

**BEFORE THE
COMMISSION ON TEACHER CREDENTIALING
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JAMIL WELLS, Respondent

Agency Case No. 2-268971276

OAH No. 2022050806

PROPOSED DECISION

Administrative Law Judge Coren D. Wong, Office of Administrative Hearings, State of California, heard this matter by videoconference on August 25, 2022, from Sacramento, California.

Summer D. Haro, Deputy Attorney General, represented complainant Mary Vixie Sandy, Ed.D., Executive Director of the California Commission on Teacher Credentialing (Commission).

Respondent Jamil Wells represented herself.

Evidence was received, the record closed, and the matter submitted for decision on August 25, 2022.

FACTUAL FINDINGS

Jurisdictional Matters

1. The Commission issued respondent a Certificate of Clearance on June 3, 2008, which expired July 1, 2013. The Commission issued her a Short-Term Staff Permit on August 4, 2008, which expired July 1, 2009. The Commission issued her an Intern Single Subject Teaching Credential on August 23, 2010, which expired September 1, 2012. The Commission issued her a Preliminary Single Subject Teaching Credential on July 1, 2011, which expired August 1, 2016. The Commission issued her a Clear Single Subject Teaching Credential on July 17, 2015, which expired August 1, 2020, was reissued August 24, 2020, and expires September 1, 2025, unless renewed.

Background

2. Transformational Education Inc. (TEAM) – Charter School operates three charter schools in Stockton, California: two elementary schools, TEAM Charter Main and TEAM Charter Bianchi, and one middle school, TEAM Charter Academy. TEAM – Charter School hired respondent as the vice principal of TEAM Charter Main for the 2019/2020 school year. She was promoted to director of education (principal) of TEAM Charter Bianchi the following school year.

3. At all times relevant, Patricia Granados was TEAM – Charter School's director of human resources and Guadalupe Perez was its human resources coordinator. Esther Tellez was a front office clerk at TEAM Charter Bianchi. Mses. Granados, Perez, and Tellez prepared written statements documenting their interactions with respondent discussed below, which were admitted into evidence.

They also testified at hearing. Respondent testified but did not introduce any documentary evidence.

The Events of June 17 and 21, 2021

Ms. GRANADOS'S STATEMENT AND TESTIMONY

4. TEAM Charter Bianchi's last day of school for the 2020/2021 school year was June 17, 2021. Ms. Granados called respondent that morning and requested an in-person meeting for that afternoon. Respondent agreed to meet and asked the purpose of the meeting. Ms. Granados replied, "[it is] in regards to next school year." Respondent continued to request further information, but Ms. Granados kept repeating her previous answer. Ms. Granados eventually stated she could not provide additional details by phone, but she could at the meeting. Respondent's "voice grew agitated, and she asked if she could contact Executive Director, Deborah Vallejo." Ms. Granados said she could, and respondent "quickly hung up."

5. Mses. Granados and Perez arrived at TEAM Charter Bianchi shortly before their scheduled appointment with respondent. They met with respondent in one of the portable classrooms. The three of them sat down at a table, and Ms. Granados proceeded to explain that TEAM – Charter School was not renewing respondent's employment contract for the following school year. As Ms. Granados attempted to explain the rationale for respondent's non-reelection, respondent interrupted by stating "save it, I do not need to hear it and I do not want to be anywhere where I am not wanted." Ms. Granados went over respondent's final paycheck, her rights to continued health care coverage, and her rights regarding unemployment insurance benefits. She also explained respondent's access to the school's computer network was being terminated immediately, and respondent should contact TEAM – Charter

School's Information and Technology Department (IT) if there were things she needed from the network. Ms. Perez collected respondent's keys and school identification. Respondent acknowledged Ms. Granados's information and left the portable while Ms. Granados and Perez remained to collect keys and identification from other staff.

6. Sometime after the meeting had ended and respondent had left, Ms. Tellez came into the portable where Ms. Granados and Perez were working and told them it was time for her to go home but she could stay if necessary. She also told them respondent was still in the front office, had not packed any of her personal belongings, and was calling different people on the phone. Ms. Granados and Perez gathered their belongings and followed Ms. Tellez to the front office. Once there, Ms. Perez "clocked out" and walked to the parking lot to leave for the day.

