

**BEFORE A
COMMISSION ON PROFESSIONAL COMPETENCE
WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT
CONTRA COSTA COUNTY
STATE OF CALIFORNIA**

In the Matter of the Dismissal of:

KENDRICKS ANDERSON, Respondent.

OAH No. 2023080512

DECISION

A Commission on Professional Competence (Commission) heard this matter by videoconference on January 22 through 25, 2024. The Commission's members were Erin C. Moran, San Bernardino City Unified School District; Marina Mae Amador, Rim of the World Unified School District; and Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, who presided.

Attorneys Alex A. Lozada and Dustin Stroeve represented the West Contra Costa Unified School District (District).

Attorney Clarissa Romero represented respondent Kendrick Anderson, who was present.

The record was left open for briefing. The District submitted closing and reply briefs which were marked for identification as Exhibits 29 and 30, respectively.

Respondent submitted an opposition brief which was marked for identification as Exhibit R. The record closed and the matter was submitted on May 22, 2024.

FACTUAL FINDINGS

Jurisdictional Matters

1. The District is a large school district serving northwestern Contra Costa County.
2. At all relevant times, respondent was a permanent certificated employee of the District.
3. On April 6, 2023, the District served a "Pre-Skelly [Draft]" statement of charges upon respondent. (See *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194.) Respondent chose to submit a written response to the draft statement of charges in lieu of a formal *Skelly* hearing.
4. On June 20, 2023, the District served a final statement of charges upon respondent. The statement of charges is the operative pleading in this matter.
5. The District's suspension of respondent is not at issue in this proceeding.
6. In the statement of charges, the District alleges five causes to dismiss respondent from his employment for the District: (1) immoral conduct; (2) unprofessional conduct; (3) unsatisfactory performance; (4) evident unfitness for service; and (5) persistent violation of or refusal to obey the school laws of the state or the reasonable regulations prescribed for the government of public schools or by the governing board of the District.

7. Specifically, the District alleges that respondent had inappropriate interactions with students and staff while he was a teacher at De Anza High School (De Anza) in the fall of 2021, including: stroking the hair of student JJF (students' names withheld for privacy); removing and raising his shoe above his head as if to hit student KN; throwing his glasses at student KD; referring to student DYR as "dirty" and from "North Richmond"; making a clapping gesture towards campus security staff, intended to mimic applause; confronting office manager Jan Bridges using an angry and aggressive tone; hugging student JB from the side and patting his side about five or six times while JB asked him to stop; while escorting students past campus security officer George Jackson, commenting "Just because you have roaches at home doesn't mean you should bring them here"; later telling students not to "speak with maskless officers," starting an argument with Jackson in which respondent stated to Jackson "Looks like you got your dream job"; grabbing a tablet and charger out of student KC's hands and sending them to the principal's office after they asked if they could charge it; after student HS asked to use the restroom, initially ignoring the request, then throwing a pack of sticky notes at her and allowing her to go, then after she returned calling her mother and asking her how to say "beat your ass" in Arabic; and attending a faculty meeting wearing a De Anza sweatshirt with the words "It's a great day to be a Don!" altered by the application of an image to read "It's a great day to (image of knife stabbing a wrist) a Don!" which staff members interpreted as advocating for violence.

8. The District also alleges that respondent had inappropriate interactions with students while he was a teacher at Pinole Valley High School (Pinole) in the winter of 2023, specifically that: student GPC reported that respondent used racial slurs "such as 'wetbag,' 'b**ner,' 'rice maker,' and 'the n-word'" and he also grabbed a phone from her lap, making her and others feel uncomfortable; respondent grabbed a phone which was placed on top of student S's "private area"; student DA asked for permission

to go to a meeting in the library and respondent said he did not believe him and that he did not think DA had a GPA above 2.0, and when he was shown documentation of the meeting, respondent stated "Wow, so they just give these to anybody"; student JNS reported that respondent frequently commented on her acne and called her "beautiful black princess," "ghetto," and "beautiful black sister," even though JNS had asked him multiple times to stop calling her "sister" and to stop talking about her acne; student TG reported that respondent frequently made inappropriate comments about students' appearances, including, "I'm laughing at your eyebrows, did you draw them on yourself?" and also he left inappropriate text conversations for students to see and made other inappropriate comments, such as, "You're a sharp young woman. I like that" and he violently grabbed computers and phones from students without warning; student ELW reported that respondent made fun of the size of her forehead and publicly mocked her for looking "ashy" and made comments about ELW dating someone of her own race, causing her to feel extremely uncomfortable.

