

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

**In the Matter of the Accusation and Statement of Issues
Against:**

REBA CHONELL JOYNER, Respondent

Case No. 1-636776785

OAH No. 2019050950

PROPOSED DECISION

Administrative Law Judge Coren D. Wong, Office of Administrative Hearings, State of California, heard this matter on November 19 and 20, 2019, in Fresno, California.

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

Respondent Reba Chonell Joyner represented herself.

Evidence was received, the record was closed, and the matter was submitted for written decision on November 20, 2019.

On December 16, 2019, the record was reopened to include Complainant's Trial Brief as Exhibit 16, to allow respondent to object to Exhibit 16, and to allow

complainant to respond to respondent's objections. Neither party responded to Exhibit 16, and Exhibit 16 is admitted for purposes of argument only. The record was closed and the matter was resubmitted for written decision on December 30, 2019.

SUMMARY

Complainant alleges cause to discipline respondent's teaching and administrative credentials and certificate of eligibility, and to deny her application for an Emergency Crosscultural, Language and Academic Development Certificate (Certificate) because she: 1) hired someone with whom she was involved in a romantic relationship to be the athletic director for Toby Lawless Elementary School; 2) subsequently hired the same person as the night custodian for Thomas Elementary School while still in a romantic relationship with him; and 3) acted unprofessionally and discourteously toward her staff, teachers, parents, and students. Cause exists to discipline her credentials and certificate of eligibility, and to deny her application. When all the evidence is considered, respondent did not demonstrate she has the appropriate temperament and judgment to justify allowing her to retain her teaching credential, administrative credential, or certificate of eligibility, or granting her application for a Certificate. Therefore, her teaching credential, administrative credential, and certificate of eligibility should be revoked, and her application for a Certificate should be denied.

FACTUAL FINDINGS

Jurisdictional Matters

1. The Commission issued respondent a Clear Multiple Subject Teaching Credential with an authorization in General Subjects on December 17, 1994.

Respondent was issued an Administrative Services Credential — Certificate of Eligibility on May 19, 2005, and she was issued a Clear Administrative Services Credential on August 1, 2007.

2. Respondent's teaching credential and administrative services credential expire January 1, 2020, unless renewed or revoked. There is no expiration date for the certificate of eligibility. There is no history of prior discipline of her teaching credential or administrative services credential.

3. Respondent signed an application for a Certificate on April 9, 2018. The Commission received the application the following week.

4. On July 27, 2018, the Committee of Credentials sent correspondence notifying respondent that it found probable cause to recommend: 1) revoking her administrative services credential and certificate of eligibility; 2) suspending her teaching credential; and 3) granting her application. Respondent requested reconsideration of the Committee of Credentials's decision. Her request was denied for failure to provide new and relevant information. She requested an administrative hearing to challenge the Committee of Credentials's recommendation.

5. On March 8, 2019, complainant signed the Accusation and Statement of Issues solely in her official capacity. The Accusation seeks to revoke respondent's administrative credential, certificate of eligibility, and teaching credential based on

unprofessional conduct, acts of moral turpitude, immoral conduct, and evident unfitness for service. The Statement of Issues seeks to deny respondent's application for a Certificate based on acts of moral turpitude.

Respondent's Relevant Educational and Professional Background

6. Respondent earned her bachelor of arts degree and teaching credential from California State University, Fresno, and her administrative services credential and master's degree from Fresno Pacific University. She began working for the Fresno Unified School District as a teacher on August 7, 1996. She was later appointed vice principal of Martin Luther King Elementary School and subsequently Toby Lawless Elementary School (Lawless). In 2013, she was appointed principal of Thomas Elementary School (Thomas).

7. On June 2, 2017, respondent voluntarily resigned her employment with the Fresno Unified School District, effective June 30, 2017. The school board subsequently accepted her resignation.

8. Respondent returned to the classroom as a combination kindergarten/first grade teacher at West Park Elementary School in the West Park School District in October 2018. She subsequently became the principal at W.E.B. DuBois Public Charter School, a charter school affiliated with the Washington Unified School District. She continues to hold that position as of the date of hearing.

Fresno Unified School District's Receipt of Complaints

9. Misty Her is an instructional assistant superintendent with the Fresno Unified School District (District). She is responsible for supervising 30 schools in four

different regions of the District, including Thomas. She previously worked for the District as a teacher, vice principal, and principal.

10. Ms. Her's process for resolving complaints her office receives is to resolve them "at the lowest level possible." Her assistant, Annette Montague, receives all complaints and makes an initial determination as to whether Ms. Montague can resolve the complaint herself. If she determines she cannot resolve a complaint alone, a principal and vice principal "on special assignment" with Ms. Her's office can assist with resolving the complaint. Any complaints not resolved at a lower level or deemed "serious" are brought to Ms. Her's attention.

11. Beginning in the 2014/2015 school year, Ms. Her's office received complaints from parents of students at Thomas. The complaints alleged respondent was unprofessional when communicating with parents, did not maintain proper oversight over school funds, failed to maintain adequate records, and was unable to build and maintain a positive culture and climate at Thomas such that students and staff were transferring out of the school.

