BRITISH COLUMBIA
COMMISSIONER FOR
TEACHER REGULATION

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

AND

IN THE MATTER CONCERNING

JAMES WALTER MCMURTRY

L133948-01, 02 and 03

CONSENT RESOLUTION AGREEMENT

BETWEEN:

THE COMMISSIONER, APPOINTED UNDER THE *TEACHERS ACT*

(the "Commissioner")

AND:

JAMES WALTER MCMURTRY

("McMurtry")

BACKGROUND and FACTS

1. McMurtry holds a valid Professional Certificate of Qualification, No. L133948. It was issued by the B.C. College of Teachers under the *Teaching Profession Act* on March 17, 2000, is valid from January 1, 2000, and was continued under the *Teachers Act* as of January 9, 2012.

2. At all material times, McMurtry was employed as a secondary school teacher by School District No. 34 (Abbotsford) (the "District") at schools in the District.

Matter 1

3. On October 2, 2020, the District made a report to the Commissioner regarding McMurtry, under section 16 of the *School Act*. This report is designated Matter 1.

4. During the 2019-2020 school year while teaching at a secondary school in the District, McMurtry made comments to students and used resources related to topics, which had

little relevance to the curriculum or were otherwise inappropriate, including:

a. taught students in his French Immersion History 12 class French swear words, including the derogatory term "putain", which means "whore", and did so in a context in which this vocabulary was not related to any educational resource;

b. told students that parents of some students were "stupid" because the parents were uncomfortable with aspects of the sex education curriculum;

c. made a joke about incest, which was inappropriate;

d. played for the class the "trailer" for the movie *The Dictator*, which included the use of stereotypes, gratuitous violence, sexual innuendo and gestures and derogatory comments;

e. played a video of an Iranian protestor being shot and dying, without providing an adequate warning to students who did not wish to view it;

f. talked about serial killers in a Career and Life Education 10 class, including Paul Bernardo and Karla Homolka, using graphic detail and making a "joke" about Karla Homolka becoming trans-male, living in Abbotsford and working as a teacher;

g. told students that they were "too sensitive", "too conservative", and "couldn't take a joke", after some students complained about his conduct.

5. On September 30, 2020, the District disciplined McMurtry by suspending him without pay for two days and requiring him to complete the course *Creating a Positive Learning Environment* at the Justice Institute of B.C.

6. The District had previously given McMurtry a letter of expectation in October 2019. In this letter, McMurtry was advised of the expectation to act as a role model for students, maintain a classroom environment that is caring, inclusive and supportive of all students, and choose instructional strategies and materials that are relevant and appropriate.

7. On January 8, 2021, the Commissioner ordered an investigation of Matter 1 under section 47(1) of the *Teachers Act*.

Matters 2 and 3

8. On June 2, 2021, the District made a report to the Commissioner regarding McMurtry, under section 16(2) of the *School Act*, after it suspended McMurtry under section 15 of the *School Act*. This report is designated Matter 2.

9. Between April 28 to 30, 2021, while McMurtry was working as a teacher teaching on call (a "TTOC") in a History 12 class (the "History 12 class") at a secondary school in the District:

    a. McMurtry told the students a joke about Donald Trump, saying words to the effect that the President was "touching unwilling women's butts – I guess he was feeling a little behind"; and

    b. when a student in the class made a comment about ancient Greek Olympians competing nude, Mc Murtry said "like female volleyball players today".

10. On May 4, after being given a notice of investigation by the District, McMurtry returned to the History 12 class and wrote the following message on the whiteboard (translated from French to English):

> Do I deserve this treatment? Think for a moment about me and my family. I do my best and I am not like as others paint me. Is this how I will be recalled? Another victim of cancel culture, a teacher who has given his all eaten by an intolerant crowd at this school? It is sad for me! I had something to offer you. Nonetheless, I wish you the best.

    This message was seen by students.

11. On May 10, 2021, after the District had suspended McMurtry's District email account due to his misuse of it, McMurtry used the District's Google Classroom platform to send the following message to students in the History 12 Class (translated from French to English):

> Dear students, I won't be back at school over the next 3 weeks and I offer my apologies for my absence. You know I work hard and I intended to be much more than an absentee teacher. All I can write is, it is not the right time to be at [the school], even if I remain faithful to my teaching … every word and every phrase, every letter and punctuation mark, even between the two, I ask you all to give your support to the TTOC and learn as much history as possible until we meet again online on May 26. Best regards.

12. On May 31, 2021, McMurtry was working as a TTOC in a Calculus 12 class at another secondary school in the District. On that day, the school held a minute of silence in respect of the news regarding the identification of 215 unmarked graves at the Kamloops Indian Residential School. McMurtry discussed this news with students and during this discussion he:

    a. asked students why they were wearing orange shirts;

    b. asked students who was to blame for deaths of students at Indian Residential

Schools;

c. said that the Catholic and Anglican churches were not to blame, and that some students may be Catholic;

d. told students that it was not "cultural genocide" that killed Indigenous students at Residential Schools;

e. said that students in Indian Residential Schools died from disease, hunger and neglect;

f. then said that many children died from disease and hunger in the late nineteenth and early twentieth centuries and told them the child mortality rates for the general population and commented that child mortality rates had declined in the last 100 years; and

g. said he wanted to focus on the positive and that fewer children now die.

13. On November 24, 2021, the Commissioner ordered an investigation of Matter 2 under section 47(1)(of the *Teachers Act*.