7. As Ms. Granados entered the front office, respondent asked to have until the following day to pack her personal belongings. Ms. Granados responded by agreeing to stay as long as respondent needed, but respondent insisted she needed an additional day. They continued their discussion after the remaining staff had left the front office and they were alone. Ms. Granados explained that she was willing to stay as long as respondent needed, but respondent needed to gather all her property that day. Respondent asserted she had two years' worth of property to pack and she lost access to "personal property" stored in her school email account when the school terminated her access to the network. Ms. Granados suggested that respondent needed to contact IT to discuss retrieving her property, to which respondent replied, "this is making me upset because those are my personal documents that I have a right to." As respondent spoke, she "grew very, very upset," her demeanor was "aggressive," and she was pacing back-and-forth.

8. Ms. Granados obtained a business card from Ms. Tellez's desk, wrote IT's email address on the back, and handed it to respondent. As she handed the card to respondent, she pointed to the email address on the back and tried to explain that respondent should contact IT. Respondent took offense at Ms. Granados's pointing to the business card "and became very aggressive." She yelled, "Where I am from[,] girls like you get their ass beat for doing shit like that, you are so disrespectful, and you are lucky I do not beat your ass." Respondent continued to yell at Ms. Granados, call her names, "and use extremely foul language."

9. Ms. Granados was three months pregnant at the time and began to fear for her physical safety and that of her unborn child. She walked to a different part of the room away from respondent and sat down to try to de-escalate the situation. It did not work. Ms. Granados said she had a "habit of talking with [her] hands," admitted she should not have done that, explained it was not her intent to be disrespectful, and apologized. Respondent replied, "I do not give a shit, fuck you and leave."

10. Ms. Perez had previously sent Ms. Granados a text message asking if she was okay or needed Ms. Perez to return to the front office. Ms. Granados responded by asking Ms. Perez to return to the front office because she feared respondent would physically harm her. As Ms. Perez was entering the front office, respondent continued yelling at Ms. Granados and stating that Ms. Granados had disrespected her with her hand gesture. Ms. Granados apologized again, but respondent said, "I do not give a shit[,] you already did it and you already disrespected me and now I am mad." Respondent also stated, "You are lucky I do not beat your ass right now." As she did so, she stepped towards Ms. Granados with clenched fists. Ms. Granados left the front office and did not return until after respondent had left.

MS. PEREZ'S STATEMENT AND TESTIMONY

11. Ms. Perez's statement and testimony was consistent with Ms. Granados's statement and testimony. Ms. Perez described respondent as "very standing [*sic*] offish" and not allowing Ms. Granados to talk when Ms. Granados tried to explain the reasons respondent was non-reelected.

12. Ms. Perez confirmed that she had sent Ms. Granados a text message from the parking lot shortly after clocking out and said she waited in the parking lot for a response. Shortly thereafter, Ms. Granados responded by asking Ms. Perez to return to the front office because she feared for her safety.

13. As Ms. Perez was walking towards the front office, she could hear yelling and screaming coming from the office from approximately 20 feet away. She initially could not tell whose voice it was, but she determined it was respondent's as she entered. Respondent was yelling aggressively, cussing, and threatening Ms. Granados. It was a "very hostile environment." Respondent "was being more aggressive," while Ms. Granados "was calm," "looked upset," and appeared to be "basically in shock."

14. Once respondent noticed Ms. Perez, she explained that Ms. Granados had used hand gestures in a disrespectful manner and "bitches get their ass kicked for that shit" where she comes from. Respondent then told Ms. Granados she was from West Oakland and repeated "bitches get their ass kicked for that shit where I come from."

15. Ms. Granados tried explaining what was going on to Ms. Perez, but respondent interrupted by telling Ms. Granados to "shut the fuck up," "I do not want to hear shit you have to say," and "get the fuck out" so she could talk to Ms. Perez. Ms. Perez knew Ms. Granados was pregnant, feared for Ms. Granados's safety and that

of her unborn child, and sensed respondent's aggression was building. Ms. Perez assured Ms. Granados she could handle the situation and suggested that Ms. Granados leave. Ms. Granados left the front office.

