

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

**In the Matter of the Accusation Against:**

**CYANE GONZALEZ, Respondent**

**Agency Case No. 2-526026481**

**OAH No. 2024070041**

**PROPOSED DECISION**

Timothy J. Aspinwall, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on September 12, 2024, in Fresno, CA.

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

Joshua F. Richtel, Attorney at Law, represented Cyane Gonzalez (respondent), who was present.

Oral and documentary evidence was received. The record was held open until September 20, 2024, for complainant to submit a corrected Exhibit 5, which was not timely submitted. Exhibit 5 is deemed corrected such that references to October and December 2021, on the second page of Exhibit 5, are to be read as October and

November 2022. The record was closed, and the matter submitted for decision on September 20, 2024.

## **FACTUAL FINDINGS**

### **Background and Jurisdictional Matters**

1. On June 11, 2021, the Commission issued a Preliminary Single Subject Teaching Credential (Credential) to respondent. Respondent's Credential will expire on July 1, 2026, unless renewed. On February 1, 2020, the Commission issued a Certificate of Clearance (Certificate) to respondent. Respondent's Certificate will expire on March 1, 2025, unless renewed.

2. On June 3, 2024, complainant, acting in her official capacity, caused to be filed the Accusation in this matter. At hearing, complainant moved to amend the Accusation. The final sentence on page 4 of the Accusation is deleted and replaced with the following: "On that same day, respondent texted KR and the following exchange occurred." The four references to "SL" on page 5 of the Accusation are deleted and replaced with "KR" as taking part in an exchange of text messages.

3. By the Accusation as amended, complainant seeks a decision revoking all credentials, certificates, and authorizations issued to respondent, or other appropriate adverse action, based on allegations including that respondent engaged in sexual relations in her classroom after school hours, and asked another teacher to falsely state that respondent never told her anything. Respondent timely filed a notice of defense, and this hearing followed.

## **Complainant's Evidence**

### **JASON WELCH'S TESTIMONY AND WRITTEN STATEMENT**

4. Mr. Welch is employed as a math teacher at Exeter Union High School (Exeter High). During 2022, he served as the chair of the math department. Respondent was then also a math teacher at Exeter High. In December 2022, between 3:15 and 3:45 in the afternoon, Mr. Welch entered respondent's classroom through a back door accessible through the math department office to deliver a math quiz to respondent. When Mr. Welch entered respondent's classroom, he saw Christian Baez, a male custodian, sitting on respondent's desk chair. The chair was turned such that Mr. Baez was facing Mr. Welch as he entered the room. Respondent was facing away from Mr. Welch, bent at the waist, and leaning forward over Mr. Baez with her head near his "lap area." Mr. Welch was then approximately 20 feet away from respondent and Mr. Baez. When Mr. Welch entered, respondent immediately stood up straight and turned to face Mr. Welch (Mr. Welch's written statement) or did not turn and face him (Mr. Welch's testimony). Mr. Baez leaned forward and placed his elbows on his knees and his head in his hands. Mr. Welch then "awkwardly" walked in and either handed the quiz to respondent (Mr. Welch's written statement) or placed it on her desk (Mr. Welch's testimony), and promptly left the room.

5. Mr. Welch then immediately went into the classroom of another math teacher, Thanwa Hasson (formerly Hein), and told her he had just walked in on respondent and Mr. Baez "making out" (Mr. Welch's written statement) or the "tail end of a kiss" (Mr. Welch's testimony). A few minutes later, Mr. Baez entered Ms. Hasson's classroom to attend to his custodian responsibilities while Mr. Welch was still present. Mr. Baez was in a "hurry" and seemed "nervous" or "concerned." There was "awkward silence" during the approximately 30 seconds while Mr. Baez was in the room.

6. On February 1, 2023, Ms. Terry Pendergrast, a math teacher at Exeter High, told Mr. Welch that another math teacher, Karissa Rios, had told Ms. Pendergrast that respondent had told her (Ms. Rios) that she (respondent) had been performing oral sex on Mr. Baez when Mr. Welch walked in on them. Based on this new information, Mr. Welch now believes that what he saw was respondent performing “oral sex” on Mr. Baez when he walked into respondent’s classroom and saw her bending over with her head in Mr. Baez’s “lap area” before she stood up straight. Mr. Welch would not have given “another thought” to what he had seen if Ms. Pendergrast had not brought the oral sex allegation to his attention. Mr. Welch then sent an email to the school principal, Robert Mayo, outlining his observations and what Ms. Pendergrast had told him.

