

BEFORE THE NEW ZEALAND TEACHERS' DISCIPLINARY TRIBUNAL

IN THE MATTER of the Education Act 1989

AND

IN THE MATTER of charges brought by the Complaints
Assessment Committee of the New
Zealand Teachers Council

BETWEEN **COMPLAINTS ASSESSMENT
COMMITTEE**

Complainant

AND **NGAMIHI MOSES**

Respondent

DECISION OF TRIBUNAL

Dated 23 November 2021

Tribunal:	Sam Wimsett (Deputy Chair) Rose McInerney Aimee Hammond
Hearing:	27 October 2021
Decision:	23 November 2021
Counsel:	Evan McCaughan/Hine Watts for the Committee Jeanette Brown for the Respondent

1. INTRODUCTION

- 1.1. School camps can be a wonderful opportunity for students to learn and enhance their social skills. They provide experiences and challenges not available in the classroom. Camps are therefore considered to be a positive part of our education system. Many people have fond memories of school camp experiences.
- 1.2. It is important to note, however, that school camps place additional responsibilities on teachers. This is because in this context, teachers are acting as overnight caregivers as well as educators. Parents place significant trust in teachers when they permit them to attend school camps. This case involves a massive breach of that trust and the failure to act in a responsible manner. As a result, young students were placed at risk and later humiliated.

2. SUMMARY OF FACTUAL BACKGROUND AND DECISION

- 2.1. Ms Moses has been a fully registered teacher since November 2002. She has over 20 years' experience in teaching. In 2018, she was employed by Whakatane Intermediate School. Prior to this matter, Ms Moses had no incidents of misconduct.
- 2.2. On 11 November 2019, two classes from Whakatane Intermediate School went to a school camp at Tokikapu Marae in the Waitomo area. Ms Moses attended as a teacher.
- 2.3. On the last night of the camp, some students misbehaved. Adults came up with an idea whereby misbehaving students were told to pack their bags and get in the school van. They would then be driven to a location to give them a fright.
- 2.4. Six students were told to get in the van. Ms Moses offered to drive. It seems that the idea was a form of "tough love" with the aim of improving the students' behaviour.
- 2.5. Ms Moses drove six students into Otorohanga. None of the students were familiar with that area. Ms Moses stopped at a bus stop and instructed the students to get out of the van, which they did. She gave them two options. Either walk all the way back to Whakatane or walk back to the school camp. Ms Moses then drove away.
- 2.6. Three of the students chose to walk back to camp. The other three chose to walk to Whakatane. Those that chose to walk back to camp were approached by Ms Moses about 20 minutes later. She asked them where the other three students were and was told that they had gone towards Whakatane. Ms Moses left the three students walking back to camp where they were and drove off to try and find the other three. She could not find them. She then drove back and collected the other three students and searched again for the children

walking towards Whakatane. She could not find them and called the police. The three missing students were not located until after midnight.

- 2.7. Once back at the school camp, the three students who had walked towards the camp were allowed to go to sleep. The three students who had walked towards Whakatane were directed by Ms Moses to strip down to their underwear and a t-shirt and put their noses against a tree. They had to do so until they apologised for their behaviour. In Ms Moses' opinion, two of the three students showed sufficient remorse and were allowed to return to bed. The third student was made to stand for an additional 20 minutes.
- 2.8. As a result of this incident, Ms Moses was charged with serious misconduct. She accepts that her behaviour meets that threshold.
- 2.9. The Tribunal finds that the charge of serious misconduct is made out. The following penalties are imposed:
 - (a) Censure.
 - (b) Annotation of the register for a period of two years.
 - (c) Imposition of the following conditions:
 - (i) that Ms Moses must notify any current or prospective teaching employer of the Tribunal's decision (and to provide a copy of the Tribunal's decision) for a period of 24 months from the date of the Tribunal's decision.
 - (ii) that Ms Moses is to undertake and complete the program Zones of Regulation offered by the organisation Socially Speaking within 12 months from the date of this decision and to provide evidence to the Teaching Council regarding the completion of the program. Ms Moses may complete an alternative program if approved by the Teaching Council in advance.
 - (iii) that Ms Moses is to enter a formal mentoring arrangement with a suitable mentor for a period of 12 months from the date of this decision. The mentor is to provide a report to the Teaching Council at the conclusion of the mentoring period.
- 2.10. Ms Moses is to contribute 40% to the costs of the Committee and the Tribunal.
- 2.11. The names of the children and any identifying particulars of them are suppressed and may not be published. No other suppression orders are made.