16. After Ms. Granados had left, respondent continued venting to Ms. Perez. Respondent said Ms. Granados was lucky that respondent did not beat her up. When Ms. Perez asked if respondent knew Ms. Granados was pregnant, respondent said she "will beat [Ms. Granados's] ass and anyone she brings with her."

17. Respondent then talked about "stuff" she had against TEAMS – Charter School and threatened to file a lawsuit. While doing so, she repeatedly stated "I don't give a fuck." She also stated she knew Deborah Vallejo, the executive director, never liked her and explained, "I am not like the rest of these bitches here I don't suck Debbie's pussy lips."

18. Respondent eventually gathered her belongings and left the school.

MS. TELLEZ'S STATEMENT AND TESTIMONY

19. Ms. Tellez was in the front office when respondent returned from her meeting with Mses. Granados and Perez. As respondent entered the office, she told everyone she had been fired. She "was very upset," mumbling to herself, and said "how can these bitches do this to me." She was pacing back-and-forth as she made several phone calls. Her demeanor appeared "very angry," and her facial expressions "looked mad."

20. On June 21, 2021, respondent called Ms. Tellez's personal cell phone to request help retrieving personal property she had left at TEAM Charter Bianchi. Respondent also tried to tell Ms. Tellez what had happened four days prior. She

explained that Ms. Granados had used hand gestures that were disrespectful, so she told Ms. Granados to leave the portable they were in. Ms. Granados would not leave, and respondent asked Ms. Perez to tell “that bitch to get out of the office” and said, “I’ll beat her ass if she doesn’t leave[,] I’m done with her[,] I don’t want to talk to her[,] she’s dead to me.”

COREY GRAVES’S STATEMENT

21. Mr. Graves was an instructional aide at TEAM Charter Bianchi who was with Ms. Tellez when respondent called on June 21, 2021. Ms. Tellez answered the call using her cell phone’s speakerphone unbeknownst to respondent, and Mr. Graves overheard the entire conversation. He later prepared a written statement summarizing the conversation.

22. Mr. Graves did not testify at hearing, but complainant offered his statement as administrative hearsay. It was marked as Exhibit 6. Respondent objected to Exhibit 6 on hearsay and privacy grounds. The hearsay objection was overruled. After listening to the parties’ arguments, the privacy objection was taken under submission.

23. Respondent’s privacy objection is sustained. Exhibit 6 is not admitted for any purpose. (Pen. Code, § 632, subd. (d) [“[E]vidence obtained as a result of eavesdropping upon . . . a confidential communication in violation of this section is not admissible in any . . . administrative . . . proceeding”], abrogated on other grounds by *People v. Guzman* (2019) 8 Cal.5th 673, 681 [concluding the exclusionary provision of Pen. Code, § 632, subd. (d), was repealed in criminal proceedings by the enactment of Cal. Const., art. I, § 28]; see *In re Google Assistant Privacy Litigation* (N.D.Cal. 2020) 457 F.Supp.3d 797, 827 [“California courts interpret “eavesdrop,” as used in section 632, to

refer to a third [*sic*] party secretly listening to a conversation between two other parties.' [Citations.]").)

RESPONDENT'S TESTIMONY

24. Respondent was not aware of any incidents or negative reviews of her work that would explain TEAM – Charter School's decision to non-reelect her for the 2020/2021 school year. She never received any performance evaluations, and she was promoted after one year.

25. Respondent did not know she was being non-reelected when Ms. Granados first contacted her to schedule a meeting on June 17, 2021. She pressed Ms. Granados for more information about the purpose of the meeting because it was the last day of school and she needed to prioritize the meeting with other matters that required her attention. She eventually inferred from Ms. Granados's responses that she was being non-reelected.

26. When Ms. Granados told respondent she was non-reelected for the following school year, she "just accepted" that fact and did not get upset, even though she believed she had good reason for being upset because she was never evaluated. Respondent told Ms. Granados and Perez that no one should make the situation awkward, and she would allow them to do whatever they needed to do. She requested, and received, permission to say goodbye to her staff and left the meeting to do so.

