

**BEFORE THE NEW ZEALAND  
TEACHERS DISCIPLINARY TRIBUNAL**

**NZTDT 2021/67**

**COMPLAINTS ASSESSMENT  
COMMITTEE  
Prosecutor**

**V**

**JONATHON TATE-  
RUSHWORTH  
Respondent**

Hearing: 31 May 2022 (on the papers)  
Appearances: C Patterson and E Mok for the CAC  
F Renton for the respondent  
Decision: 18 July 2022  
Tribunal: T Mackenzie, S Walker, N Sadlier

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**DECISION OF THE TRIBUNAL ON CHARGE, PENALTY, PUBLICATION AND  
COSTS**

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## Introduction

[1] The Complaints Assessment Committee (CAC) has charged the respondent with serious misconduct serious misconduct or misconduct in the alternative.

[2] The charge stems from an incident on or about 18 February 2020 when the respondent was working as a teacher at a school and wrestled with a student whilst taking a class, including using a "chokehold" on the student.

[3] The respondent is no longer a registered teacher due to other reasons. The parties are largely in agreement as to the outcomes in this proceeding.

## Facts

[4] The agreed facts are as follows: <sup>1</sup>

1. The respondent, Jonathon Tate-Rushworth, is a formerly registered teacher. As at the date of this summary of facts (December 2021), Mr Tate-Rushworth was not working as a teacher.
2. At the time of the relevant conduct described below, Mr Tate-Rushworth was a registered teacher with a full practising certificate, working at an all boys' secondary school [REDACTED] (School).
3. On 8 March 2021, Mr Tate-Rushworth's registration as a teacher was cancelled by the Teaching Council after he was convicted of an (unrelated) specified offence (as defined in the Children's Act). The College also terminated Mr Tate-Rushworth's employment in March 2021.

### **Incident involving Student A**

4. On or about 18 February 2020, Mr Tate-Rushworth was teaching a Business Studies class during fifth period to Year 13 students at the School. Student A was one of the students in the class.
5. During the class, Student A acted in a way that caused Mr Tate-Rushworth to believe that he had been disrespected. Towards the end of the class, Mr Tate-Rushworth remarked to the class, " who wants to see me wrestle [Student A]?" Mr Tate- Rushworth and Student A agreed to engage in a wrestling match. The pair agreed the rules of the match beforehand.

1. Due to the non-publication orders to follow, we have modified references to the particular school involved to read "the school"

6. Mr Tate-Rushworth and Student A then proceeded to wrestle with each other in front of the rest of the Business Studies class in the classroom. At one stage, the pair were wrestling each other while on the ground, and Student A had his arm around Mr Tate- Rushworth's neck.
7. Various students filmed the incident on their phones. Footage recorded by one student of part of the wrestling match is filed together with this summary of facts, and forms part of this summary of facts.
8. During one part of the incident that was not recorded on the available footage, Mr Tate-Rushworth placed Student A in a "chokehold", with his arm held around Student A's neck.

#### **School investigation**

9. On or about 19 February 2020, the day after the incident with Student A, Mr Tate- Rushworth apologised to the class. Mr Tate-Rushworth said that he had made a mistake in wrestling Student A, and that by doing so he had crossed professional boundaries and put the reputation of the School at risk. Mr Tate-Rushworth reported the incident to the Principal of the School that day.
10. Mr Tate-Rushworth sent the Principal a copy of the footage recorded by one of the students (and referred to above) via email later that day. In the email, Mr Tate- Rushworth stated that, "[n]ot shown in this clip is a point earlier where I had the student in a choke hold". Mr Tate-Rushworth further stated:  
A summary of the events:
  - Class proceeded as normal
  - JTR [Mr Tate-Rushworth] had felt disrespected by a student during class
  - At the end of the class JTR challenged the student to a wrestling match
  - Match was friendly, involving no striking or anger
  - Some students took videos and have shared them
  - JTR discussed the events in class today (the 19<sup>th</sup>) explaining that he had made a mistake, crossing professional boundaries, and put the reputation of the school at risk.
  - JTR asked students to delete videos and take them down from the internet, "I was worried sick last night over this foolish thing that I've done. I don't mind whatever consequences come my way - but I'm sorry to you

guys that you'll have to deal with this”