### **TERRY PENDERGRAST’S TESTIMONY**

7. Ms. Pendergrast has been employed as a math teacher at Exeter High for approximately six years. Karissa Rios told Ms. Pendergrast that respondent told her (Ms. Rios) that she (respondent) was concerned because Mr. Welch had caught her (respondent) in a “sex act” with Mr. Baez in her classroom. Ms. Pendergrast cannot recall when Ms. Rios told her this information, but it was prior to February 2023.

8. Ms. Pendergrast felt that the incident described by Ms. Rios warranted a “mandated report” and told Ms. Rios she would be wise to report it to the school administration. Ms. Pendergrast and Ms. Rios socialize outside of work approximately once per month.

### **KARISSA RIOS’S TESTIMONY AND WRITTEN STATEMENT**

9. Ms. Rios has been employed as a math teacher at Exeter High since 2021. She and respondent started teaching at Exeter High at the same time. Ms. Rios and

respondent became friends and socialized outside school during their first two years at Exeter High. They met each other's families, and respondent accompanied Ms. Rios and her family on trips to Disneyland in October 2021 and January 2022. Ms. Rios later reported to a Commission special investigator that respondent "invited herself" on the Disneyland trips.

10. Ms. Rios and respondent did not remain friends outside of school through their second year of teaching at Exeter High. The reasons for this include that respondent made comments that made Ms. Rios uncomfortable, including asking her whether students would notice the results of respondent's breast reduction surgery. Ms. Rios was also bothered by the fact that respondent complained when Ms. Rios accidentally hit her with a ball while juggling during a teacher activity at the start of their second year at Exeter High. The ball hit respondent on the head, but respondent claimed it hit her breast which she said was still painful following reduction surgery. Ms. Rios felt respondent overreacted. The following day, Ms. Rios told respondent their friendship had run its course, and going forward they should socialize only collegially.

11. On December 8, 2022, Ms. Rios went with respondent to help her select furniture for her new home. While they were sitting in the car outside a store, respondent told Ms. Rios that there was something respondent wanted to share. Respondent told Ms. Rios that she had been "hooking up" with Mr. Baez and was concerned because Mr. Welch had walked in on her while she was finishing giving him a "blow job." Respondent did not tell Ms. Rios that she had performed oral sex on Mr. Baez in her car.

12. Ms. Rios told her husband what respondent said to her. Ms. Rios's husband told her she should report it to the school because she is a mandated

reporter. In late January 2023, approximately one month after returning from winter break, Ms. Rios told Vice Principal James Billingsley that respondent was “having relations” with Mr. Baez. She did not use the terms “giving head” or “blow job” because she did not feel comfortable using these explicit terms with the male vice principal. Ms. Rios also told Ms. Pendergrast what respondent had told her, and specifically stated that respondent had admitted “oral sex” and “giving head” to Mr. Baez.

13. On February 1, 2023, Ms. Rios prepared a written statement at the request of the Exeter High administration describing what respondent had told her, as follows:

On Dec. 8th 2022 the comments made were these from [respondent] “I have been wanting to tell you something but we haven’t had time to talk. Me and that janitor guy that has been cleaning our rooms and I lately have been hooking up. I was so scared because I thought Jason [Welch] knew something was going on. We made out a bunch and I gave him head. We had just finished when Jason [Welch] walked in but I don’t think he noticed because I was standing and he was sitting on a chair when he came in.”

#### **TEXT MESSAGES BETWEEN RESPONDENT AND MS. RIOS**

14. On February 1, 2023, respondent and Ms. Rios exchanged the following text messages:

Respondent: Can you call me when you’re out. It’s urgent.

Ms. Rios: Sure.

Respondent: Thanks!

Ms. Rios: What's going on?

Respondent: Someone told about what happened between janitor and me. Did you tell anyone?

Ms. Rios: Oh wow. Told who? No.