27. As respondent disclosed her non-reelection to each of her staff, she explained she had not received any performance evaluations and "didn't know why" she was being non-reelected. She speculated that her staff had spread the word that she was fired because she subsequently received numerous phone calls asking her

what had happened. Those were the phone calls Ms. Tellez saw respondent taking after she had returned to the front office. Respondent agreed she was mumbling to herself when he returned to the office, but denied cursing, punching walls, or throwing things.

28. Respondent sat down at her computer around 4:00 p.m. and tried to gather her personal property. She started tearing up when she realized she could not access her email account, and she asked Ms. Granados for assistance. Ms. Granados responded by walking across the room, standing over respondent, and yelling "you need to get out of here, you got to go" while waving her hands in respondent's face in a shooing motion. Ms. Granados "immediately" triggered respondent's "fight or flight" response.

29. Respondent did not remember all she said to Ms. Granados but remembered telling her to "get out of my face," that Ms. Granados was "being disrespectful," and she was "triggering" respondent. When Ms. Perez returned to the front office, respondent asked her to have Ms. Granados leave because Ms. Granados was "triggering" respondent. Respondent denied approaching Ms. Granados with clenched fists.

30. Respondent was not certain about what she said to Ms. Perez after Ms. Granados left the front office, but admitted she was "venting" because she thought Ms. Perez was a friend. She further admitted using "inappropriate words out of anger," but denied threatening anyone. She explained she calmed down after Ms. Granados left because Ms. Granados was the "trigger."

31. Respondent has since moved to Maryland because she thought she would not get a job in California. She is currently employed but declined to say where

or in what capacity. She does not know if she will return to California to teach in the future, but she currently has no intent to return to California.

Analysis

RESPONDENT'S JUNE 17 AND 21, 2021 BEHAVIOR

32. Respondent's initial conduct on June 17, 2021—brusquely ending the morning's phone call and interrupting Ms. Granados during the afternoon non-re-election meeting—is not conduct that could subject respondent's credentials to discipline. Though the manner in which respondent terminated the telephone conversation may have been terse, it was understandable given that she had likely just learned she was losing her job. Similarly, her interruption of Ms. Granados may have been curt, but it was also understandable because she had just learned she lost her job.

33. However, the clear and convincing evidence established that respondent engaged in unprofessional conduct, immoral conduct, and acts of moral turpitude after she lost access to her school email account and Ms. Granados handed her a business card with IT's email address. Though she may have been disappointed about losing her job and frustrated with not being able to access her school email account, her behavior went well beyond that which would have been a reasonable reaction.

34. Respondent launched into a verbal tirade against Ms. Granados and Ms. Perez. Her conduct included aggressive body language, foul language, and multiple threats of physical violence against Ms. Granados. Respondent yelled loud enough that Ms. Perez was able to hear her outside, about 20 feet from the front office. Ms. Granados's attempts to de-escalate the situation by moving away from respondent and sitting down, admitting fault, apologizing, and leaving were unsuccessful.

35. Respondent continued her tirade after Ms. Granados had left the office. She continued using foul language, repeated her threats of violence against Ms. Granados, and referred to the executive director in a crude manner. The passage of four days did not deescalate the intensity of respondent's emotions, and she continued using foul language and threatening Ms. Granados during a telephone conversation with Ms. Tellez.

36. Respondent's denial that she engaged in the behavior described above was not persuasive. Though she denied cussing or threatening anyone, she admitted using "inappropriate words out of anger" without specifying what he said. She also admitted Ms. Granados triggered her "fight or flight" response, she asked Ms. Perez to have Ms. Granados leave because Ms. Granados was "triggering" her, and she was "venting" to Ms. Perez. The use of those terms is more consistent with an aggressive, hostile reaction than a calm, measured one. And even assuming, without deciding, that Ms. Granados acted in the manner respondent described, such behavior did not justify respondent's vitriolic response, particularly once Ms. Granados had left the office and four days later.