12. Ms. Montague initially attempted to resolve the complaints herself, but eventually enlisted the help of Davinder Sidhu, the principal assigned to Ms. Her's office at the time. In approximately the 2016/2017 school year, the complaints were brought to Ms. Her's attention. Based on Ms. Her's review of the complaint history, she noticed respondent engaged in a pattern of poor judgment and decision-making, a lack of professionalism, and questionable professional and personal conduct.

13. Ms. Her met with respondent on November 30, 2016, to discuss some of the complaints against her. During that meeting, respondent discussed stepping down

as the principal at Thomas. She agreed to provide Ms. Her and Katie Russell, the lead instructional superintendent for the District, her final decision the following week.

14. Respondent met with Ms. Her and Ms. Russell the following week, and informed them of her decision to step down as principal of Thomas at the end of the 2016/2017 school year due to health and personal reasons. She requested reassignment to a position that would not require her to supervise or evaluate others. Prior to signing paperwork to implement her decision, however, respondent had questions for the District's human resources department, and agreed to provide the completed paperwork no later than the following week.

15. On December 13, 2016, at 5:30 a.m. Ms. Her received the following text message from respondent:

Sorry to text you so early. Was hoping to grab a quick morning chat with you. At Starbucks would do? Between 6 and 7 . . . if that's possible? Yes this is an emergency-you always ask that. It can't wait until later. I wanted to talk to you before I start my day . . . hope you get this to meet with me before my 730 duty.

16. Ms. Her met with respondent at Starbucks that morning at 7:00 a.m. Respondent told Ms. Her she was having an affair with Jamarlin Lowe, the night custodian at Thomas. She explained the relationship began when she was the vice principal at Lawless and Mr. Lowe was "the NTA."¹ The relationship continued after she hired him as the night custodian at Thomas.

¹ Noontime assignment.

17. Respondent told Ms. Her the relationship with Mr. Lowe was now strained, and he was threatening to expose her “legal wrongdoings.” Respondent did not explain what she meant by “legal wrongdoings,” and Ms. Her did not press her because she appeared upset.

18. Respondent expressed concerns over potential “legal ramifications” that could impact Thomas, and explained “I don’t want anything happening to me, to happen to people I love, especially the students at Thomas.” She disclosed she was experiencing personal issues, such as facing bankruptcy, having her wages garnished, the theft of her purse and keys, and the repossession of her car. She made vague references to people being “out to get” her, and questioned whether her office manager at Thomas, Stephanie Riley, and Mr. Lowe were conspiring against her.

19. Based on respondent’s demeanor and emotions during the meeting, Ms. Her became concerned about respondent’s state of mind and mental health. She concluded it would not be safe for respondent to report to work that day, and instructed her to go home.

20. After the meeting with respondent, Ms. Her contacted Ms. Russell and told her about the meeting. She subsequently contacted Kim Mecum and Paul Idsvoog, the District’s chief academic officer and chief of human resources and labor relations, respectively, and the decision was made to conduct a formal investigation into whether respondent engaged in an inappropriate relationship with Mr. Lowe.

The District’s Investigation

21. Steve Badilla is a licensed private investigator and the co-owner of Nation and Badilla Investigations. He is a retired assistant chief of the California

Highway Patrol. His firm specializes in investigating allegations of employee misconduct.

22. On December 13, 2016, the District contacted Mr. Badilla and asked him to investigate the allegation that respondent engaged in an inappropriate relationship with Mr. Lowe. Mr. Badilla subsequently clarified that the District's primary concern was respondent's admission she had an affair with a subordinate employee. A secondary concern related to respondent's assertion that Mr. Lowe threatened to expose her "legal wrongdoings." Mr. Badilla was asked to determine whether respondent violated any District policies and what "legal wrongdoings" Mr. Lowe threatened to expose.

JAMARLIN LOWE'S INTERVIEW AND SUBSEQUENT HEARING TESTIMONY

Interview with Mr. Badilla

23. Mr. Badilla interviewed Mr. Lowe in the presence of Vanessa Sanchez Reyes and Amelia Jones, the chief shop steward and shop steward, respectively, with Mr. Lowe's union. Mr. Lowe has been the night custodian at Thomas since 2014, and works under the supervision of a night supervisor.

24. Mr. Lowe admitted knowing respondent, and described her as "my principal." He also explained he worked with her when he was the athletic director at Lawless and she was the vice principal.

25. When asked whether he was ever in a personal relationship with respondent, Mr. Lowe said "she is a friend of mine." When pressed further, he declined to answer. And when told respondent acknowledged their personal relationship, he responded "I do not want to talk about that."

26. Mr. Lowe was confronted with respondent's allegation that he threatened to expose her illegal activity, and responded "that is 100 percent false." He explained, "I have no ill intentions to do anything like that. I come to work, I do my job, I go home. That's all I do." When asked how he and respondent were currently getting along, he said "she's a great person. I have no ill intentions. I have nothing bad to say about her. She is an awesome person."

Hearing Testimony

27. Mr. Lowe testified at hearing, and acknowledged having a prior romantic relationship with respondent. Although he did not specify when the relationship occurred, he said he did not find their relationship unethical at the time he applied for his current night custodian position at Thomas because by then it had been "years" since they had spoken. He refused to answer Mr. Badilla's questions about his romantic relationship with respondent because he did not know who Ms. Sanchez Reyes and Ms. Jones were, and was uncomfortable discussing such a personal matter in front of two women he did not know.