9. Respondent timely requested a hearing and this proceeding followed.

Relevant District Policies

10. Board Policy 4119.21 (Professional Standards) states: "Employee conduct should enhance the integrity of the district and advance the goals of the educational programs."

11. Board Policy 5137 (Positive School Climate) provides that all staff are expected to serve as role models for students by demonstrating positive, professional attitudes and respect toward each student and other staff members.

12. Board Policy 4119.22 (Dress and Grooming) provides that "employees shall maintain professional standards of dress and grooming that demonstrate their

high regard for education, present an image consistent with their job responsibilities and assignment, and not endanger the health or safety of employees or students.”

Background

13. Respondent holds a clear single subject teaching credential authorizing him to teach English and social sciences.

14. Respondent began teaching in 2007. He began teaching for the District in August 2017. He taught English at Pinole through the 2020/21 school year. He was the chair of the theater department and the co-chair of the English department. He was also an assistant coach for a junior varsity basketball team. He was then invited to transfer to De Anza by its principal, Christopher Pierce, who knew respondent from a summer program and one or more African-American men’s events.

15. De Anza is organized into multiple academies, each with an academic or vocational emphasis (law, health, information technology, and Junior Reserve Officer Training Corps).

16. Canvas is a web-based learning management system that allows teachers to post learning materials, assignments, and grades, and for students to access these materials and submit completed assignments and participate in discussions. Canvas was not generally used at De Anza, but respondent used it as the primary interface for each of his classes.

2021–22 School Year at De Anza High School

17. During the 2021/22 school year, respondent taught English to students in the law academy at De Anza. At the beginning of this school year, students returned to in-person learning after more than a year of distance learning due to the COVID-19

pandemic. During the 2021/22 school year, the District had a policy requiring each person to wear a mask when indoors.

18. Many of respondent's students experienced difficulties accessing and using Canvas in the fall of 2021.

19. On September 24, 2021, Pierce and Assistant Principal White issued a conference summary document stating that they had met with respondent and discussed the following issues:

- There have been several written and verbal complaints about you from students, parents, and staff.
- There is a pattern to the complaints that focus on how you: use demeaning/insulting language when addressing students, mock students, stare down students in an "intimidating" manner, and demonstrate unpredictable mood swings.
- You have not implemented IEP accommodations such as: providing extended time.
- You have not provided Canvas access to SPED case managers so they can adequately support their students with your assignments.
- The concerns of the interactions between you and the SPED Instructional Aide.

Pierce reports that he was surprised by respondent's tone during the meeting because he became very defensive and argumentative and accused Pierce and White of not doing their jobs correctly and "coddling" students. Pierce regards this response as unprofessional and did not perceive that respondent had any desire to work on solutions to the complaints of students, parents, staff, and other teachers.

FIRST ALLEGED INCIDENT (TOUCHED THE HEAD AND STROKED THE HAIR OF STUDENT JJF)

20. Student JJF did not testify at hearing. The District did not submit evidence to support this allegation.

SECOND ALLEGED INCIDENT (THREATENED STUDENT KN WITH A SHOE)

21. Former student DYR testified at hearing. DYR attended De Anza during the 2021/22 school year and respondent was her English teacher. DYR graduated in 2023. She reports that she had numerous problems with respondent, but not other teachers. She reports that she kept "statement papers" (school forms to report an incident) in her backpack because she had so many conflicts with respondent. DYR asked to transfer to another class, but was told that she would have to also transfer to a different academy, which she did not want to do. As a result of her conflicts with respondent, DYR left De Anza but returned for her senior year. DYR is currently in college and her goal is to become a teacher.

