



Teaching
Regulation
Agency

Ms Qingqing Duan: Professional conduct panel outcome

**Panel decision and reasons on behalf of the
Secretary of State for Education**

September 2022

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Professional conduct panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher: Ms Qingqing Duan

TRA reference: 0020134

Date of determination: 27 September 2022

Former employer: Brentwood School, Essex (the “School”)

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 26 September 2022 virtually by Microsoft Teams, to consider the case of Ms Quinqing Duan.

The panel members were Mr Neil Hillman (teacher panellist – in the chair), Ms Geraldine Baird (lay panellist) and Mr Suhel Ahmed (teacher panellist).

The legal adviser to the panel was Ms Anna Marjoram of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Ms Heather Andersen of Browne Jacobson LLP solicitors.

Ms Duan was present and was represented by Dr Robert Lindsey of Cornwall Street Chambers, on behalf of the NEU.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of hearing dated 19 July 2022.

It was alleged that Ms Duan was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as a teacher at the School between 1 September 2020 to 15 May 2021:

1. She failed to maintain appropriate professional boundaries with Pupil A, including by:
 - a. Between December 2020 and May 2021, engaging in communication via email
 - i. late into the night and/or early hours of the morning;
 - ii. stating that Pupil A was sweet;
 - iii. stating that Pupil A was her friend outside the classroom;
 - iv. stating “you might be my first student who goes to Cambridge [smile face emoji]. You can ask me for a big award if you make it”;
 - b. Between December 2020 and May 2021, engaging in communication via handwritten notes, in which she:
 - i. provided Pupil A with her mobile number;
 - ii. told Pupil A personal information, including about a crush she had on a teacher and told him not to share it;
 - iii. asked if Pupil A saw her as a teacher, girlfriend, friend or soulmate;
 - iv. told Pupil A that she would give him a gift if he obtained a grade 9;
 - c. Between December 2020 and May 2021, engaging in conversation with Pupil A outside of the classroom on more than one occasion, where she:
 - i. engaged in a conversation about Pupil A having a crush on her;
 - ii. in relation to the letters above told him “don’t do anything silly if you want to be friends and destroy the letter/the paper”;
2. She failed to maintain appropriate professional boundaries with one or more of her students by:
 - a. sending emails outside of school hours and late into the night/early hours of the morning;
3. She failed to maintain appropriate professional boundaries with sixth form students by:
 - a. cuddling them prior to an exam;
4. Her conduct at Allegation 1(c)(ii) above was dishonest and/or lacking integrity.

Ms Duan admitted the facts of all the allegations, and admitted that these facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

The panel considered an application from Ms Duan's representative for the admission of a late document, specifically a witness statement from Ms Duan signed and dated 23 September 2022. The presenting officer did not object to this application. The panel was satisfied that this document may reasonably be considered to be relevant as it addressed the teacher's admissions to the allegations. The panel therefore decided to admit the document.

Summary of evidence

Documents

In advance of the hearing, the panel received a bundle of documents which included:

Section 1: Notice of proceedings – pages 5 to 16

Section 2: Anonymised pupil list – page 18

Section 3: Statement of agreed facts – pages 20 to 24

Section 4: Teaching Regulation Agency witness statements – pages 26 to 193

Section 5: Teaching Regulation Agency documents – pages 195 to 245

Section 6: Teacher documents – blank

In addition, the panel agreed to accept the following:

- a witness statement from Ms Duan signed and dated 23 September 2022.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional document that the panel decided to admit.

Witnesses

No witnesses were called by either party.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case before it and reached a decision.

Ms Duan was employed as a newly qualified teacher of physics at the school from 1 September 2020.

On 3 May 2021, the School received an email from Pupil A's parents expressing concerns and on 4 May 2021 a meeting with Pupil A's parents was convened. Ms Duan was suspended on 4 May 2021 pending investigation.