Respondent: Bob [School Principal Robert Mayo]. They might call you in and ask if you saw anything. Just say I never told you anything. Please!! Do me this huge favor if they ask.

Ms. Rios: Okay.

Respondent: Cause it literally was off campus that we did stuff. Like someone said they "saw me give him head" in class but that's impossible and I'm shaking scared for my job. Literally don't talk to this guy anymore only talked to him for like a month and that's it. So I'm sorry I'm bugging you about this but please promise me.

Ms. Rios: It's okay. I can't imagine.

Respondent: It's so not worth my entire job and everything like my heart is sinking. I only ever told you Bob made it seem like other people knew so I'm scared. Cause no.

Ms. Rios: I'm sorry this is happening. If I get asked I can't lie.  
I have to think about my job too.

Respondent: I'm not asking you to lie. This kid is lying and  
it's hurting my job. I'm just asking you to have my back. I  
have your back [a]ll the time!

### **SHELDON LOGAN'S TESTIMONY AND WRITTEN STATEMENT**

15. Mr. Logan is employed as the School Supervisor at Exeter High. He is friends with respondent and Mr. Welch.

16. On February 1, 2023, at approximately 4:00 p.m., respondent called Mr. Logan by telephone and said she needed to talk with him. Mr. Logan told her to come by his house to pick up some oranges he had for her, and that they could talk then. When respondent arrived, they sat on his front porch and talked. Respondent was very nervous and emotional. She informed Mr. Logan she had been put on administrative leave because she and Mr. Baez had been "messaging around" and "got caught" when Mr. Welch came into her classroom. Respondent did not specify what she and Mr. Baez were doing, but said they were "inappropriate." She described how they were physically positioned and how it looked, but Mr. Logan did not state and was not asked during his testimony what physical position respondent described. Respondent also said she and Mr. Baez had done things outside of school. Respondent said she did not understand why it was such a big deal because things took place outside of school, but she also said that someone said they had seen them in her classroom. Respondent did not specify what she and Mr. Baez had been doing.



17. Mr. Baez called respondent on her cell phone while she and Mr. Logan were talking on his porch. Respondent became visibly upset during her telephone conversation with Mr. Baez. In Mr. Logan's view, Mr. Baez left her "holding the bag."

## **Respondent's Evidence**

### **CHRISTIAN BAEZ'S TESTIMONY AND WRITTEN STATEMENT**

18. Mr. Baez was employed for approximately six months at Exeter High as a custodian. Mr. Baez voluntarily agreed to testify in this matter because he has concerns about being "thrown under the bus" and wants to "clear" his own name and respondent's name.

19. Mr. Baez and respondent met while he was working at Exeter High. He and respondent engaged in sexual acts off campus, including when she performed oral sex on him in her car. Mr. Baez could not recall during his testimony how many other women he was having sexual relations with at the time he and respondent were engaging in sexual activity.

20. On the day Mr. Welch walked into respondent's classroom while Mr. Baez was present, Mr. Baez had been checking ceiling tiles. His knee had "popped" and he sat down in respondent's desk chair. Respondent and Mr. Baez had "just kissed" when Mr. Welch walked in. Mr. Welch "made a little face" and handed a piece of paper to respondent before leaving the classroom.

21. On cross examination, Mr. Baez testified that he and respondent had kissed before he sat down in her chair. When Mr. Welch walked in, Mr. Baez was sitting in respondent's chair, and she was standing some distance from him and off to the side.

22. Mr. Baez chose to resign from his position as custodian at Exeter High on February 1, 2023, the day Principal Robert Mayo asked him whether he had sexual relations with respondent in her classroom.

### **THANWA HASSON'S (FORMERLY HEIN) TESTIMONY AND WRITTEN STATEMENT**

23. Ms. Hasson was employed as a math teacher at Exeter High for approximately seven years, ending in December 2022. She has since earned a master's degree in social work and is currently seeking employment.

24. Ms. Hasson met respondent and Ms. Rios in July 2021, when they started as math teachers at Exeter High. Ms. Hasson was at that time the senior math teacher in their pod of classrooms.