22. DYR reports that she saw respondent threaten student KN with his sandal. DYR reports that KN asked for help using Canvas and respondent became frustrated. DYR reports that respondent removed one of his brown Birkenstock sandals and raised it above his head as if to throw it at KN. DYR does not remember respondent saying anything while he raised the sandal. DYR reports that there was not

a “bug” (insect) in the classroom. DYR reports that KN raised her hands in a defensive posture and looked afraid. KN then quickly left the classroom and reported the incident to the De Anza administration. DYR reports that the incident made her view respondent differently and made her feel unsafe in his classroom. DYR reports that KN mentioned the incident to her last year, asking “do you remember what [respondent] did to me?” DYR reports that she has known KN since middle school and KN had never been involved in “any other incident.”

23. The District alleges this incident occurred on August 31, 2021, and that date is listed on a November 15, 2021, written reprimand issued to respondent.

24. DYR also reports that on another occasion she saw respondent throw a pack of sticky notes at student TM and the pack hit TM on her back. DYR reports that TM stormed out of the classroom and she and TM reported the incident to Pierce and completed a written statement.

25. Pierce testified at hearing. Pierce is in his third year as principal at De Anza. The 2021/22 school year was his first. Prior to that, he was an assistant principal at De Anza for five years. Prior to that, Pierce worked as a teacher for a decade or more. Pierce was respondent’s direct supervisor during the 2021/22 school year.

26. Pierce reports that KN came directly to him and reported that respondent had raised his sandal above his head after she told respondent that she did not understand the lesson. Pierce reports that KN told him that she was afraid. Pierce reports that she appeared afraid and he found her credible.

27. White testified at hearing. During the 2021-22 school year, he was an assistant principal at De Anza. Prior to that he was a teacher at De Anza. White is currently an administrator elsewhere in the District. White observed KN when she

made the complaint about respondent threatening her with his shoe and reports that she seemed scared, "maybe terrified."

28. Marlene Trempy testified at hearing. She has been a resource specialist at De Anza for the last six years. She facilitates the Individualized Education Programs (IEP's) for Special Education students. Trempy describes KN as a smart student who wants to do well. Trempy reports that KN has autism. Trempy did not witness the incident, but reports that KN visited her shortly afterwards and reported that respondent took off his shoe and threatened to throw it at her. KN reported that in her culture "the bottom of the shoe is dirt." Trempy reports that KN did not know what she did to upset respondent but suspected it was because she did not understand respondent's directions and asked for more information. Trempy reports that KN's mother was also very upset about the incident.

29. KN did not testify at hearing. Marlene Trempy reports that she recently spoke with KN, but KN was too scared to testify.

30. Respondent testified at hearing. His attitude was generally combative and his testimony was often evasive and sometimes contradictory.

31. Respondent testified that he never threatened any student with a shoe, but he did use his shoe to kill roaches and ants while teaching. Respondent submitted an email to corroborate his testimony that he complained of roaches and ants in his classroom in fall 2021. Respondent also submitted two photographs that show ants in his classroom. On cross examination respondent testified that the only time he ever took off his shoe in class was the same day he took the pictures of the ants. He testified that he never saw KN in apparent distress and never saw her run out of his

classroom. Respondent reports that he is not concerned that two witnesses testified that he threatened KN with a sandal.

THIRD ALLEGED INCIDENT (INAPPROPRIATE BEHAVIOR TOWARDS STUDENT KD, INCLUDING THROWING EYEGLASSES)

32. KD testified at hearing. Her testimony was credible in all respects. KD graduated from De Anza in 2023 and was a 16-year-old student in respondent's English class during the 2021/22 school year.

33. KD reports that her initial impression of respondent was positive, but that her view changed within the first month. She explained that she became increasingly uncomfortable with respondent, because he: began sitting and standing very close to her; said "I love you" multiple times in a "pillow talk" tone of voice; put his hand on her back; and said that he admired her. She reports that she did not hear him speaking this way to other students. KD reports that she once loudly told respondent to stay out of her "personal bubble" but he just laughed and stood up.