FITNESS TO TEACH

37. The Commission may take adverse action against a credential only when the underlying conduct demonstrates an unfitness to teach. (See *Broney v. California Commission on Teacher Credentialing* (2010) 184 Cal.App.4th 462, 473 (hereafter *Broney*).) The California Supreme Court has delineated factors for determining whether misconduct demonstrates an unfitness to teach. (See *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 229–230 [analyzing former Ed. Code, § 13202, predecessor to Ed. Code, § 44421].) The Commission adopted the *Morrison* factors by

enacting California Code of Regulations, title 5, section 80302. "Only the pertinent *Morrison* factors need to be analyzed." (*Broney, supra*, 184 Cal.App.4th at p. 476.)

Likelihood of Adverse Effect

38. Students are impressionable, and many try to emulate their teachers. Therefore, it is essential that a teacher's behavior be beyond reproach, and she be capable of exercising sound judgment. She must be even-tempered. This is even more true when the teacher is a school administrator because she is responsible for modeling good behavior for her staff in addition to her students. Respondent exercised extremely poor judgment, was overly aggressive, and was inappropriately hostile during her interactions with Mses. Granados, Perez, and Tellez discussed above.

39. Being an effective teacher requires one to command the respect of others, and one cannot gain the respect of others if one does not show respect oneself. Respondent's mistreatment of Mses. Granados, Perez, and Tellez demonstrated a complete lack of respect for them.

40. Respondent's argument that no students were present during her interactions with Mses. Granados, Perez, or Tellez misses the point. The *Morrison* factor for adverse effect focuses on the likelihood that respondent's misconduct may have adversely affected students or teachers, not whether it actually affected them. (*Broney, supra*, 184 Cal.App.4th 462, 477.) Additionally, staff witnessed respondent's behavior.

Proximity in Time

41. A little more than one year elapsed between respondent's misconduct and the administrative hearing. Her misconduct was not too remote in time. (See, e.g.,

Broney, supra, 184 Cal.App.4th at p. 477 [concluding misconduct that occurred six years before the administrative hearing “was not remote in time”].)

Type of Credential

42. Respondent holds a single subject teaching credential that allows her to provide “instruction for English language development in grades twelve and below, including preschool, and in classes organized primarily for adults.” She may teach in a self-contained classroom, so she may be the only teacher for students for the duration of an assignment. Therefore, it is imperative that respondent exemplify the behavior society wants emulated by students, possess sound judgment, have respect for, and command respect of, others, and be able to foster productive relationships.

Praiseworthiness or Blameworthiness

43. There was nothing praiseworthy about engaging in a verbal tirade involving hostility, obscenity, and physical threats.

Likelihood of Recurrence

44. Respondent’s failure to admit the full extent of her behavior raises a reasonable inference that she does not recognize its inappropriate nature, and thus that she is likely to engage in that or similar behavior in the future.

Adverse Effect on Constitutional Rights

45. There is no risk that disciplining respondent’s credentials will adversely impact or have a chilling effect on her constitutional rights because threats of physical violence do not qualify as “constitutionally protected speech.” (*People v. Toledo* (2001))

26 Cal.4th 221, 235.) Obscenity does not qualify as protected speech. (*In re George T.* (2004) 33 Cal.4th 620, 634.)

LEGAL CONCLUSIONS

Applicable Burden/Standard of Proof

1. Complainant has the burden of proving the grounds for discipline alleged in the Accusation by clear and convincing evidence to a reasonable certainty. (*Daniels v. Department of Motor Vehicles* (1983) 33 Cal.3d 532, 536 [an administrative agency seeking to discipline a license has the burden of proving the grounds for discipline alleged in the accusation]; see *Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1036, 1039–1040 [recognizing that the clear and convincing evidence standard applies to disciplining a teaching credential].) “The courts have defined clear and convincing evidence as evidence which is so clear as to leave no substantial doubt and as sufficiently strong to command the unhesitating assent of every reasonable mind [citations]. It has been said that a preponderance calls for probability, while clear and convincing proof demands a *high probability* [citations].” (*In re Terry D.* (1978) 83 Cal.App.3d 890, 899; italics original.)