25. To Ms. Hasson's observation, respondent has an "incredible heart and capability as a math teacher." She has a "passion for teaching" and is a "valued and connected member of her community." Respondent "upholds all the standards that a good teacher should hold including professional relationships."

26. Ms. Hasson observed the friendship between respondent and Ms. Rios which began when they met in July 2021. Respondent and Ms. Rios appeared to be "best friends." They often had lunch together during the week and spent time together on weekends and vacations. When respondent had breast reduction surgery in the summer of 2022, Ms. Rios drove respondent to postoperative appointments.

27. Toward the end of the 2021/2022 school year, Ms. Hasson told respondent that Ms. Rios referred to respondent as "her clingy friend" and frequently

came to Ms. Hasson to “discuss concerns” about respondent. In Ms. Hasson’s view, Ms. Rios’s stated concerns were “usually exaggerated.”

28. For these reasons and about this time, Ms. Hasson told respondent that Ms. Rios was “two-faced” with her. She would act like they were good friends when they were together and then act differently behind respondent’s back.

29. Ms. Hasson was present when Ms. Rios was juggling a ball or small beanbag sack at a teacher orientation exercise prior to the start of their second year of teaching at Exeter High. The object Ms. Rios was juggling hit respondent on her breast and possibly also her head. Respondent “showed immediate pain” and had “tears in her eyes.” Ms. Rios said, “it couldn’t have hit you that hard.” Ms. Pendergrast was also present and “very dismissive” of respondent’s expression of pain. Ms. Hasson took respondent to her classroom and gave her some over-the-counter pain medication. Respondent felt “hurt” because Ms. Rios and Ms. Pendergrast had been so dismissive of her physical pain.

30. On one afternoon in October 2022, Mr. Welch came into Ms. Hasson’s classroom. He was “giggling” and “jovial.” He told Ms. Hasson that he thought he saw “the tail end of a kiss” between respondent and Mr. Baez in respondent’s classroom. As Mr. Welch described it, he saw Mr. Baez sitting in respondent’s chair, and respondent leaning forward with her eyes closed and lips puckered. Nobody else came into Ms. Hasson’s classroom while Mr. Welch was present that afternoon.

31. Ms. Hasson specifically remembers this occurred in October 2022, because she was at the time working on some yearbook related tasks which were due before a fall break in the second or third week of October.

32. To Ms. Hasson's observation, Mr. Baez was "a playboy" and "not shy about flirting with women." She did not know respondent and Mr. Baez were "involved" until Mr. Welch told her what he had seen in respondent's classroom.

### **RESPONDENT'S TESTIMONY AND WRITTEN STATEMENT**

33. Respondent testified and submitted a written statement addressed to the Commission, which she signed under penalty of perjury on November 15, 2023.

34. Respondent is currently employed as a high school math teacher in Porterville, California. She was previously employed as a math teacher at Exeter High, from August 2021 to February 2023.

35. Respondent described the events when Mr. Welch walked into her classroom as follows. Sometime in November 2022 (respondent's written statement) or October 2022 (respondent's testimony), Mr. Baez was in her classroom looking at ceiling tiles. He was sitting in respondent's desk chair because his knee had "popped" and was hurting. Respondent and Mr. Baez exchanged a "peck" of a kiss before Mr. Welch walked in. By the time Mr. Welch entered the classroom, respondent was "a step away from the back door" (respondent's written statement). When Mr. Welch entered, respondent turned to see who it was. Mr. Welch handed her the quiz and left the room.

36. As to respondent's relationship and interactions with Ms. Rios, they met during Exeter High new-teacher training in July 2021. Respondent and Ms. Rios became close friends, but this changed in August 2022. Their friendship reached a "breaking point" during the 2022 new-school-year training. Ms. Rios was juggling a ball as part of a bonding exercise, and the ball hit respondent on her breast. This was very painful because she had breast reduction surgery two weeks prior. She doubled

over in pain and ran out of the room so she would not be seen crying. Ms. Hasson came out and helped her. When respondent came back into the room, Ms. Rios and Ms. Pendergrast asked her why she was “exaggerating.” Respondent felt like they were “gaslighting” her by telling her that it did not really hurt.