3. HEARING AND EVIDENCE

- 3.1. The matter was heard on the papers. Notice of this procedure was given to Ms Moses and the Committee. Neither party objected.
- 3.2. In terms of evidence, the matter proceeded by way of a lengthy agreed summary of facts.

SUMMARY OF FACTS

Introduction

- 1 Ngamihi Moses (**Whaea Ngamihi**) became a fully registered teacher on 20 November 2002 and has over 20 years' experience in teaching.
- 2 Ngamihi was employed by Whakatane Intermediate School (**the school**) as a teacher in June 2018. The school has approximately 548 students, all between year 7 and 8 (aged 11 and 12). Most students are either Maori or Pakeha.

Allegations: That on the night of 14 November 2019 to manage students' behaviour, she -

- (a) drove six (6) year 8 students, aged between 11 and 12 years old, from a school camp in a rural area into a nearby town (Otorohanga) and gave the students the choice to either walk back to the school camp or walk home to Whakatane and then instructed them to get out of the van; and/or
 - (b) left the students unaccompanied in Otorohanga at night; and/or
 - (c) lost three (3) of the students for several hours; and /or
 - (d) once back at camp, instructed three (3) of the six (6) year 8 students, aged between 11 and 12 years old, to take off their pants and stand in their underwear by trees until they showed remorse before allowing them to go to bed.
- 3 On 11 November 2019, two classes from Whakatane Intermediate School were taken to school camp at Tokikapu Marae in the Waitomo area. The students were all aged 11-12.
 - 4 Whaea Ngamihi attended as a teacher.
 - 5 During the camp, some of the students misbehaved.
 - 6 On the last night of the camp, 14 November 2019, at about 9.30pm the students were meant to be asleep, however dinner was late that night. Consequently, many of the students were still getting ready for bed when they should have already settled. Whaea Ngamihi was busy at this time dealing with student conflict.
 - 7 Three male students (Students A, B and C) misbehaved. Students A and B played tag in the kohanga where others were sleeping on mattresses on the floor. As they ran around the marae, one of the students stood on the stomach of a student

lying on the mattress. That student started crying. Students A and B then went to bed.

- 8 Rose Kara, a senior teacher and the camp leader, came in and tried to console the crying student. She growled at Student A who responded disrespectfully to her. Ms Kara then left the room crying.
- 9 Mr Mike Kara (Ms Kara's husband and a teacher aide) came to Ms Kara's assistance. Either Ms Kara or Mr Kara came up with the idea to drive the misbehaving students to a location to give them a fright. This included Students A, Band C, but also three other students who had been misbehaving earlier in the week.
- 10 Mr Kara told the students to pack their bags and get into the van. Some of the students did not listen immediately. Students D, E and F were questioning why they should go in the van when they had nothing to do with the incidents involving students A, Band C. Student F was extremely angry.
- 11 In total, six students were told to get in the van - Students A, B, C, D, E and F.
- 12 Student A started crying, worrying about what his parents were going to think.
- 13 The six students got into the van with their belongings. Some of the students were disruptive to others before doing so.
- 14 Whaea Ngamihi offered to take the students in the van.
- 15 She got into the school van to drive the 6 students away. Ms Kara mentioned to some of the parent helpers that whaea Ngamihi was going to do a "tough love thing" with the students.
- 16 Whaea Ngamihi drove the 6 students into Otorohanga (approximately 20 minutes away from where the camp was located). The area was not familiar to the students.
- 17 Whaea Ngamihi stopped at a bus stop. There, she instructed the six students to get out of the van, which they did. She then gave the students two options: walk all the way back to Whakatane (approximately 2.5 hours drive away); or walk 10 kilometres back to camp. She allowed the students an opportunity to get warm clothes from their bags.
- 18 Whaea Ngamihi's intention was to frighten the students about being sent home. Three students (Students A, B and C) chose to walk back to camp. The other three (Students D, E and F) chose to walk to Whakatane.
- 19 Students A, Band C walked in the direction of camp for at least 20 minutes at which point whaea Ngamihi drove up to them and asked where students D, E and F were. Students A, B and C said that they had gone to Whakatane.
- 20 Whaea Ngamihi tried to find Students **D**, **E**, and **F** but was unable to locate them. She then picked up Students A, Band C in the van and said "those students have just given you a free ticket not to walk your 10k". They then looked for the three missing students together.
- 21 When they were unable to find them, whaea Ngamihi called the Police.