An investigation meeting was held with Ms Duan on 5 May 2021. A disciplinary meeting was convened by the School on 10 May 2021 which Ms Duan attended, following which Ms Duan was dismissed.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegations against you proved, for these reasons:

Whilst employed as a teacher at the School between 1 September 2020 to 15 May 2021:

1. You failed to maintain appropriate professional boundaries with Pupil A, including by:

a. Between December 2020 and May 2021, engaging in communication via email

i. late into the night and/or early hours of the morning;

This allegation was admitted by Ms Duan and supported by the evidence presented to the panel, in particular screenshots of several emails sent late at night and/or early in the morning. The allegation was therefore found proved.

ii. stating that Pupil A was sweet;

This allegation was admitted by Ms Duan and supported by the evidence presented to the panel, including a screenshot of an email confirming Ms Duan used this language and Ms Duan's explanations for this language in interviews undertaken as part of the School's investigations. The allegation was therefore found proved.

iii. stating that Pupil A was your friend outside the classroom;

This allegation was admitted by Ms Duan and supported by evidence presented to the panel, in particular a screenshot of an email containing this language. The allegation was therefore found proved.

- iv. stating “you might be my first student who goes to Cambridge [smile face emoji]. You can ask me for a big award if you make it”;**

This allegation was admitted by Ms Duan and supported by evidence presented to the panel including a copy of the email sent by Ms Duan to Pupil A containing this language. The allegation was therefore found proved.

- b. Between December 2020 and May 2021, engaging in communication via handwritten notes, in which you:**

- i. provided Pupil A with your mobile number;**

This allegation was admitted by Ms Duan, although the panel noted that Ms Duan had provided a different account as to how Pupil A would have been provided with her telephone number. On the evidence available to the panel, including a handwritten note which contained Ms Duan’s telephone number, and the accounts of Pupil A and Pupil A’s parents, the panel concluded on the balance of probabilities that this allegation had been proved.

- ii. told Pupil A personal information, including about a crush you had on a teacher and told him not to share it;**

This allegation was admitted by Ms Duan and supported by evidence presented to the panel, including a handwritten note which contained these details. The allegation was therefore found proved.

- iii. asked if Pupil A saw you as a teacher, girlfriend, friend or soulmate;**

This allegation was admitted by Ms Duan. The panel also had regard to Pupil A’s consistent and timely account in statements given to the TRA and as part of the School’s investigation. The panel was therefore satisfied on the balance of probabilities that this allegation was proved.

- iv. told Pupil A that you would give him a gift if he obtained a grade 9;**

This allegation was admitted by Ms Duan and supported by evidence presented to the panel, in particular a copy of the notebook extract containing this wording. This allegation was therefore found proved.

- c. Between December 2020 and May 2021, engaging in conversation with Pupil A outside of the classroom on more than one occasion, where you:**

- i. engaged in a conversation about Pupil A having a crush on you;**

This allegation was admitted by Ms Duan and was supported by evidence of the School's investigative interviews which was presented to the panel. The allegation was therefore found proved.

- ii. in relation to the letters above told him "don't do anything silly if you want to be friends and destroy the letter/the paper";**

This allegation was admitted by Ms Duan. The panel had regard to the evidence from the School's investigations, which contained notes taken at a proximate time to the alleged incident. The panel were therefore satisfied, on the balance of probabilities, that this allegation had been proved.

2. You failed to maintain appropriate professional boundaries with one or more of your students by:

- a. sending emails outside of school hours and late into the night/early hours of the morning;**

This allegation was admitted by Ms Duan and supported by the evidence presented to the panel, in particular screenshots of several emails sent late at night and/or early in the morning. The allegation was therefore found proved.

3. You failed to maintain appropriate professional boundaries with sixth form students by:

- a. cuddling them prior to an exam;**

This allegation was admitted by Ms Duan and supported by evidence presented to the panel, specifically Ms Duan's interviews with the School to investigate the allegations. The allegation was therefore found proved.

4. Your conduct at Allegation 1(c)(ii) above was dishonest and/or lacking integrity.

This allegation was admitted by Ms Duan. The panel had regard to Ms Duan's statements and the content of the written notes, and considered that Ms Duan displayed a level of insight regarding the content of her conversations with Pupil A, including that her comments and actions may be misunderstood by others. The panel therefore found this allegation proved.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found all of the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as “the Advice”.

The panel was satisfied that the conduct of Ms Duan, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that Ms Duan’s conduct was in conflict with the preamble of the Teacher’s Standards, specifically that “teachers act with honest and integrity” and “forge positive relationships”. The panel considered that, by reference to Part 2, Ms Duan was in breach of the following standards:

Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:

- treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position
- having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions
- showing tolerance of and respect for the rights of others

Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.

Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Ms Duan fell significantly short of the standard of behaviour expected of a teacher.