34. KD reports that at some point in the semester she was late for class, sat down, and discovered that she was locked out of the current assignment in Canvas. She asked respondent for help. She reports that he became very irritated, walked over to her, stomped his foot, loudly said "really," and threw his eyeglasses at her. She dodged but the eyeglasses hit her on the arm. She does not believe that respondent was joking, rather she reports that he was very angry and frustrated. She reports that, although she normally stands up for herself, on this occasion she was embarrassed and "kind of in a state of shock." She later grew mad at herself for not fighting back after the class saw her get hit with the eyeglasses.

35. KD reports that she unsuccessfully tried to transfer out of respondent's class, and because she felt uncomfortable, she stopped asking respondent for help after this incident and stopped attending respondent's class towards the end of the first semester.

36. KD reports that respondent also made fun of her acne and made fun of the acne of another student and the size of that student's forehead.

37. Respondent submitted an email showing that KD missed most of a class period to look for a necklace that she had misplaced.

38. Respondent denies throwing his glasses at any student. He testified:

No. I've never thrown anything in a classroom. I don't teach sports, so there isn't anything I would throw. Tactile activities involving students don't generally involve me unless I'm modeling how to put your nametag on the door or where in the classroom would you want to post that as far as do we have to put them on with our period or with our grade, because I'm teaching multiple grades, which I usually am. So, I like to have my freshmen do it so when we do take a class picture for a fundraiser or whatever it's sectioned off.

FOURTH ALLEGED INCIDENT (REFERRING TO STUDENT DYR AS "DIRTY" AND "FROM NORTH RICHMOND")

39. DYR reports that on the second or third day of class, respondent made a comment implying that her Burberry brand sweater was a fake. She felt confused and

humiliated. She reports that on another occasion, in front of other students, respondent showed her a picture of a black "water bug" on his phone and said that she looked like the insect. DYR reports that this comment was significant because she is African American and her skin is "quite black." She also reports that other students were goading her to respond, but she did not respond because she had problems in the past with anger and talking back to teachers and was trying very hard to work on that trait in fall 2021.

40. DYR reports that respondent repeatedly called her "Miss Cooper," the name of an African American student one grade above her. She believes this was because she is African American, even though respondent is too.

41. DYR reports that respondent screamed in the middle of class that she must be from "North Richmond, with the dirty kids" and again referred to her as Miss Cooper. DYR reports that North Richmond is a "gang affiliated hood" and these comments made her feel "less than" and insecure in the learning environment. This incident was stated to have occurred on September 23, 2021, in a November 15, 2021, written reprimand of respondent.

42. DYR also reports hearing respondent call a Mexican student a "wetback." DYR reports that the student was crying after class and this prompted DYR to start a petition for the administration to investigate respondent's misconduct towards students. DYR reported all these incidents to her mother and her mother complained to the school and ultimately met with respondent, Pierce, and assistant principal White.

43. Marlene Trempy reports that DYR showed up in her classroom crying and reported that respondent had told her she would “never earn anything unless flat on her back,” which they understood to mean engaging in sex work.

44. Respondent reports that DYR had been expelled from school the year prior and he was not notified of this, even though such notification was required.

45. Respondent denies calling DYR the wrong name, unless by accident during the first three weeks of school.

46. Respondent denies saying that DYR was “dirty” or from North Richmond. He testified “I don't know anything about geography for Richmond as far as where—where students are coming from. The only thing I know is that there is a denser population of brown and black students.”

47. Respondent denies saying that DYR or any other student would only “make wages by laying flat on their backs.” He testified that this statement is not academic language and he never uses “nonacademic language” in his classes.

48. Respondent denies comparing DYR to a bug, testifying that the only mention of bugs in his classroom related to pest control spraying.

49. Respondent denies ever calling a student a racial slur.

FIFTH ALLEGED INCIDENT (CONFLICT WITH PARAPROFESSIONAL MORATO)

50. Complainant alleged that in September 2021, a paraprofessional, Luisa Fuentes Morato, “walked around [respondent’s] class seeing if students needed help with assignments” and respondent called an assistant principal “to escort Morato from

the room for performing her job duties.” Complainant offered no evidence to support this allegation.