- 22 After about 30-40 minutes of whaea Ngamihi and the students being gone, the teachers and the parent helpers at the camp grew concerned.
- 23 At midnight or shortly after, a parent helper at the camp was woken up by Mr Kara and asked to drive to Otorohanga to assist whaea Ngamihi.
- 24 The parent helper drove to Otorohanga and picked up Students **A**, **B** and **C** from whaea Ngamihi, then began driving them back to camp while whaea Ngamihi spoke to Police. As he travelled back to camp, he saw Students D, E and F walking along the street. He stopped and picked them up, then took them to whaea Ngamihi. The three missing students were not located until after midnight.
- 25 The parent helper then took Students A, B and C back to the marae, leaving the three missing students with whaea Ngamihi. As whaea Ngamihi spoke to Police, she instructed Students D, E and F to put their noses to the window of a shop.
- 26 She and the three students later travelled back to the camp.
- 27 At the camp, Students A, B and C were allowed to go to sleep.
- 28 Students D, E and F, were directed by whaea Ngamihi to strip down to their underwear and a tee shirt and put their noses against a tree. They had to do so until they apologised and showed remorse for their behaviour. Whaea Ngamihi considered two of the three students showed sufficient remorse and apologised quickly, so they were allowed to return to bed.
- 29 The third student was made to stand at the tree for longer until he eventually showed remorse and was allowed to go to bed. This was approximately 20 minutes later.
- 30 The next morning, before the camp's activities had commenced, whaea Ngamihi took Students D, E and F home and advised their families of what had occurred, and apologised for her actions. During this time, Ms Kara called the Principal and advised what had occurred. The Principal contacted whaea Ngamihi to come in to discuss the issue later that day, which she did.
- 31 Whaea Ngamihi was sent home and told to rest and reflect on the matter, and prepare a statement.
- 32 The Principal and whaea Ngamihi subsequently met to discuss the matter. It was decided that
- (a) She was to receive professional development for running camps, stress and conflict management;
 - (b) There would be conditions in place if whaea Ngamihi ran camps in the future;
 - (c) She was to attend a restorative justice conference with the parents of the students involved; and
 - (d) She was to write a formal apology to each of the three students' whānau and receive a warning from the school about actions for dealing with poor student behaviour.
- 33 On 28 November 2019, the Principal provided a mandatory report to the

Teaching Council regarding whaea Ngamihi's conduct.