STEPHANIE RILEY'S INTERVIEW AND SUBSEQUENT HEARING TESTIMONY

Interview with Mr. Badilla

28. Ms. Riley was the office manager at Thomas when Mr. Badilla interviewed her. She was hired by respondent three years prior to the interview.

29. Ms. Riley explained that her relationship with respondent had been strained over the years, but Ms. Riley did not know why. At the beginning of the 2016/2017 school year, respondent called Ms. Riley into her office and said one of

them “had to go and that we shouldn’t be working together anymore.” Respondent further stated that she did not trust Ms. Riley anymore, so one of them should leave.

30. Ms. Riley did not know the reasons for respondent’s animosity toward her. On one occasion, Ms. Riley told respondent that she could not say anything to change respondent’s mind about her, and respondent replied, “you’re right about that.”

31. Ms. Riley first met Mr. Lowe as the football coach at Thomas. He later became the school’s night custodian. Respondent had previously told Ms. Riley that respondent and Mr. Lowe “dated way back during her Lawless days.”

32. Ms. Riley concluded her interview by volunteering the following:

My son is only eight months old but if he were going to school, I would not want him to come [to Thomas]. The environment here is terrible. The top trickles down to the bottom. It’s not a good place to be. The teachers won’t even come in here because they don’t want to deal with [respondent].

Hearing Testimony

33. Ms. Riley testified at hearing in a manner consistent with her interview with Mr. Badilla. She has since left Thomas, and is the office manager at Ahwahnee Elementary School as of the date of hearing.

34. Ms. Riley described her relationship with respondent when they worked together at Thomas as “rocky,” and explained that some days were good while others “were not so good.” Respondent told Ms. Riley on multiple occasions that she

regretted hiring her; the first time respondent complained this way, she did so in front of another staff member.

35. There were days on which respondent was not in a good mood, and she would take out her frustration on Ms. Riley and others by being loud, yelling, and being "snippy." Once, respondent returned from a principals meeting and began yelling at Ms. Riley as soon as she entered the front door to the office. Respondent apparently learned information at the meeting that she felt Ms. Riley should have shared with her ahead of time. Respondent continued yelling at Ms. Riley as she walked from the front door to her personal office, and slammed the door behind her. Ms. Riley went into respondent's office to find out what was wrong, but respondent refused her entry.

36. Ms. Riley reported respondent's abusive and erratic behavior to Ms. Montague on multiple occasions. Eventually, she spoke directly with Ms. Her. She did not know what happened with her complaints, because she received no follow-up from Ms. Her or Ms. Montague.

37. Respondent asked Ms. Riley to sit on the hiring panel for a night custodian position at Thomas; the panel included respondent and several other members. The hiring process involved panel members asking the candidates a predetermined set of questions, and each candidate earning points based on his or her responses. The total number of points awarded each candidate were tallied, and the candidates were ranked in descending order based on their scores. The panel members then discussed each candidate's ranking and qualifications. If the panel did not reach a consensus about who should be hired, respondent made the final hiring decision.

38. Mr. Lowe was one of the candidates who interviewed for the night custodian position. Respondent never disclosed her romantic relationship with him to the other members of the panel. Mr. Lowe was not the candidate who earned the highest number of points, and the panel recommended another candidate. Respondent did not accept the panel's recommendation, and decided to hire Mr. Lowe.

39. Ms. Riley previously discussed with Mr. Padilla various allegations that respondent mishandled school funds, mistreated students, and mishandled or ignored parent complaints; she repeated these allegations at hearing. Her allegations were either based solely on hearsay or were unsupported by any specific examples.

DEBORAH SCHLUETER'S INTERVIEW AND SUBSEQUENT HEARING TESTIMONY

40. Ms. Schlueter has been the principal of Lawless for approximately 11 to 12 years as of the date of hearing. She hired respondent as her vice principal, and they began their tenure at Lawless on the same day.

41. Respondent hired Mr. Lowe as the athletic director at Lawless without Ms. Schlueter's knowledge. Ms. Schlueter did not learn of respondent's and Mr. Lowe's romantic relationship until about four months after he was hired.

42. Ms. Schlueter did not have any concerns about respondent's and Mr. Lowe's romantic relationship violating the District's harassment policy, but there was one occasion on which respondent yelled at Mr. Lowe in a scolding manner at school. They were in respondent's office, and respondent verbally reprimanded Mr. Lowe for doing something wrong. Afterward, Ms. Schlueter spoke with respondent and explained she should not have spoken with Mr. Lowe in the manner she did, and she should have handled the incident more professionally.

RESPONDENT'S INTERVIEW, SUBSEQUENT CORRESPONDENCE, AND HEARING TESTIMONY

Interview with Mr. Badilla

43. Respondent worked for the District for 20 years, the last three years and six months as the principal of Thomas, at the time of her interview with Mr. Badilla. She acknowledged being in an "on and off" romantic relationship with Mr. Lowe.

44. Respondent met Mr. Lowe at a gas station in the summer of 2010. They exchanged telephone numbers, and began dating shortly thereafter. She was the vice principal of Lawless when they met, and she hired him as the school's athletic director shortly thereafter. She was his immediate supervisor.