37. The next day, Ms. Rios continued to make comments about respondent exaggerating her pain. Respondent talked with Ms. Hasson to get her advice how to handle matters with Ms. Rios. Following her conversation with Ms. Hasson, respondent called Ms. Rios. They mutually agreed that they would have only a “work relationship” going forward.

38. Respondent was “shocked” to hear that Ms. Rios said she did not want respondent going to Disneyland with her family. Respondent had gone to Disneyland with Ms. Rios and her family in October 2021, and again in January 2022. Ms. Rios initiated this when she mentioned to respondent that she was getting annual passes, and that respondent should get one too. Respondent said she did not have anyone to go with. Ms. Rios then told respondent she could go with her and her family.

39. Respondent denied the accuracy of Ms. Rios’s written statement, quoted above, that respondent told Ms. Rios she had just finished performing oral sex on Mr. Baez when Mr. Welch walked in. Respondent, in her sworn written statement, states that Ms. Rios consistently asked her about her love life because Ms. Rios wanted to “live vicariously” through respondent. However, respondent would share only “bits and pieces” of her personal life because they ended that type of relationship in August 2022.

40. Respondent provided more detail in her testimony. Specifically, respondent testified that in late November 2022, she and Ms. Rios went furniture

shopping for respondent's new house. As they were sitting in respondent's car outside a furniture store, Ms. Rios asked respondent: "How have you been doing? What have you been doing? Who have you been doing?" Respondent then told Ms. Rios that she had a brief relationship with Mr. Baez, and that she had performed oral sex on him in her car off campus. She also told Ms. Rios that Mr. Welch had walked into her classroom right after she had kissed Mr. Baez.

41. Some months after this conversation with Ms. Rios, Principal Robert Mayo sent respondent a text message asking her to come to his office. When respondent arrived at his office, Mr. Mayo and a female vice principal were present. Mr. Mayo opened the conversation by telling respondent that "someone told us that you performed oral sex in your classroom." Respondent was shocked. She told them it did not happen.

42. At this point, respondent knew of only two people who knew anything: Ms. Rios and Mr. Baez. On February 1, 2023, respondent exchanged a series of text messages with Ms. Rios. Respondent admitted in her testimony that she told Ms. Rios to lie when she included in a text message: "Just say I never told you anything. Please!! Do me this huge favor if they ask." Respondent explained that she did not think it would help her if the school district knew she had done things with Mr. Baez off campus while she was being investigated for engaging in sexual activity on campus.

### **LETTERS OF SUPPORT**

43. Respondent submitted ten letters of support from family and community members who have known respondent for years, in addition to the supportive letter from Ms. Hasson. It is obvious from these letters that respondent is held in high regard based on her good character and contributions to her community. For example, the

Fire Lieutenant of the Woodlake Fire District has known respondent her entire life. He knows respondent has wanted to teach since they were young, and that she loves volunteering her time including helping with catechism at her church on Saturdays for the past two years and assisting with special events sponsored by the Fire Department.

44. Respondent's former middle school teacher has known respondent since she was in sixth grade. Respondent was in her leadership class for three years. During college, respondent worked at the local hardware store where her "interactions with community members . . . were nothing but positive, helpful, and encouraging . . . ." Now, respondent volunteers at Woodlake Kiwanis events. Respondent is "100% committed to the community of Woodlake."

45. Respondent's sister regards respondent as "one of the most thoughtful caring and respectable people" she knows. To her observation, respondent "has always thrived on trying to be friendly and see[s] the good in everyone."

## **Analysis of the Evidence**

46. Mr. Welch testified honestly and sincerely about what he saw when he walked into respondent's classroom at approximately 3:15 to 3:45 p.m. Of particular significance, he saw Mr. Baez sitting in respondent's chair and respondent leaning over with her head in respondent's lap area. When she stood up straight, Mr. Baez leaned forward and put his head in his hands. Mr. Welch's description of what he observed is credible and convincing.

47. Mr. Welch initially interpreted what he saw as "making out" or "the tail end of a kiss." He later interpreted what he saw as respondent performing oral sex, after he heard the allegation that she had admitted doing so. Neither of Mr. Welch's interpretations is given any weight, nor is the fact that he changed his understanding

of what he saw after he received additional information. Mr. Welch's change in his interpretation is taken here simply as his best effort to understand what he saw. For purposes of this decision, Mr. Welch's credible description of what he saw is more significant than his interpretation.