- 34 On 3 December 2019, the Complaints Assessment Committee's investigator emailed whaea Ngamihi a copy of the mandatory report and invited her to respond by 15 January 2020.
- 35 On 3 February 2020, whaea Ngamihi provided a written response to the mandatory report. In it, she stated that she had been asked by her "education leader to take the students up to a dangerous location and make them walk home in the dark". She stated she was working under immense stress and pressure, late at night with insufficient support and she did not have the skills to deal with it. She acknowledged that in retrospect she should have made much different decisions.
- 36 She also acknowledged that
 - (a) Senior staff should have been called in and "everything de-escalated in a safe manner".
 - (b) She should have asked someone else to support her.
 - (c) She had met with the various whānau members and apologised to them.
- 37 At the CAC meeting on 18 March 2021, whaea Ngamihi stated (in regards to her actions with the students once they returned to the camp) that she had no support and was isolated at midnight and did not know how to handle the situation.
- 38 Whaea Ngamihi said she was annoyed with the students' attitudes and believed that if nothing happened regarding the three students who hid from the van then they would laugh and boast about it. Whaea Ngamihi admitted to making the students take off their pants and stand by the trees. She accepted that she should not have asked them to take their pants off. She stated she had since apologised to the parents involved.
- 39 The Complaints Assessment Committee considered that whaea Ngamihi's actions may constitute serious misconduct (as defined in 378 of the Education Act 1989). Accordingly, the Complaints Assessment Committee referred the matter to the Teachers Disciplinary Tribunal under s 404(4) of the Education Act 1989.

4. CHARGE AND LEGAL FRAMEWORK

4.1. The particulars of the charge are as follows:

1. The CAC charges that Ngamihi Moses, registered teacher, of Te Teko, on the night of 14 November 2019 to manage students' behaviour:
 - (a) Drove six (6) year 8 students, aged between 11 and 12 years old, from a school camp in a rural area into a nearby town (Otorohanga) and gave the students the choice to either walk back to the school camp or walk home to Whakatane and then instructed them to get out of the van; and/or

- (b) Left the students unaccompanied in Otorohanga at night; and/or
- (c) Lost three (3) of the students for several hours; and/or
- (d) Once back at camp, instructed three (3) of the six (6) year 8 students, aged between 11 and 12 years old, to take off their pants and stand in their underwear by trees until they showed remorse before allowing them to go to bed.

- 2. The conduct alleged in paragraph 1 separately and/or cumulatively amounts to serious misconduct pursuant to section 378 of the Education Act 1989 and Rule 9(1)(b), (d) and/or (k) of the Teaching Council Rules 2016 or alternatively amounts to conduct which otherwise entitles the Disciplinary Tribunal to exercise its powers pursuant to section 404 of the Education Act 1989.

4.2. Section 378(1) of the Act defines serious misconduct:

serious misconduct means conduct by a teacher—

- (a) that—
 - (i) adversely affects, or is likely to adversely affect, the well-being or learning of 1 or more students; or
 - (ii) reflects adversely on the teacher’s fitness to be a teacher; or
 - (iii) may bring the teaching profession into disrepute; and
- (b) that is of a character or severity that meets the Teaching Council’s criteria for reporting serious misconduct.

4.3. The test for serious misconduct is conjunctive.¹ As well as having one or more of the three adverse professional effects or consequences described in section 378(1)(a), the conduct must also be of a character and severity that meets the Teaching Council’s criteria for reporting serious misconduct contained in rule 9 of the Education Council Rules 2016.

4.4. Rule 9(1) states that a teacher’s employer must immediately report to the Council if the employer has reason to believe that the teacher has committed a serious breach of the Code of Professional Responsibility. Rule 9(1) also states that serious breaches of the Code include, but are not limited to, examples of conduct set out in rules 9(1)(a) to (k).

4.5. Rules 9(1)(b), (d) and (k) are relied upon by the Committee. These state as follows:

¹ *Teacher Y v Education Council of Aotearoa New Zealand* [2018] NZDC 3141, 27 February 2018, at [64].

9. Criteria for reporting serious misconduct

(1) A teacher's employer must immediately report to the Education Council in accordance with section 394 of the Act if the employer has reason to believe that the teacher has committed a serious breach of the Code of Professional Responsibility, including (but not limited to) 1 or more of the following:

...

(b) Emotional abuse that causes harm or is likely to cause harm to a child or young person.