SIXTH ALLEGED INCIDENT (THREATENING GESTURE TOWARDS GEORGE JACKSON)

51. George Jackson, Jr., is a campus safety specialist at De Anza. He has worked for the District for approximately 16 years. Jackson and respondent both started working at De Anza at the beginning of the 2021/22 school year and both were assigned to a building known as Seven Hall. Jackson reports that he first heard of respondent when students complained about things respondent said to them. Jackson referred these students to the administration.

52. Jackson credibly testified that on one occasion (listed as October 25, 2021, in a November 15, 2021, written reprimand), outside the gate to De Anza, respondent walked by and made a gesture with his hand that he described as “firing finger guns.” Jackson interpreted this as an indication that respondent was threatening to shoot Jackson. Jackson reports that his coworkers (including Jerome Fletcher) advised Jackson not to respond and to write a report of the incident, and Jackson followed this advice.

53. Fletcher has been the De Anza Site Safety Supervisor for six years. He is familiar with respondent and George Jackson. Fletcher reports that respondent would “stare down” Jackson multiple times in the De Anza hallways during the 2021-22 school year. Fletcher reports that on the occasion just outside the school gate, respondent walked by and “did gun shots gesture” towards Jackson while smirking. Fletcher reports that there is no question respondent was mimicking guns and Fletcher

felt uncomfortable for Jackson, who took the gesture as threatening. Fletcher advised Jackson to report the incident.

54. Respondent testified that he never threatened Jackson and never gestured at Jackson with his hands:

Q. Have you ever gestured at him [Jackson] with your hands?

A. No. I'm walking with my students. When I walk with my students, because I have my two laptops, one of them is with me. And when I'm walking with my students I have a laptop in my hand. My other hand does what it does when you are walking. I don't point at people unless I'm trying to identify them to a staff member. That is about it. If I point at you, I don't know your name, I'm trying to identify you, who is this. Other than that, I don't point. I take people's names. I address them by their professional title if they have professional titles or whatever is appropriate for the level of interaction which we're having.

Q. Have you ever gestured at him [Jackson] making finger guns?

A. No.

Q. Have you ever gestured at anyone making finger guns with your hands?

A. Peace. Holding my peace. Holding my peace, Peace. I wave good-bye peace. The only time I use peace in my life is—my son's name is Peace. My son's name is Peace Anderson. That's the only time I use Peace.

SEVENTH ALLEGED INCIDENT (CONFRONTING OFFICE MANAGER JAN BRIDGES USING AN ANGRY AND AGGRESSIVE TONE)

55. Pierce testified that De Anza's "front office manager complained multiple times about" respondent. But Pierce did not indicate if he witnessed this behavior or provide further details. The District did not provide sufficient evidence to prove this allegation.

EIGHTH ALLEGED INCIDENT (HUGGING AND PATTING THE SIDE OF STUDENT JB)

56. The District did not provide significant evidence to prove this allegation.

NINTH ALLEGED INCIDENT (UNPROFESSIONAL STATEMENTS TO STUDENTS AND JACKSON)

57. Jackson reports that in a hallway outside classrooms, he overheard respondent tell students something to the effect that they needed to leave roaches at their homes and not bring them to school. Jackson understood respondent to be implying that the students were dirty. Jackson reports that he told respondent "you can't say that to those kids" and respondent replied "looks like you got your dream job." Jackson was offended by this comment, which he took to mean that he could not find a higher status job, even though he had left a more lucrative job at a large

refinery to work with students. Jackson reports that a couple of the students thanked him for “standing up for them” against respondent.

58. Jackson is DYP’s father. DYP reports that she observed respondent arguing with other staff, including a coach and Jackson. She reports he aggressively and loudly told Jackson that Jackson was a security guard and needs to stay in his place.

59. Respondent denies having any direct interaction with Jackson, including any comment about a “dream job.” Respondent testified:

No. The only thing I have to think about is my dream job, holding my peace, leaving my dream job. Because I’m in a more it’s the same technology wise, but there’s a higher density of students that I feel like I can help make a bigger change and impact lives. So, I feel like I’m living my dream already, and even by being at De Anza where there is a greater demographic of students that I can reach.