48. Little significance is attached to the fact that Mr. Welch might be incorrect about what month he walked into respondent's classroom, or whether he handed respondent the quiz or placed it on her desk. He was clear about his essential observations, and credibly described the significant aspects of what he saw.

49. With respect to Ms. Rios and Ms. Pendergrast, there is little to admire about their behavior in this matter. They were unkind and dismissive toward respondent when she was in obvious physical pain, and Ms. Rios was duplicitous in her interactions with respondent. Considering their behavior, their testimony that they reported respondent's behavior primarily because of their perceived duties as mandated reporters or out of concern for the welfare of students is not convincing.

50. Notwithstanding Ms. Rios's behavior toward respondent, her testimony and written statement describing what respondent told her appears to be accurate in the most essential respects. Specifically, respondent told her that she had just finished performing oral sex on Mr. Baez when Mr. Welch walked into her classroom, and that she was standing and Mr. Baez was sitting in her chair. The reliability of Ms. Rios's testimony and written statement hinges on the fact that they independently correspond with Mr. Welch's credible testimony regarding his observations, not on any positive credibility determination about Ms. Rios.

51. Mr. Logan testified openly and honestly. He is clearly supportive of respondent and regards her as a friend. Even so, he accurately described what



respondent told him. Respondent's statements to Mr. Sheldon were nonspecific. She referred to the fact that she and Mr. Baez had been "messaging around" and "got caught" when Mr. Welch came into her classroom. She did not tell Mr. Sheldon anything about "oral sex." She described how she and Mr. Baez were physically positioned, but Mr. Sheldon was not asked to specify what respondent had described. Based on the evidence presented, no meaningful conclusions or inferences are drawn from Mr. Sheldon's testimony or written statement.

52. Mr. Baez's testimony was not credible. He testified for self-serving reasons because of his concern about being "thrown under the bus" and to "clear" his name and respondent's. Moreover, his characterization of events is inconsistent with what Mr. Welch clearly observed. Specifically, Mr. Welch credibly testified that he saw respondent bent over Mr. Baez with her head in his lap area. By contrast, Mr. Baez testified that respondent was standing off to the side and some distance from him when Mr. Welch walked in. Mr. Baez's testimony is consistent only with his self-serving reasons for testifying. For these reasons, Mr. Baez's testimony and written statement lack credibility.

53. Ms. Hasson testified honestly about her observations of respondent's qualities as a math teacher, including her "incredible heart and capability" and her "passion for teaching." The relevance of Ms. Hasson's observations is limited by the fact that she did not have an opportunity to observe respondent's teaching after December 2022. Ms. Hasson also testified honestly about statements Ms. Rios made to her regarding respondent, and interactions including the dismissive behavior displayed by Ms. Rios and Ms. Pendergrast toward respondent.

54. Ms. Hasson also testified honestly about Mr. Welch's "jovial" demeanor when he came into her classroom and told her that he had just seen "the tail end of a

kiss” between respondent and Mr. Baez. This is taken as an accurate account of Mr. Welch’s characterization of what he said he saw, but not as an accurate account of what transpired between respondent and Mr. Baez. The fact that Ms. Hasson believes Mr. Welch came into her classroom in October 2022, not December as Mr. Welch recalls, is taken as her best recollection. Even if the incident occurred in October 2022, this does not bear significantly on the substance of Mr. Welch’s recollections.

55. Respondent’s testimony and sworn written statement about what occurred between her and Mr. Baez in her classroom are not credible. Specifically, respondent claims that she and Mr. Baez kissed before Mr. Welch entered the room, and that she was at that moment standing some distance away from Mr. Baez. This account is inconsistent with Mr. Welch’s credible testimony that he saw respondent bending over respondent with her head near his lap when he walked into her classroom. Given Mr. Welch’s observations, respondent’s account that she was some distance from Mr. Baez when Mr. Welch entered her classroom is not true.