(d) Failing to protect the child or young person due to negligence or misconduct, not accidental harm.

...

(k) an act or omission that brings, or is likely to bring, the teaching profession into disrepute.

5. DECISION ON LIABILITY

- 5.1. Consistent with Ms Moses' own admission, the Tribunal finds that her conduct meets each definition of serious misconduct at section 378(1)(a).
- 5.2. It was likely to adversely affect the wellbeing of the children. Leaving intermediate age children alone, at night, in an unfamiliar area, on two separate occasions, is entirely inconsistent with a child's wellbeing. It was dangerous. Making them lean against a tree in their underwear and a t-shirt, after the previous events, including having to involve the police, was also completely at odds with the wellbeing of the children. These events could have had a significant emotional impact. They certainly could have led to physical harm. It is good fortune that they did not.
- 5.3. Ms Moses' conduct reflects adversely on her fitness to be a teacher. She breached several duties owed to the children and their parents. She demonstrated a complete lack of judgment. Anyone would be wary of placing children in her care in the future, based on her conduct in this matter.
- 5.4. Ms Moses' conduct risked bringing the teaching profession into disrepute. We have no difficulty in accepting that reasonable members of the public, informed of the facts of this matter, would conclude that the reputation of the profession was lowered by her behaviour.

- 5.5. Further, Ms Moses' conduct is of a character and severity that meets the criteria for reporting serious misconduct contained in rule 9 of the Rules. Specifically:
- (a) Rule 9(1)(d): Failing to protect the child due to negligence or misconduct. The respondent's misconduct is proven in this case in that it amounts to a clear failure to protect the children.
 - (b) Rule 9(1)(k): An act or omission that brings, or is likely to bring, the teaching profession into disrepute. The Tribunal has already accepted that the behaviour of Ms Moses was likely to bring the profession into disrepute.
- 5.6. There is a degree of overlap between the criteria. This is particularly so once it had been found that there was an act or conduct by Ms Moses that adversely affected the wellbeing of the children. The short point is that the Tribunal is satisfied that there was serious misconduct and notes that it could have been reached via several different routes.
- 5.7. The Committee submitted that rule 9(1)(b) which relates to emotional abuse, was applicable on the basis that the conduct was designed to humiliate, degrade, and control the children. The Tribunal has determined that the charge of serious misconduct is made out without determining whether the conduct meets the definition of emotional abuse. That term arguably refers to conduct that is more premeditated and repetitive than what has occurred in this case. It might also relate to conduct that involves separate incidents, which on their own do not amount to abuse, but when viewed cumulatively could be seen as such. As stated, the Tribunal has not deemed it necessary to fully consider and determine that particular issue.

6. PENALTY

- 6.1. In imposing the penalties below, the Tribunal has considered the previously decided cases referred to by the parties.² Not surprisingly, given the unique nature of the behaviour in this matter, there are significant differences between the behaviour in this case and the cases referred to. The Tribunal deems this matter to be more serious.
- 6.2. The Tribunal acknowledges that Ms Moses was not the sole person responsible at the commencement of this incident. But it is not asked of us to deal with the behaviour of the other adults, we are simply tasked with Ms Moses' actions.
- 6.3. The Tribunal considers that the following factors aggravate the conduct:

² *CAC v Teacher* NZTDT 2020/33; *CAC v Jacqueline Herbert* NZTDT 2018-81; *CAC v Teacher* NZTDT 2018-53; *CAC v Fuli-Makaua* NZTDT 2017/40.

- (a) The children were young and vulnerable. They were in no position to defend themselves or properly care for themselves late at night, away from home and without adult supervision.
- (b) The conduct was repeated. When Ms Moses approached the three children walking back towards the camp, she did not invite them back into the van. She left them where they were while searching for the three that were missing. It should have been clear to Ms Moses that her behaviour was improper, and she should have brought an end to the situation, at least in relation to the three children in front of her at that time.
- (c) The act of standing the children against the tree until Ms Moses deemed that they had shown sufficient remorse, was inappropriate. The fact that this took place after police intervention is concerning. Having to report the matters to the authorities, should have informed Ms Moses that her actions had gone beyond what was acceptable and she needed to change her approach.
- (d) Requiring the students to undress was humiliating and a gross abuse of power. There is no legal provision that permits a teacher to force a student to undress. It was an invasion of the students' privacy with potential to cause them psychological harm.