45. Respondent described her relationship with Mr. Lowe as "intimate" when she hired him as the athletic director. She did not think the relationship created a conflict of interest when she hired him, "because there wasn't anyone else competing for the position to be coach." She did not consider whether hiring him would violate any rules about hiring a romantic partner, explaining "I wasn't thinking about it in those terms. It was an extra pay contract and it was after school." In retrospect, she conceded "I guess I just wasn't thinking at the time."

46. In 2014, during her second year as principal of Thomas, respondent sat on an interview panel to hire a night custodian for the school. She did not recall receiving advance notice that Mr. Lowe applied for the position, and was surprised to see his name on the list of eligible candidates. When he appeared for his interview, she did not disclose her relationship with him to the other panel members. She did not complete a rating sheet for him, but did not excuse herself from participating in his interview. She ultimately hired him for the position. Respondent admitted that after

Mr. Lowe was hired, they “crossed the line in terms of having, you know, sexual interaction.”

47. Respondent said her relationship with Mr. Lowe was “strained” at the time of her interview, and Mr. Lowe threatened to expose her illegal activity. When Mr. Badilla asked her to explain what she was talking about, she described financial difficulties she was facing, including wage garnishments and other efforts to collect personal debts.

48. Respondent described her relationship with Ms. Riley as strained. She explained, Ms. Riley “doesn’t like me. I feel she might want to cause me pain because I caused her pain. I was open enough to say how I felt. The problems with Ms. Riley were not fixed. She never forgave me.”

49. Mr. Badilla asked respondent whether she is always cordial and professional to everyone at work, and she replied: “Oh, no. No. No. I think I would, you know, have to say that, I have that, the ghetto-ness sometimes comes out and, um, sometimes I definitely do things that I shouldn’t do.” When asked to elaborate, she explained:

Um, I think that means that, like, you know, sometimes, you know, the kids will come in and, um, you know, you, you, you cross over the edge sometimes or, you know, if a, if a student comes too close if you put your hand there or you may push a student too hard or, um, if you sit down to something a student takes off running, like grab that student the wrong way and then sometimes you think about it or if you’re like trying to barricade a student and

you want to keep them in your office you really don't want them to run out but, you know, you don't really want to be standing over them or hovering them. I mean, I think, that there's always those times where maybe you've held a student too tight, um, you've grabbed the student the wrong way. I, I haven't use the CPI that you're supposed to use when you're holding a student. Or there's times when you're sitting there talking to a student and you're, like, "you may not say that," and your voice got louder than it's supposed to be and it's like, ugh, maybe I'm not supposed to do that because I have a loud voice anyways and you know there's been times when students have went home and told their parents that I yelled at them and it's like, you know, I, I have to try and say well I do have a loud voice I mean there's staff members that have told Misty several times that I've yelled at them. It's almost like, Misty, I, I honestly feel that I'm not consciously yelling at people. Um, I do have a loud voice, like you probably have noticed just with this conversation my voice has gotten lows sometimes my voice has come up, but, I mean, I don't know, I guess it's just a part of my demeanor when I get to a level of comfortableness, when I get to a level that touches my heart, when I get to a level of passion, my voice level will always changes and . . .

50. Respondent denied ever losing her temper with a staff member or a coworker, but admitted "I've definitely crossed the line." She described an incident

when a tow truck driver was attempting to tow a staff member's car from Thomas's parking lot on a morning when it was raining and there was a backlog of cars trying to drop students off. She asked the tow truck driver to move his truck so cars could get around him and drop students off. He responded, "Get your, get your damn ass away from, I'm gonna, I'm gonna tow this tow truck [sic] whether you like it or not, so get your damn ass away from over here." Respondent replied, "Get your fat fucking ass out of my parking lot." Respondent admitted she lost her temper with the tow truck driver, but attempted to justify her actions by explaining she had a line of cars in her parking lot and students who were late.

51. Respondent concluded her interview with Mr. Badilla by explaining she loved the District, but there were times she felt she was being illegally recorded by people acting on behalf of the District. She believed the recordings were made when she was having conversations with her teachers, disciplining students, or talking to different staff members. She did not know who specifically was recording her, and explained "I always had the deep down gut feeling that I was being recorded."

Correspondence to the Commission

52. Respondent contradicted portions of her interview with Mr. Badilla in her April 16, 2018 correspondence to the Commission. She told Mr. Badilla her relationship with Mr. Lowe continued after she hired him as the night custodian at Thomas. But she wrote in her subsequent correspondence to the Commission that her relationship with Mr. Lowe ended prior to his being hired as the night custodian at Thomas. She also wrote that she did not make the hiring decision, but "the panel submitted his name for hire."

53. Two months later, respondent sent the Commission additional correspondence claiming that Ms. Schlueter hired Mr. Lowe as a coach at Lawless based on respondent's recommendation, and he reported to the school's athletic director. She further claimed that her romantic relationship with Mr. Lowe ended by the time she left Lawless. Respondent told Mr. Badilla she hired him as Lawless's athletic director, and he reported directly to her. She admitted to Mr. Badilla her romantic relationship with Mr. Lowe continued after she hired him as the custodian at Thomas.

Hearing Testimony

54. Respondent also provided contradictory testimony at hearing. She was adamant that she conferred with Ms. Schlueter about the propriety of hiring Mr. Lowe before offering him the athletic director position at Lawless. She explained that everything she did as a vice principal went through Ms. Schlueter as the principal. And while she admitted she was in a "sexual relationship" with Mr. Lowe when she hired him as athletic director, she said "we had a professional relationship" after he was hired as the night custodian at Thomas. Respondent admitted the opposite was true during her interview with Mr. Badilla.