I don’t recall even speaking to him about it.

I’m working with my students. I don’t have anything to talk about except for to my students. So, I’m pretty sure I didn’t say anything to him because there is no reason for me to converse with him. I’m talking to my students about going to the library and keeping their masks on, so no direct interactions with him or I, just broad statements to my students about not wearing their masks or fraternizing with people that are not wearing their mask.

TENTH ALLEGED INCIDENT (GRABBING A TABLET AND CHARGER OUT OF STUDENT KC'S HANDS)

60. The District alleged that respondent grabbed a tablet and charger out of student KC's hands, but did not present any significant evidence to support this allegation.

ELEVENTH ALLEGED INCIDENT (THROWING A PACK OF STICKY NOTES AT STUDENT HS AND ASKING HS'S MOTHER AN INAPPROPRIATE QUESTION)

61. The District alleged that after student HS asked to use the restroom, respondent initially ignored the request; then threw a pack of sticky notes at her and allowed her to go; then after she returned, called her mother and asked how to say "beat your ass" in Arabic. The District did not present any significant evidence to support this allegation. DYR reported that she saw respondent throw a pack of sticky notes at student TM, but there was no evidence that DYR meant to refer to student HS.

TWELFTH ALLEGED INCIDENT (WEARING DE ANZA SWEATSHIRT ALTERED WITH A VIOLENT IMAGE)

62. Students in the De Anza printing club made approximately 200 De Anza sweatshirts displaying the logo "It's a great day to be a Don!" (the school mascot). Each teacher received one of these sweatshirts as a gift.

63. Respondent altered the sweatshirt by covering the word "be" with a patch that depicted a violent image—a hand stabbing a knife through two other hands clasped together. In very small letters, the words "TRUST NO ONE" are written on the image of the knife. There is blood on the wrist being stabbed and blood on both sides

of the knife. The most obvious interpretation of the statement on the altered sweatshirt (Altered Sweatshirt) is "It's a great day to stab [or harm] a Don!"

64. Respondent wore the Altered Sweatshirt at De Anza on November 1, 2021. Pierce reports that respondent sat in front of the staff meeting "for everyone to see" the Altered Sweatshirt.

65. Pierce reports that "word got around" about respondent's modification of the sweatshirt and the impact on the students was "heartbreaking." Marlene Trempy observed many staff members sitting behind respondent when he was wearing the Altered Sweatshirt in the meeting and she was "horrified" because a De Anza student had recently been shot, suffering permanent injury. Fatham Riordan Ng, a teacher at De Anza, saw respondent wearing the Altered Sweatshirt in the meeting and "around campus" and was "disgusted."

66. Jackson was not at the staff meeting but saw respondent wearing the Altered Sweatshirt on the De Anza campus and was shocked. He discussed it with his coworkers and reports that they all wondered what kind of statement respondent was trying to make. Jackson viewed the Altered Sweatshirt as a threat.

67. Fletcher also viewed the Altered Sweatshirt as a threat. He is not sure if respondent was advocating for violence, but De Anza had issues with violence and Fletcher is sure that the Altered Sweatshirt was not appropriate for De Anza.

68. Kathleen Trempy testified at hearing. She has been the law academy "Lead" at De Anza for the last three and one-half years. Prior to that she worked for 30 years as a civil litigation paralegal. She is Marlene Trempy's sister. Kathleen Trempy saw respondent wearing the Altered Sweatshirt, and her interpretation of the

alteration was that respondent hated De Anza and its students and was encouraging violence towards the students.

69. Respondent admits that he altered the sweatshirt. He testified:

After about the fourth week or so, I had ordered a whole bunch of different patches. And it was starting to fray and roll up around the edges, and a few letters had fallen off. And I patched—there were some, you know, a whole bunch of patches, and I put one on there where the lettering had fallen off to complete the phrase and make it more personalized.