6.4. In terms of mitigating factors, the Tribunal accepts the following:

- (a) Ms Moses has shown remorse for her conduct from an early stage, including apologies to parents the day after the camp.
- (b) Active steps have been taken by Ms Moses in agreement with the school principal. This includes attending a program for professional development for running camps, conditions placed on her running camps in the future, and that she was to attend restorative justice meetings with parents of the students and write a formal apology. The Tribunal has been advised that the restorative justice meetings took place in November 2019, approximately two weeks after the incident. The principal reported that Ms Moses was upset and remorseful during the meeting and that apologies given were accepted by whānau of the children.
- (c) Ms Moses fully cooperated with the CAC investigation and admitted that her conduct amounted to serious misconduct. She has accepted that there will be a penalty and has not sought to argue against the penalty proposed by the Committee – this is not surprising given that it is particularly lenient.

(d) Ms Moses completed a reflective statement in September 2021. It includes insights into how she should have responded to the situation on the evening in question. It is positive that Ms Moses can articulate a proper response, although this should have been obvious to a teacher of her standing and experience at the time.

(e) Ms Moses has had a 22-year teaching career and no previous incidents of misconduct. Nothing has subsequently happened that affects the Tribunal's view of her character. She retains the support of the school principal.

6.5. The penalties imposed, which are set out immediately below, are broadly in line with the submissions of the parties. The Tribunal has added conditions and extended the period for which they apply. The penalties recommended by the parties were lenient. The Tribunal considers that the appropriate starting point was cancellation of Ms Moses' practicing certificate, and we gave serious consideration to imposing a period of suspension as the ultimate outcome³. This would have been harsh but could have properly reflected the seriousness of the matter. In the end, having regard to the mitigating factors referred to above, and Ms Moses' unblemished disciplinary history, we are prepared to give her the benefit of the doubt.

6.6. The Tribunal imposes the following penalties:

(a) Censure.

(b) Annotation of the register for a period of two years.

(c) Imposition of the following conditions:

(i) that Ms Moses must notify any current or prospective teaching employer of the Tribunal's decision (and to provide a copy of the Tribunal's decision) for a period of 24 months from the date of the Tribunal's decision.

(ii) that Ms Moses is to undertake and complete the program Zones of Regulation offered by the organisation Socially Speaking within 12 months from the date of this decision and to provide evidence to the Teaching Council regarding the completion of the program. Ms Moses may complete an alternative program if approved by the Teaching Council in advance.

³ After the hearing, the Tribunal invited further submissions on the issue of suspension as it was being considered but had not been addressed by the parties. Additional submissions and an affidavit from Ms Moses were filed. These were reviewed by the Tribunal prior to the penalties being agreed.

(iii) that Ms Moses is to enter a formal mentoring arrangement with a suitable mentor for a period of 12 months from the date of this decision. The mentor is to provide a report to the Teaching Council at the conclusion of the mentoring period.

7. COSTS

- 7.1. The Committee seeks a contribution to its costs pursuant to section 404(1)(h) of the Act. A contribution of 50% is standard where a matter has been defended and a charge of serious misconduct proven. A contribution of 40% is common where a matter has been determined “on the papers.” This is because of the savings and time and cost to those involved in the proceedings.
- 7.2. The Tribunal orders Ms Moses to pay a contribution of 40% of the Committee’s costs. The Tribunal has reviewed them and determined that they are reasonable.
- 7.3. The Tribunal also orders that Ms Moses pay a contribution of 40% to its own costs.

