimbursed the District for three half days of work when it was found that he had called in sick so that he could attend to personal matters.

    b. On April 6, 1994, he was issued a letter of discipline following an incident where he physically directed a student by placing his hand on the student's back, and after admitting that he tapped desks with a ruler as a classroom management technique.

    c. On March 6, 2002, he was issued a letter of expectation after using profanity and sarcastic comments with students.

11. On November 28, 2013, the Commissioner signed a Consent Resolution Agreement with McTaggart in which McTaggart agreed to a reprimand as a result of the conduct described at paragraph 9 above.

12. On May 2, 2016 the Commissioner considered Matter 01 and Matter 02 and determined to propose a consent resolution agreement to McTaggart 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. McTaggart 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. McTaggart admits that the facts set out in paragraphs 1 to 11 of this Agreement are true.

16. McTaggart admits that the conduct described in paragraphs 5 and 8 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.

17. McTaggart agrees to a one-week suspension of his certificate of qualification under sections 53 and 64(b) of the *Teachers Act*. The suspension will take effect from December 17, 2018 up to and including December 23, 2018.

18. McTaggart also agrees that by **April 30, 2019** (the "Condition Date"):

    a. He will successfully complete, at his own expense, the course "Reinforcing Respectful Professional Boundaries" (the "Course") through the Justice Institute of British Columbia and provide satisfactory proof of completion to the Commissioner by the Condition Date;

    b. If McTaggart does not successfully complete the Course by the Condition Date, he will immediately advise the Commissioner in writing of the reason(s) he has not done so and set out the date by which he proposes to do so, at which time the Commissioner may extend the deadline (the "Extended Date"); and

    c. If McTaggart fails to provide satisfactory proof of completion of the Course by the later of the Condition Date or the Extended Date, the Commissioner may require the Director of Certification (the "Director") to suspend McTaggart's certificate of qualification under section 64(f) of the *Teachers Act,* until such time as he successfully completes the Course.

19. McTaggart 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 will record the terms of this Agreement on the Teacher Regulation Branch's online registry under section 79(d) of the *Teachers Act.*

21. McTaggart 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 McTaggart of any term in this Agreement may constitute professional misconduct which may be the subject of separate discipline proceedings.

24. McTaggart 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 McTaggart has admitted to the conduct and matters set out in this Agreement.

25. McTaggart 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 Vancouver, B.C.
this 15 day of November 2018.

Malcom Murray McTaggart

Signed in Vancouver, B.C.
this 20 day of November, 2018.

Howard L. Kushner, Commissioner