11. Mr Tate-Rushworth was placed on leave with pay while the School investigated the incident, and he was also invited to attend a disciplinary meeting at a later date.
12. The School obtained statements from several students in the Business Studies class, including Student A. In his statement, Student A said that he had wrestled Mr Tate- Rushworth for a couple of minutes, that it was all in fun, and that he had not been in danger or pain. Other students described the incident as " a bit of fun wrestling", "light-hearted", "really quick", with no one being hurt, and that the incident never got out of hand.
13. On 21 February 2020, Mr Tate-Rushworth met with the Principal about the incident. He explained that his remark about wanting to wrestle Student A was a consequence of him having been annoyed about Student A not being engaged during class, and that it had been the result of verbal exchanges between the pair throughout the lesson.
14. On 24 February 2020, the Principal of the School wrote to Mr Tate-Rushworth, recording that, by agreement, Mr Tate-Rushworth would establish a mentoring relationship with the Deputy Principal of the School, that he would be censured and the Principal's letter placed on his file, and that the Teaching Council would be notified of the incident.

**Mandatory report**

15. On 24 February 2020, the Principal of the School submitted a mandatory report about Mr Tate-Rushworth’s conduct to the Teaching Council. The Teaching Council referred the matter to a Complaints Assessment Committee **(Committee)** for investigation.

**Teacher's comments**

16. In a written response provided during the Committee's investigation, Mr Tate-Rushworth acknowledged that he had placed Student A in a chokehold during the incident. He said: "In the wrestling event, the "choke hold" that is referenced was applied in a controlled manner so as not to constrict the student's windpipe or blood vessels. There was negligible risk of harm. As is already made clear in the report. I am remorseful and regret my unprofessional decisions".
17. At a meeting with the Committee, Mr Tate-Rushworth stated that his intentions had been good, but accepted that he had made a mistake. He said he had suggested the wrestling because he did not consider other pathways for dealing with the student's disrespect would resolve matters. He said that the rules for the wrestling were agreed beforehand, that there had been no

malice involved, and that he and the student had agreed to engage in the wrestling before this took place. Mr Tate-Rushworth also said that he would like to explore his options further for possibly becoming registered as a teacher again and re-entering the teaching profession in the future.

18. In respect to his comment about feeling "disrespected" in the email to the Principal, Mr Tate-Rushworth further states that "on reflection", "to say I felt 'disrespected' is incorrect. It would be more accurate to say that the student was not accepting his responsibility within the context of the class. This was not a matter of my ego. It is a matter of people working together towards the common good."

### **Charge liability**

[5] The CAC says that this is serious misconduct. The respondent agrees.

[6] Having considered the matter and viewed the footage of part of this incident, the Tribunal also agrees. It was conduct that reflected adversely on the respondent's fitness to be a teacher. It was also conduct that may bring the teaching profession into disrepute.

[7] Given the descriptions by other students, it is difficult to consider further the effect on well-being or learning. Regardless, the first part of the serious misconduct test is made out.

[8] The second limb is also made out. Various reporting rules were engaged: Rule 9(1)(a) (unjustified or unreasonable physical force); Rule 9(1)(e) (breaching professional boundaries; and Rule 9(1)(k) (disrepute).

### **Penalty**

[9] The CAC suggests orders for censure, annotation of the register, and an order directing that the Teaching Council impose a condition on any future registration that for at least one year the respondent provide this decision to any education employer.

[10] The respondent agrees with the first two penalties but suggests that the third is not required given the "extremely high standards" that the respondent will need to meet to re-register.

[11] The Tribunal considers that all three orders are warranted. The reporting condition is relatively short. And in any event any future employer with some due diligence will be able to locate this decision at any time.

### **Costs**

[12] The parties agree with an order of 40% of costs: \$1,772.40.

[13] 40% of Tribunal costs is a further \$458.00.

### **Non publication orders**

[14] Although not mentioned in this decision, there are orders now for non-publication of the name of the school where this incident concerned, the names of any students involved, and the content of the video evidence.

### **Conclusion**

[15] Orders as follows:

- The charge of serious misconduct is proven.
- The respondent is censured per s 404(1)(b) Education Act 1989.
- The register is to be annotated per s 404(1)(e).
- If the applicant is issued a practising certificate in the next 12 months from the date of this decision, the Teaching Council is to impose a condition that the respondent must provide this decision to any employer for a period of 12 months from the date of this decision (i.e. if the certificate issued in six months' time, the respondent for a period of six months would need to alert any prospective education employer to this decision): s 404(1)(j).
- Costs as above.
- Non publication as above.



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**T J Mackenzie**

**Deputy Chair**