56. Respondent’s also lacks credibility in her testimony and sworn written statement in which she denied telling Ms. Rios she had performed oral sex on Mr. Baez directly before Mr. Welch entered her classroom. Again, Ms. Rios’s written statement about what respondent told her independently corresponds with Mr. Welch’s credible account of respondent’s physical position with Mr. Baez when he entered her classroom.

57. Respondent was credible in her admission that, on February 1, 2023, respondent asked Ms. Rios to lie when she sent Ms. Rios a text message stating: “Just say I never told you anything. Please!! Do me this huge favor if they ask.”

58. The evidence is clear that respondent was fearful for her job at Exeter High and in a state of elevated anxiety when she was confronted on February 1, 2023, with the allegation that she had performed oral sex in her classroom. It was in this context of fear and anxiety that respondent denied she had performed oral sex in her classroom and asked Ms. Rios to falsely deny she had told her anything. However, respondent had ample time to consider the veracity of what she chose to say before she signed her sworn written statement on November 15, 2023, and gave her testimony on this matter.

## **LEGAL CONCLUSIONS**

### **Burden and Standard of Proof**

1. Complainant has the burden of proving cause for adverse action by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 583, 855–856.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Brooks* (2008) 169 Cal.App.4th 176, 190.) Complainant satisfied this burden of proof.

### **Jurisdiction and Applicable Law**

2. Pursuant to Education Code section 44000 et seq., and California Code of Regulations, title 5, commencing with section 80001, the Commission is responsible for credentialing teachers in public schools in California, including issuing credentials, and taking adverse action against applicants and credential holders. (Statutory references are to the Education Code unless otherwise specified.)

3. Section 44421 authorizes the Commission to take adverse action against an individual's teaching credential for, among other specified causes, unprofessional conduct, evident unfitness for service, immoral conduct, acts of moral turpitude, or for any cause that would warrant denial of an application for a credential. Section 44345, subdivision (e), allows the Commission to deny an application of one who has committed an act involving moral turpitude.

## **Alleged Causes for Adverse Action**

### **UNPROFESSIONAL CONDUCT**

4. Unprofessional conduct in the teaching profession has been defined as that which violates the rules or ethical code of the profession or is unbecoming of a member of the profession in good standing. (*Bd. of Ed. of City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 553, overruled on other grounds by *Bekiaris v. Bd. of Ed.* (1972) 6 Cal.3d 575.)

5. Based on the Factual Findings and Legal Conclusions as a whole, complainant established by clear and convincing evidence that respondent committed unprofessional conduct when she performed oral sex on Mr. Baez in her classroom and asked Ms. Rios to falsely state that respondent had not told her anything. For these reasons and based on the Factual Findings and Legal Conclusions as a whole, cause exists to discipline respondent's credentials for unprofessional conduct pursuant to section 44421.

### **EVIDENT UNFITNESS FOR SERVICE**

6. "Evident unfitness for service" means a teacher is clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects

or inadequacies. (*Woodland Joint Unified School Dist. v. Com. on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) "Unlike 'unprofessional conduct,' 'evident unfitness for service' connotes a fixed character trait, presumably not remediable merely on receipt of notice that one's conduct fails to meet the expectations of the employing school district." (*Ibid.*)

7. Based on the Factual Findings and Legal Conclusions as a whole, complainant did not establish by clear and convincing evidence that respondent is evidently unfit for service based on a fixed character trait. For these reasons and based on the Factual Findings and Legal Conclusions as a whole, cause does not exist to discipline respondent's credentials based on evident unfitness for service pursuant to section 44421.

### **IMMORAL CONDUCT**

8. The term "immoral" has been defined generally as "that which is hostile to the welfare of the general public and contrary to good morals. . . . [It] 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." (*Bd. of Ed. of San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811.)

9. Based on the Factual Findings and Legal Conclusions as a whole, complainant established by clear and convincing evidence that respondent engaged in immoral conduct when she performed oral sex on Mr. Baez in her classroom and asked Ms. Rios to falsely state that respondent had not told her anything. For these reasons

and based on the Factual Findings and Legal Conclusions as a whole, cause exists to discipline respondent's credentials for immoral conduct pursuant to section 44421.