Applicable Law

2. The California Supreme Court has recognized that the terms “immoral conduct” and “unprofessional conduct” substantially overlap one another and that conduct which constitutes one, often includes the other. (See *Morrison v. State Board of Education, supra*, 1 Cal.3d 214, 221, fn. 9.) “Unprofessional conduct” includes “that which violates the rules or ethical code of a profession or such conduct which is unbecoming a member of a profession in good standing.” (*Board of Education of the*

City of Los Angeles v. Swan (1953) 41 Cal.2d 546, 553, quoting 66 Corpus Juris, p. 55.) In describing what constitutes “immoral conduct” within the context of the Education Code, the court in *Board of Education of San Francisco Unified School District v. Weiland* (1960) 179 Cal.App.2d 808, said:

In *Orloff v. Los Angeles Turf Club*, 36 Cal.2d 734, at page 740 [227 P.2d 449], the Supreme Court quotes with approval the following statement from Words and Phrases, permanent edition, volume 20, pages 159-160: “The term ‘immoral’ has been defined generally as that which is hostile to the welfare of the general public and contrary to good morals. Immorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable members of the community, and as an inconsiderate attitude toward good order and the public welfare.”

(*Id.*, at p. 811.)

3. The court in *San Diego Unified School District v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, said the following about the definition of immoral or unprofessional conduct:

Moreover, the definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, upon whom are imposed

“responsibilities and limitations on freedom of action which do not exist in regard to other callings.” [Citation.]

(*Id.*, at p. 1466.)

4. The following has been said about the analysis for determining whether particular conduct constitutes sufficient cause for taking adverse action against a credential:

Goldsmith v. Board of Education, 66 Cal.App. 157, 168 [225 P. 783], quoted in *Board of Education v. Swan*, 41 Cal.2d 546, 553-554 [261 P.2d 261], found that the standards for judging the propriety of a teacher’s conduct, and the extent to which that conduct may be the basis for the revocation of a credential, involves many aspects.”. . . [*sic*] the teacher is entrusted with the custody of children and their high preparation for useful life. His habits, his speech, his good name, his cleanliness, the wisdom and propriety of his unofficial utterances, his associations, all are involved. His ability to inspire children and to govern them, his power as a teacher, and the character for which he stands are matters of major concern in a teacher’s selection and retention.”

(*Moser v. State Board of Education* (1972) 22 Cal.App.3d 988, 991.)

Cause for Discipline

5. The Commission shall discipline a credential for unprofessional conduct. (Ed. Code, § 44421.) Respondent engaged in unprofessional conduct as discussed in

Factual Findings 32 through 36. Such conduct demonstrates an unfitness to teach as explained in Factual Findings 37 through 45. Therefore, cause exists to discipline respondent's credentials pursuant to Education Code section 44421 for such conduct.

6. The Commission shall discipline a credential for immoral conduct. (Ed. Code, § 44421.) Respondent engaged in immoral conduct as discussed in Factual Findings 32 through 36. Such conduct demonstrates an unfitness to teach as explained in Factual Findings 37 through 45. Therefore, cause exists to discipline respondent's credentials pursuant to Education Code section 44421 for such conduct.

7. The Commission shall discipline a credential if the holder engaged in conduct that would have constituted cause to deny an application for a credential or to renew a credential. (Ed. Code, § 44421.) An application for a credential or to renew a credential may be denied for acts of moral turpitude. (Ed. Code, § 44345, subd. (e).) Respondent engaged in acts of moral turpitude as discussed in Factual Findings 32 through 36. Such conduct demonstrates an unfitness to teach as explained in Factual Findings 37 through 45. Therefore, cause exists to discipline her credentials pursuant to Education Code section 44421 as that statute relates to Education Code section 44345, subdivision (e).

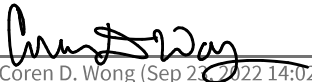
Conclusion

8. Cause exists to discipline respondent's credentials for the reasons explained in Legal Conclusions 5 through 7, individually and collectively. Respondent did not introduce sufficient evidence of her continued ability to perform the duties and responsibilities of a public school teacher in a manner consistent with public health, safety, and welfare. Therefore, her credentials should be revoked.

ORDER

Respondent Jamil Wells's single subject teaching credential and all other credentials, certificates, and authorizations the Commission issued her are REVOKED.

DATE: September 23, 2022


Coren D. Wong (Sep 23, 2022 14:02 PDT)

COREN D. WONG

Administrative Law Judge

Office of Administrative Hearings