55. Respondent also contradicted herself while testifying. She was adamant that she always carried herself as a professional at both Lawless and Thomas, and she always made sure to treat staff, students, and parents with respect. She said she was never intentionally discourteous to staff, a parent, or a student. However, she also admitted there came a point in time when she saw herself doing things "I felt was out of character." She specifically referenced the verbal altercation with the tow truck driver and her poor relationship with Ms. Riley. She denied having ever told Ms. Riley she wished she never hired her, and was mystified why Ms. Riley would say otherwise.

56. Respondent opined at hearing that she was not in the “right state of mind” to be truthful during the December 13, 2016 meeting with Ms. Her and the subsequent interview with Mr. Badilla. However, she explained she has since gained a better understanding of her major depression disorder and obtained the appropriate treatment to allow her to testify truthfully at hearing.

57. Respondent referenced Ms. Her’s testimony that respondent requested to meet prior to reporting to work on December 13, 2016, as an example of something respondent previously said that “does not make sense,” explaining she was scheduled to meet a bankruptcy attorney that morning and did not intend to go to work after meeting with Ms. Her. But respondent later testified she could not understand why she would have told Ms. Her she was going to see a bankruptcy attorney because she did not have any debt at the time.

Mario Gomez’s and Gina Miccio’s Testimony

58. Mr. Gomez was coaching sports at Thomas when respondent was appointed the school’s principal. He introduced himself after she started, and “we got along well that first year.” But respondent made changes beginning in her second year at Thomas.

59. Mr. Gomez was used to buying whatever equipment, drinks, and ice he needed for the teams he coached and submitting receipts to the school’s booster club for reimbursement. Respondent changed that process to require Mr. Gomez to obtain her permission prior to making any purchases.

60. Mr. Gomez followed respondent’s process until one time when the football team traveled to another school for a game, and there was no ice or bottled water. He typically brought a cooler full of ice and bottled water to away games,

because football season started at the beginning of the school year and it often remained hot during the first several weeks of the season. When he asked respondent for permission to purchase ice and bottled water, she replied that the students did not need ice and could drink from the drinking fountain. Mr. Gomez later saw a member of the booster club on campus, and the member authorized Mr. Gomez to purchase ice and bottled water and seek reimbursement from the booster club.

61. One year, the District gave each school \$5,000 to spend on its athletics program. Mr. Gomez requested new football jerseys because the ones the school owned were too big for the students, since they were meant to be worn over shoulder pads; however, the students did not wear shoulder pads. Respondent approved spending \$480 to replace only jerseys that were missing from the team's inventory. Overall, she spent approximately \$1,100 of the \$5,000 allocated by the District for Thomas's athletics program.

62. Mr. Gomez recognized that Thomas's sports program was not a priority for respondent. He never saw her at any practices or home games. The school's volleyball and softball teams qualified for playoffs "a couple of times," but respondent never attended any of those games.

63. Respondent once delayed selecting members of the cross-country team until after the season had started, the first event had passed, and there was insufficient time for a team to practice before the next event. When Mr. Gomez questioned her delay, she said the sports program was "not important." He responded that this was not her decision to make, but she insisted it was her decision as the school's principal. He quit coaching sports at Thomas after that conversation.

64. Ms. Miccio testified that her son started kindergarten at Thomas the same year respondent was appointed as principal. Ms. Miccio immediately became involved with the school's booster club, a parent/teacher organization that raises money to help fund field trips, other school events, and anything else the District did not, or could not, pay for.

65. During respondent's second year as principal at Thomas, Ms. Miccio began noticing clashes between members of the booster club and respondent. Respondent began requesting funding from the booster club. Although the booster club rarely denied a request for funding, respondent's requests were unusual and unnecessary.

66. Respondent changed the process for requesting funds from the booster club. Originally, teachers submitted requests directly to the booster club's box at the school. But respondent demanded that all requests be submitted to her for approval, and she submitted only those she approved to the booster club for consideration. This created conflicts between teachers and booster club members, because teachers made requests that the booster club never received. The teachers approached individual booster club members to ask about their requests, but because the members never received those requests they knew nothing about them.

67. After the booster club denied some of respondent's requests for funding, she began holding school fundraisers at the same time the booster club traditionally held its fundraisers. This created conflicts because the booster club and respondent were competing for families' money. Thomas is located in a lower socioeconomic area, and families began complaining about the school's and booster club's increased pressure on them to donate funds.

Application for a Certificate

68. A majority of the students in the West Park School District speak a language other than English as their primary language, and the school district requires all teachers to possess a crosscultural, language and academic development certificate. Respondent completed the classwork necessary for obtaining the certificate, but never processed her application. She then applied for a Certificate when she was hired to teach at West Park Elementary School. She explained at hearing, however, that the application is now moot, because the Certificate would have been issued for West Park Elementary School only, and she no longer teaches there. She would need to start the application process over if she needs a crosscultural, language and academic development certificate in the future.

Allegation Respondent Resigned in Lieu of Discipline

69. The District placed respondent on paid administrative leave, effective December 13, 2016, during the pendency of Mr. Badilla's investigation "in an effort to ensure the integrity of the impending investigation." The parties subsequently entered into an agreement whereby respondent voluntarily resigned from the District.