14. On or about November 6, 2022, McMurtry was interviewed by *Rebel News*, a right wing online entity that describes itself as the "fearless source of news, opinion and activism that you won't find anywhere else". During this interview, McMurtry stated:

a. "No-one's dug up any graves in Kamloops because people know it's not true. There are only 51 children that ever died while enrolled at their school and they have the death certificates and they know where they died, mostly at the local hospital or back on the reserve. So this story is a complete fabrication but it's cost me my career";

b. "all these newspapers, on the basis of you know one person saying something that was completely fabulous, you know, would all of a sudden accept as truth";

c. "The school system right now is run by people who want to manipulate children and want to get a bunch of converts to this radical hard left cause of where we are creating a society where there is equality between all groups. And we can try and raise one group, but to - another way to do it is to lower other groups, and I think that is so unfair, particularly to the men and women who devoted themselves to educating Indigenous youth";

d. "… the idea that I'm supposed to say that Europeans are terrible and men are terrible and all straight people are terrible, and it's just so contrary to what my job is";

e. “they [the District] are so nervous about me that they went to a second investigation and they went to again a recommendation for dismissal because they know there is a problem with me, and the problem is, that everything I say is right, that you don’t take advantage of children, you don’t lie to children, you don’t decide anything for children, you don’t push puberty blockers before someone is old enough to decide for him or herself to decide to do something so drastic, you don’t get into, interfere with a parent’s relationship with their child, you don’t play games and hide secrets from kids, and in relation to me, you don’t denigrate one race or race or group of people to raise others, you don’t shame white children in the classroom to make non-white children feel better”;

f. “It just doesn’t make any sense to me, if I think my goal as a teacher and everyone’s goal in the education world is to make every kid feel better about him or herself. You see I’m not, I’m not, I didn’t say they, did I? And, and you know, these are the pronouns – it’s unbelievable, there are teachers in Canada who are being lost their jobs because they don’t want to use the pronouns”;

g. “to me it’s very Marxist, communistic, it’s very totalitarian, Orwellian, they want to have everybody - not just employees but students – use the language of a group of people who are manipulating for their own self-interest or their own promotion, into adopting, really it’s become a cult, I think, the whole woke thing, post-modernism, you know, diversity, equity, inclusion, all these lovely words that are the opposite from what they mean – war is peace, you know - again it’s awful”; and

h. “But I think when parents start to see that children aren’t making up their own minds about their sexuality, about about how they view themselves, how they view other groups, people in society, that they always have to follow what others are telling them, I think they will be quite appalled”.

15. On February 23, 2023, the District disciplined McMurtry in respect of his conduct by terminating his employment for cause.

16. On February 24, 2023, the District made a report to the Commissioner regarding the termination of the employment of McMurtry, under section 16 of the *School Act*. This report is designated Matter 3.

17. On May 16, 2023 the Commissioner considered these matters and determined to propose a consent resolution agreement to McMurtry, in accordance with section 53(1)(a) of the *Teachers Act*.

CONSEQUENCES

18. This Agreement is made under section 53 of the *Teachers Act*.

19. McMurtry 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").

20. McMurtry admits that the facts set out in paragraphs 1 to 6, 8 to 12, and 14 to 16 of this Agreement are true.

21. McMurtry admits that the conduct described in paragraphs 4 and 9 to 12 of this Agreement constitutes professional misconduct and the conduct described in paragraph 14 constitutes conduct unbecoming, and that this conduct is contrary to Standard #1, 2 and 9 of the *Professional Standards for BC Educators*, June 2019.

22. McMurtry agrees to the cancellation of his certificate of qualification under sections 53 and 64(e) of the *Teachers Act*, which will occur on the first business day following the Effective Date.

23. In determining that a cancellation is an appropriate consequence, the Commissioner considered the following factors:

    a. McMurtry's two messages to students about his employment-related issues breached his professional boundaries with students, by inappropriately drawing students into his personal conflict with the District, contrary to Standard #1.

    b. McMurtry's comments to students about the deaths of students at the Kamloops Indian Residential School breached Standard #9, because they were disrespectful and inflammatory, minimized the harms that occurred in Indian Residential Schools by falsely suggesting that student deaths at the schools were comparable to the general child mortality rate and not the result of a government strategy of cultural genocide, and did not contribute towards truth, reconciliation and healing.

    c. McMurtry's comments to *Rebel News* demonstrated attitudes inconsistent with the requirement in Standard #1 to treat students equitably with acceptance, dignity and respect; in Standard #3 to work to create a positive, safe and inclusive learning environment to best meet the diverse needs of students; and Standard #9 to contribute towards truth, reconciliation and healing with Indigenous people. His comments harm the education system by creating an unwelcoming environment for some students and their families and by undermining the confidence of the public in the profession and the education system.

24. McMurtry 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

25. The Director of Certification will record the terms of this Agreement on the online registry of the Ministry of Education and Child Care under section 79(d) of the *Teachers Act*.

26. McMurtry 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: https://teacherregulation.gov.bc.ca

27. Notification of this Agreement will be made in accordance with section 55 of the *Teachers Act*.

28. If McMurtry applies for a certificate of qualification, an independent school teaching certificate, or other authorization to teach in the kindergarten to grade twelve education system, is agreed, without limiting any other power of the Director to determine McMurtry's fitness and suitability to be granted a certificate of qualification, independent school teaching certificate or letter of permission, that the Director may consider:

    a. the facts set out and admitted in this Agreement;

    b. any document or other evidence gathered or prepared by the Branch in any investigation of this matter; and

    c. any evidence of breach by McMurtry of one or more terms of this Agreement.

29. McMurtry 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 _____, B.C.
this ____ day of _____, 2023.

_____
James Walter McMurtry

Signed in _____, B.C.
this ____ day of _____, 2023.

_____
Ana R. Mohammed, Commissioner