The panel also considered whether Ms Duan’s conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The panel found that none of these offences were relevant.

Accordingly, the panel was satisfied that Ms Duan was guilty of unacceptable professional conduct.

The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of

pupils and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

As above, the panel also considered whether Ms Duan's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice but found that none of these offences were relevant.

The panel considered that Ms Duan's conduct could potentially damage the public's perception of a teacher.

The panel therefore found that Ms Duan's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1, 2, 3 and 4 proved, the panel further found that Ms Duan's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Ms Duan and whether a prohibition order is necessary and proportionate. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and the interest of retaining the teacher in the profession.

In the light of the panel's findings against Ms Duan which involved a failure to understand and adhere to professional boundaries and follow the School's policies, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils. Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Duan were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Ms Duan was outside that which could reasonably be tolerated.

The panel decided that there was a valid public interest consideration in retaining the teacher in the profession, and there was potential for her to be able to make a valuable contribution to the profession, particularly as a teacher of a shortage subject.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The panel was mindful that Ms Duan's misconduct was on the lower end of the spectrum of severity.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, the panel did not conclude that any were relevant in this case.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider the mitigation offered by the teacher.

The panel accepted the submission that Ms Duan did not intend to cause harm to her pupils; however, as admitted by Ms Duan, the professional boundaries had neither been understood nor adhered to at the time.

There was no evidence to suggest that Ms Duan was acting under extreme duress. Nor was there evidence of any previous incidents of concern.

The panel was referred to the reference for employment provided by Individual A and noted that Ms Duan appeared to be of good character and showed great potential as a newly qualified teacher.

The panel also had regard to Ms Duan's remorse for the incidents and considered she had shown a level of insight into her shortcomings as a teacher, notably her failure to fully understand or appreciate safeguarding issues and professional boundaries, as well as the need to improve her behaviour management. This was demonstrated by the fact that, following her dismissal, Ms Duan had voluntarily undertaken additional safeguarding training.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Given that the nature and severity of the behaviour was at the less serious end of the possible spectrum and, having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of sanction.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Ms Qingqing Duan should not be the subject of a prohibition order. The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Ms Duan is in breach of the following standards:

Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:

- treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- showing tolerance of and respect for the rights of others

Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.

Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel finds that the conduct of Ms Duan fell significantly short of the standards expected of the profession.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Ms Duan, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect pupils. The panel has observed, "In the light of the panel's findings against Ms Duan which involved a failure to understand and adhere to professional boundaries and follow the School's policies, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils" A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The panel also had regard to Ms Duan's remorse for the incidents and considered she had shown a level of insight into her shortcomings as a teacher, notably her failure to fully understand or appreciate safeguarding issues and professional boundaries, as well as the need to improve her behaviour management. This was demonstrated by the fact that, following her dismissal, Ms Duan had voluntarily undertaken additional safeguarding training." I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Duan were not treated with the utmost seriousness when regulating the conduct of the profession."

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an "ordinary intelligent and well-informed citizen."

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as

being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Ms Duan herself and the panel comment "The panel was referred to the reference for employment provided by Individual A and noted that Ms Duan appeared to be of good character and showed great potential as a newly qualified teacher."

A prohibition order would prevent Ms Duan from teaching. A prohibition order would also clearly deprive the public of her contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel's comments concerning insight and remorse. The panel has said, "The panel also had regard to Ms Duan's remorse for the incidents and considered she had shown a level of insight into her shortcomings as a teacher, notably her failure to fully understand or appreciate safeguarding issues and professional boundaries, as well as the need to improve her behaviour management. This was demonstrated by the fact that, following her dismissal, Ms Duan had voluntarily undertaken additional safeguarding training."

I have also placed considerable weight on the finding of the panel that "there was a valid public interest consideration in retaining the teacher in the profession, and there was potential for her to be able to make a valuable contribution to the profession, particularly as a teacher of a shortage subject."

I have given weight in my consideration of sanction therefore, to the contribution that Ms Duan has made to the profession and to the level of insight shown and additional safeguarding training undertaken to improve her behaviour management.

The panel have said they were "of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Given that the nature and severity of the behaviour was at the less serious end of the possible spectrum and, having considered the mitigating factors that were present."

For these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.



Decision maker: Sarah Buxcey

Date: 30 September 2022

This decision is taken by the decision maker named above on behalf of the Secretary of State.