70. On July 11, 2017, the District reported respondent's change of employment status to the Commission pursuant to California Code of Regulations, title 5, section 80303, subdivision (a)(2). However, there was no evidence respondent resigned "as a result of an allegation of misconduct or while an allegation of misconduct [was] pending."

71. In fact, the parties' agreement states that respondent "voluntarily" resigned from the District, without either party admitting liability. Furthermore, the agreement specifies that any prospective employers inquiring about respondent's

employment history with the District shall be directed “to an HR Administrator in the District’s Human Resources Department.” That person is limited to disclosing respondent’s “dates of employment, her last position held, that resignation was voluntary and the date she tendered her resignation was June 30, 2017.”

Character Evidence

72. Respondent introduced several character letters, including letters written by each of her three children, former coworkers, and parents of former students. All the authors expressed an awareness of the Commission’s allegations against respondent in general terms, but none discussed any of the allegations in detail. Each author described respondent’s character and demeanor in laudatory terms.

73. Respondent called Amber McCorvey and Linda Jalhayan as character witnesses at hearing. Ms. McCorvey’s children attended Lawless and Thomas while respondent was the vice principal of the former and the principal of the latter. Ms. Jalhayan knows respondent because respondent was the vice principle of Lawless when Ms. Jalhayan’s child attended. Both witnesses discussed seeing respondent’s daily interactions with students, parents, and staff, and explained she always acted professionally, made everyone feel welcome on campus, and made sure students knew where they were supposed to go. Ms. McCorvey described the culture respondent created at Thomas as “more like a family than just a school,” and explained parents formed “friendships and bonds” with each other because of the culture respondent created.

74. Charles Brown also testified as a character witness on behalf of respondent. He met respondent at church five to six years ago. Shortly after they met, respondent asked Mr. Brown if he was interested in coaching the track team at

Thomas. While he had prior coaching experience, he had never coached track. Nonetheless, he accepted respondent's offer. He described his experience coaching track as "amazing," and explained he felt "comfortable" with respondent and "supported" by her. He described her as a professional who treats everyone equally, explaining he initially thought he would get special privileges because of their prior relationship from church. However, he did not.

Discussion

RESPONDENT'S MISCONDUCT

75. The persuasive evidence established respondent began a romantic relationship with Mr. Lowe in the summer of 2010 while she was the vice principal of Lawless. Shortly thereafter, she hired him as the school's athletic director, a position that reported directly to her, while still in a romantic relationship. She did not obtain Ms. Schlueter's permission or disclose the existence of the romantic relationship prior to hiring respondent.

76. Three years later, while serving as the principal of Thomas, respondent sat on an interview panel for the hiring of a full-time night custodian for the school. Mr. Lowe appeared before the panel as a candidate for the position. Respondent did not complete a rating sheet for Mr. Lowe, but remained in the room during his interview and did not disclose to the other panel members that she was currently in a romantic relationship with him. She then unilaterally hired Mr. Lowe for the position.

77. Respondent's evidence to the contrary was not persuasive. She admitted to Mr. Badilla and at hearing that she was in a romantic relationship with Mr. Lowe when she hired him as the athletic director at Lawless. Ms. Schlueter confirmed Mr.

Lowe was hired without her knowledge or permission, and Ms. Riley confirmed respondent told her respondent dated Mr. Lowe "during her Lawless days."

78. Respondent's testimony that she had a "professional relationship" with Mr. Lowe when she hired him as the night custodian at Thomas was belied by her admission to Mr. Badilla that they "crossed the line in terms of having, you know, sexual interaction" after he was hired. Mr. Lowe's testimony that he had not spoken to respondent in "years" when he was hired at Thomas was not persuasive because the evidence established they had an "on and off" romantic relationship from the summer of 2010 until after he was hired at Thomas.

79. The persuasive evidence further established respondent has an autocratic leadership style. Mr. Gomez's and Ms. Miccio's testimony about the changes respondent implemented to how athletic equipment and supplies were purchased and requests for funding were submitted to the booster club was uncontested and persuasive. Respondent's decision to hold competing fundraisers after her requests for funding were denied was indicative of her attempts to maintain ultimate control over what happened at her school.

80. There was evidence that the panel members as a whole, as opposed to respondent individually, made the decision to hire Mr. Lowe as the night custodian at Thomas. But it was undisputed the panel was formed to fill a position at the school where respondent was the principal, and she did nothing to disclose her romantic relationship with Mr. Lowe or otherwise disassociate herself from the hiring process. Mr. Lowe's qualifications for the position and who made the actual hiring decision are irrelevant, because respondent held a position of influence over the hiring process and did nothing to minimize her influence, regardless of whether she actually exercised that influence.

81. The persuasive evidence further established respondent has a history of poor and discourteous treatment of staff, students, and members of the community. Ms. Riley persuasively described instances of respondent treating her in a discourteous and insolent manner by repeatedly expressing regret over her decision to hire her, and by shouting at her following a principals meeting.

82. Ms. Riley persuasively described the "toxic" environment respondent created at Thomas. She persuasively described occasions on which respondent was not in a good mood and would take her frustrations out on Ms. Riley and others.