### **ACTS OF MORAL TURPITUDE**

10. "Moral turpitude" has been defined as "everything done contrary to justice, honesty, modesty or good morals." (*Rice v. Alcoholic Beverage Appeals Bd.* (1979) 89 Cal.App.3d 30, 36.) An act involves moral turpitude if it involves a serious breach of a duty owed to another or to society. (*In re Stuart K. Lesansky* (2001) 25 Cal.4th 11, 16.)

11. Based on the Factual Findings and Legal Conclusions as a whole, complainant established by clear and convincing evidence that respondent committed acts of moral turpitude when she performed oral sex on Mr. Baez in her classroom and asked Ms. Rios to falsely state that respondent had not told her anything. For these reasons and based on the Factual Findings and Legal Conclusions as a whole, cause exists to discipline respondent's credentials for acts of moral turpitude pursuant to sections 44421 and 44345, subdivision (e).

### **Present Fitness to Teach**

12. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, the California Supreme Court concluded that a teaching credential cannot be disciplined for immoral conduct, unprofessional conduct, or conduct involving moral turpitude "unless that conduct indicates that the [educator] is unfit to teach." (*Id.* at p. 229.) The Court outlined factors to consider when determining whether an educator's conduct demonstrates unfitness to teach, which have been codified in California Code of Regulations, title 5, section 80302, subdivision (a). The criteria are as follows: (1) the likelihood that the conduct may have adversely effected students, fellow teachers, or

the educational community; (2) the proximity or remoteness in time of the misconduct; (3) the type of credential held by respondent; (4) extenuating or aggravating circumstances; (5) praiseworthiness or blameworthiness of motives; (6) likelihood of recurrence; (7) the extent to which disciplinary action may chill or have an adverse impact upon the exercise of constitutional rights among teachers or other persons involved; (8) publicity or notoriety of respondent's misconduct.

13. The *Morrison* factors are considered, as follows. There is no evidence that respondent's misconduct had an adverse effect on students, but it did cause stress among others in the educational community, including teachers. Respondent's misconduct is more proximate than remote in time. Respondent's single subject teaching credential puts her near impressionable adolescent students, who would be vulnerable to negative examples set by a teacher. Aggravating circumstances exist beyond the conduct giving rise to the causes for discipline to the extent respondent continued to make false statements regarding her conduct. There are no extenuating circumstances. Respondent's separate acts of misconduct are blameworthy. There is nothing praiseworthy about her motives related to her misconduct. Based on the evidence as a whole, respondent is unlikely to engage in similar misconduct again. Disciplinary action in this matter will not have an adverse impact upon anyone's exercise of constitutional rights. There is no evidence of publicity or notoriety of respondent's misconduct.

14. On balance, the application of the *Morrison* factors demonstrates a nexus between respondent's misconduct and her fitness to teach. Based on the Factual Findings and Legal Conclusions as a whole, respondent is at this time not fit to maintain her credentials and continue teaching.

## Disposition

15. Licensing disciplinary matters like this are not designed to punish an individual. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 165.) Rather, a licensing agency should be primarily concerned with protecting the public. (*Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.)

16. The clear and convincing evidence shows that respondent engaged in sexual acts with Mr. Baez in her classroom, and later asked Ms. Rios to falsely state that respondent had not told her anything. It is of particular concern in this matter that respondent has thus far refused to fully acknowledge her misconduct. It has been judicially determined that an essential step in rehabilitation is acknowledging one's own wrongdoing. (*Seide v. Com. of Bar Examiners of the State Bar of Cal.* (1989) 49 Cal.3d 933, 940 [acknowledging the wrongfulness of one's actions is an essential step towards rehabilitation].)

17. As serious as these matters are, respondent's misconduct does not necessarily permanently preclude her from participating in the teaching profession. She may, as a matter of law, petition for reinstatement of her credentials. Should she choose to do so, she is encouraged to take the steps necessary to achieve and demonstrate substantial rehabilitation, and to then forthrightly present herself to the Commission.

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## ORDER

The Preliminary Single Subject Teaching Credential and the Certificate of Clearance issued to respondent Cyane Gonzalez are REVOKED.

DATE: September 27, 2024

*Timothy Aspinwall*

TIMOTHY J. ASPINWALL

Administrative Law Judge

Office of Administrative Hearings