8. NAME SUPPRESSION

- 8.1. Ms Moses does not seek name suppression; however, Whakatane Intermediate School applies for suppression of its name and of her name.
- 8.2. All parties agree that the names of the children involved should be suppressed. None of the children are named anywhere in this decision, but out of an abundance of caution, the parties agree that suppression should be ordered.
- 8.3. The application of the principle of open justice to proceedings before the Tribunal is contained in section 405(3) of the Act. The Tribunal has previously stated that the primary purpose behind open justice in a disciplinary context, is the maintenance of public confidence in the profession concerned through transparent administration of the law.⁴ Section 405(6)(c) of the Act provides that the Tribunal may make an order prohibiting publication of the name or particulars of the affairs of any person if the Tribunal is of the view that it is proper to do so, having regard to the interest of any person...and to the public interest.

⁴ *Complaints Assessment Committee v Teacher* NZTDT 2016/27 at [66] citing *X v Standard Committee (No 1) of the New Zealand Law Society* [2011] NZCA 676 at [18].

- 8.4. The Tribunal has no difficulty in ordering for the names of the students involved in the incident to be suppressed. It is appropriate having regard to their age at the time (11 – 12), their age now (13 – 14), their vulnerability and the nature of the alleged serious misconduct.
- 8.5. As stated, Ms Moses does not seek suppression of her name. The school, however, seeks for its name and Ms Moses' name to be suppressed. In support, the school refers to the following:
- (a) Given the small community within which the school is located, publication of the school's name could lead to identification of the students.
 - (b) Members of Ms Moses' whānau attend or participate in the school. It is suggested that if the school's name is published, Ms Moses's identity will be known, and her wider whānau will suffer. Of course, if the Tribunal determines that Ms Moses' name should not be suppressed, this argument falls away.
 - (c) Publication of the school's name would undo the healing created by the whānau involved by the school's "exhaustive process in dealing with the incident."
 - (d) Publication of the school's name would effectively mean publishing the teachers' names and would repunish the teachers involved.
 - (e) The school is the only intermediate in the area and publication of its name could lead to whānau considering sending their children elsewhere.
- 8.6. The Tribunal has considered the grounds advanced by the school but is not persuaded that there should be suppression in this case. The charge has been proven and serious misconduct found. Suppression should only be granted if there are sufficient and proper reasons that outweigh the principle of open justice.
- 8.7. The public, in particular the local community, are entitled to know when those responsible for educating their children have acted in this way. Put another way, it would be improper for members of the public to be denied access to this information when placing their children into the care of others.

- 8.8. The school suggests that publication may lead to the parents choosing to educate their children elsewhere. That is their right and they are entitled to receive all relevant information before making such a decision. The Tribunal also notes that this incident involved multiple teachers and/or staff members and there are legitimate questions as to whether sufficient training was undertaken, and systems put in place prior to the camp to ensure of the children. The school is responsible for this. This also weighs against denying the public the right to know of this matter.
- 8.9. Regarding the submission that publication of the names of Ms Moses and the school would lead to identification of the students, the Tribunal views this as speculative. We do not see a significant risk of publication leading to identification of the children beyond those that are already aware or have been involved in the incident.
- 8.10. Overall, the Tribunal considers that the suggested consequences of publication, to both the school and Ms Moses, are simply what might be expected in a matter involving serious misconduct. They are not sufficient to order non-publication. They do not outweigh the public's right to be informed.
- 8.11. The Tribunal therefore orders that the names of the six students are suppressed and must not be published. No other suppression orders are made.

Dated at Auckland this 23rd day of November 2021



S N B Wimsett
Deputy Chair

NOTICE - Right of Appeal under Section 409 of the Education Act 1989

1. This decision may be appealed by teacher who is the subject of a decision by the Disciplinary Tribunal or by the Complaints Assessment Committee.
2. An appeal must be made within 28 days after receipt of written notice of the decision, or any longer period that the court allows.
3. Section 356(3) to (6) applies to every appeal under this section as if it were an appeal under section 356(1).