83. While respondent's character witnesses described her as professional and creating a welcoming environment on campus, the evidence as a whole established otherwise. Respondent conceded she is not always cordial and professional to everyone at work for reasons unwarranted by the circumstances, and "lost [her] temper" with a tow truck driver in front of parents and students. She admittedly grabbed students the wrong way, held them too tight, and talked to them in an inappropriate manner. She attempted to justify the manner in which she speaks with people by explaining she has "a loud voice," and "it's just a part of my demeanor" when talking about something she is passionate about.

FITNESS TO TEACH

84. The Commission may take adverse action against a credential only when the underlying conduct demonstrates an unfitness to teach.² (See *Broney v. California*

² "A 'credential' includes a credential, certificate, life document, life diploma, permit, certificate of clearance, or waiver issued by the commission." (Ed. Code, § 44002.)

Commission on Teacher Credentialing (2010) 184 Cal.App.4th 462, 473.) "A teacher whose credential is being investigated for possible adverse action is per se unfit to teach only when the teacher has been convicted of a crime which the Legislature has declared requires the imposition of automatic sanctions on that teacher's credentials. [Citations.] In all other circumstances, fitness to teach is a question of ultimate fact. [Citations.]" (*Id.* at P. 475.)

85. The California Supreme Court has delineated factors for determining whether particular conduct 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 v. California Commission on Teacher Credentialing, supra*, 184 Cal.App.4th at p. 476.)

Adverse Effect of Respondent's Conduct

86. Students are impressionable, and many try to emulate their teachers and principals. Therefore, it is essential that an educator's behavior be beyond reproach, and she be capable of exercising sound judgment. Respondent's decision to hire Mr. Lowe while engaged in a romantic relationship with him on two separate occasions demonstrated behavior inimical to the well-being of students and an extreme lack of judgment.

87. Being an effective educator requires one to command the respect of others, and being an effective administrator even more so. But one cannot gain the respect of others if she does not show respect herself. Respondent's mistreatment of

Ms. Riley, the tow truck driver, and students demonstrated a complete lack of respect for their feelings.

88. The ability to foster productive relationships with others is essential to being an effective educator and leader. Respondent's autocratic leadership style demonstrated a lack of understanding of the need for that ability, and an unwillingness to develop that skill. Additionally, an effective leader supports the endeavors of those she leads. Respondent's attitude towards school sports and the booster club showed a lack of interest and support for causes that are not her own.

89. Respondent's conduct as a whole portrayed the teaching profession in a negative manner, and had the potential of portraying others in the profession in a similar light by association.

Types of Credentials

90. Respondent's teaching credential authorizes her to teach all subjects in a self-contained classroom. (Cal. Code Regs., tit. 5, § 80003, subd. (a).) In other words, she may be the only teacher the students assigned to her have for the duration of such assignment. Therefore, it is even more imperative that she 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. The fact that her administrative services credential and certificate of eligibility allow her to develop and assess educational programs, manage school sites, hire and discipline certificated and classified employees, and discipline students makes it all the more essential that she possess those character traits. (Cal. Code Regs., tit. 5, §§ 80054, subd. (f), & 80054.5, subd. (b).)

91. An emergency crosscultural, language and academic development certificate authorizes the holder to provide instruction on English language development to English learners "in preschool, kindergarten, grades 1 to 12, inclusive." (Cal. Code Regs., tit. 5, §§ 80015.2, subd. (b), & 80024.8, subd. (c).) An educator working with English learners has an even greater potential for influencing the development of her students, and it is essential that she possess all of the character traits of an effective educator.

Extenuating or Aggravating Circumstances

92. An "'aggravating factor' is an event or circumstance which demonstrates that a greater degree of adverse action for an act of professional misconduct is needed to adequately protect the public, schoolchildren or the profession." (Cal. Code Regs., tit. 5, § 80300, subd. (b).) And while neither the Education Code nor the regulations adopted by the Commission specify what constitutes an "extenuating circumstance," a "mitigating factor" is the opposite of an aggravating factor — an occurrence which demonstrates that a lesser degree of adverse action or no adverse action is required to ensure proper protection. (Cal. Code Regs., tit. 5, § 80300, subd. (m).)

93. Respondent's multiple acts of misconduct constitute an aggravating factor. (Cal. Code Regs., tit. 5, § 80300, subd. (b)(2).) Also, she was not forthright when discussing her misconduct with Ms. Her during the December 13, 2016 meeting, during her interview with Mr. Badilla, in correspondence to the Commission, and at hearing. Her lack of candor constitutes an aggravating factor. (Cal. Code Regs., tit. 5, § 80300, subd. (b)(3).)

94. The evidence of aggravating factors outweighed evidence of any mitigating factors, such as the absence of prior discipline by the Commission and any evidence of respondent's depression. (Cal. Code Regs., tit. 5, § 80300, subd. (m)(1) & (3).) Additionally, there was insufficient evidence that respondent's depression "substantially contributed to [her] misconduct." (Cal. Code Regs., tit. 5, § 80300, subd. (m)(1)(3).)

Likelihood of Recurrence

95. Respondent's lack of openness and candor demonstrated a lack of insight into the wrongfulness of her conduct. This failure to appreciate her missteps indicates a greater likelihood of recurrence.

LEGAL CONCLUSIONS

Applicable Burden/Standard of Proof

DISCIPLINE OF RESPONDENT'S CREDENTIALS

1. Complainant has the burden of proving the grounds for discipline alleged in the Accusation, and she must do so 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 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 omitted.)

ELIGIBILITY FOR A CERTIFICATE

2. Respondent has the burden of proving she is eligible for a Certificate, and she must do so by a preponderance of the evidence. (*Coffin v. Alcoholic Beverage Control Appeals Board* (2006) 139 Cal.App.4th 471, 476 [the party against whom a statement of issues is filed bears the burden of proof regarding the issues raised in the pleading]; see Evid. Code, § 115 ["Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence"].) This evidentiary standard requires respondent to produce evidence of such weight that, when balanced against evidence to the contrary, is more persuasive. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.) In other words, respondent needs to prove it is more likely than not that she is eligible for a Certificate. (*Lillian F. v. Superior Court* (1984) 160 Cal.App.3d 314, 320.)

Applicable Law

3. The Commission may deny the application for a credential submitted by one who "has committed any act involving moral turpitude." (Ed. Code, § 44345, subd. (e).) The Commission may discipline a credential "for immoral or unprofessional conduct, . . . or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service." (Ed. Code, § 44421.)

4. 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."

(*Board of Education of San Francisco Unified School District v. Weiland*, *supra*, 179 Cal.App.2d at p. 811.)

5. 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.]

(*San Diego Unified School District v. Commission on Professional Competence, supra*, at p. 1466.)

6. And while "conduct constituting 'evident unfitness for service' will often constitute 'unprofessional conduct[,] . . . the converse is not true." (*Woodland Joint Unified School District v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1445.) "'Evident unfitness for service' requires that unfitness for service be attributable to a defect in temperament — a requirement not necessary for a finding of 'unprofessional conduct.'" (*Ibid.*)

7. 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. “. . . 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 Denial/Discipline

8. Considering the factual findings as a whole, respondent’s misconduct described in Factual Findings 75, 76, 79, 81, and 82 constituted “act[s] involving moral turpitude.” Such misconduct demonstrated an unfitness to teach for the reasons explained in Factual Findings 84 through 95. Therefore, cause exists to deny her application for an Emergency Crosscultural, Language and Academic Certificate pursuant to Education Code section 44345, subdivision (e).

9. For the reasons explained in Legal Conclusion 8, cause also exists to discipline respondent’s teaching credential, administrative services credential, and certificate of eligibility pursuant to Education Code section 44421, as that statute relates to Education Code section 44345, subdivision (e).

10. Respondent’s misconduct described in Factual Findings 75, 76, 79, 81, and 82 also constituted unprofessional conduct. Such unprofessional conduct demonstrated an unfitness to teach for the reasons explained in Factual Findings 84 through 95. Therefore, cause exists to discipline respondent’s teaching credential,

administrative services credential, and certificate of eligibility pursuant to Education Code section 44421.

11. Respondent's misconduct described in Factual Findings 75, 76, 79, 81, and 82 also constituted immoral conduct. Such immoral conduct demonstrated an unfitness to teach for the reasons explained in Factual Findings 84 through 95. Therefore, cause exists to discipline respondent's teaching credential, administrative services credential, and certificate of eligibility pursuant to Education Code section 44421.

12. Respondent's misconduct described in Factual Findings 75, 76, 79, 81, and 82 also demonstrated evident unfitness for service for reasons attributable to a temperamental defect. Such misconduct demonstrated an unfitness to teach for the reasons explained in Factual Findings 84 through 95. Therefore, cause exists to discipline respondent's teaching credential, administrative services credential, and certificate of eligibility pursuant to Education Code section 44421.

Conclusion

13. Cause exists to deny respondent's application for an Emergency Crosscultural, Language and Academic Certificate for the reasons explained in Legal Conclusion 8. Cause also exists to discipline her Clear Multiple Subject Teaching Credential with an authorization in General Subjects, Clear Administrative Services Credential, and Administrative Services Credential — Certificate of Eligibility for the reasons explained in Legal Conclusions 9 through 12, individually and collectively. When all the evidence is considered, respondent did not produce sufficient evidence to provide the assurances necessary to justify issuing her a Certificate. Nor did she introduce sufficient evidence of her continued fitness to perform the duties authorized

under any of her credentials or her certificate of eligibility. Therefore, her application for an Emergency Crosscultural, Language and Academic Certificate should be denied, and her Clear Multiple Subject Teaching Credential with an authorization in General Subjects, Clear Administrative Services Credential, and Administrative Services Credential — Certificate of Eligibility should be revoked.

ORDER

1. Respondent Reba Chonell Joyner's application for an Emergency Crosscultural, Language and Academic Certificate dated April 9, 2018, is DENIED.
2. The Clear Multiple Subject Teaching Credential with an authorization in General Subjects issued respondent Reba Chonell Joyner on December 17, 1994, is REVOKED.
3. The Administrative Services Credential — Certificate of Eligibility issued respondent Reba Chonell Joyner on May 19, 2005, is REVOKED.
4. The Clear Administrative Services Credential issued respondent Reba Chonell Joyner on August 1, 2007 is REVOKED.

DATE: January 23, 2020

DocuSigned by:
Coren D. Wong
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COREN D. WONG

Administrative Law Judge

Office of Administrative Hearings