70. Respondent testified that the meaning of the Altered Sweatshirt was it's a great day to "not trust a Don." He reports that a "Don" means a Spanish conquistador. Respondent denies trying to convey distrust of his coworkers or unhappiness. Despite the image of a hand stabbing a bloody knife through two other hands, respondent repeatedly testified that the patch does not show a violent act. Rather, he testified that it is an allusion to a biblical scripture meaning "you are supposed to put your trust in God versus putting your trust in man." Respondent testified that he does not know the religion of his coworkers, does not know what they understand, and does not consider their understanding important.

OTHER EVENTS DURING THE 2021-22 SCHOOL YEAR

71. On September 24, 2021, respondent met with his supervisors at De Anza, Pierce and White, to discuss numerous complaints that they had received about respondent. Pierce reports that during the meeting respondent acted "very defensive and argumentative" and "questioned some of [Pierce's and White's] ability to act as

administrators.” Pierce directed respondent to act professionally and “not to present as intimidating, demeaning, or disrespectful in his either language, verbally, or his communication with teachers and our students.” Following the meeting, respondent received a Conference Summary that detailed the reasons for the meeting and the standards of conduct he was expected to uphold moving forward including, but not limited to, ensuring “that all verbal and nonverbal communication with students is consistent, respectful, and professional” and directing him to “collaborate with [his] colleagues in a professional manner to meet the educational and social/emotional needs of [his] students.”

72. Despite giving respondent these directives, Pierce continued to receive numerous complaints about respondent.

73. While on bereavement leave in early November 2021, respondent set his District email account to automatically reply to any sender with a message that included the following:

Hello. If you are receiving this message it is because Mr. Anderson is out of the office. I will be out until **November 15, 2021**. Please do not email me, as I generally do not respond to my work email and please don't be so narcissistic and self-absorbed to think that an auto-responder is specific to you. Yes, you. Have a wonderful week and I am looking forward to seeing the DeAnza community next week.

(Emphasis in original.) At hearing, respondent testified that if someone were offended by this message, he would wonder if there was an issue with that person's

comprehension. Respondent admits that he set his email account to send this message after Pierce counseled him to communicate professionally. Surprisingly, respondent contends this message was professional, despite the phrase "please don't be so narcissistic and self-absorbed to think that an auto-responder is specific to you." Pierce opined that he was "blown away" by this language because this is what any student or parent would have received if they emailed respondent during that period. Pierce opined that it was very unprofessional and reports that this conduct "underscores" why respondent was dismissed.

74. On November 15, 2021, Pierce and White issued a written reprimand to respondent, which included summaries of the allegations discussed above, as well as numerous other detailed allegations of unprofessional and disrespectful communications and behaviors towards students, teachers, staff, parents, guardians, and community members.

75. Effective November 18, 2021, respondent was placed on paid administrative leave based upon the allegations described above. Following the conclusion of a third-party investigation, respondent was issued a 45-day Notice of Unprofessional Conduct and returned to work.

ADDITIONAL EVIDENCE REGARDING THE 2021-22 SCHOOL YEAR.

76. Respondent contends that the District's termination of his employment was "primarily motivated by retaliation and personal conflicts with" him.

77. Pierce reports that he does not believe that the complaints against respondent were coordinated. In support of this opinion, Pierce points to the large number of complaints and the fact that they came from students, teachers, staff, and

parents. Pierce also denies that his efforts to discipline respondent were motivated by respondent's health and safety complaints, explaining:

I did, as I stated also, [met and offered] support with Mr. Anderson when he brought up the bug infestation and the markings on the door and offered him a separate space to teach his class, but the purpose of our original informal meetings had nothing to do with any of this. It was specific around student and parent complaints.

Pierce also pointed out that the complaints about respondent's conduct began approximately two months before respondent complained about insects or graffiti and included many complaints from students and parents.

78. Pierce opines that there would "definitely" be a large negative impact on the whole De Anza community if respondent returned to teach there. He reports that respondent's unprofessional conduct at De Anza has not been forgotten.

79. White reports that in his 10 years in education, he never saw so many complaints about a teacher as there were against respondent in fall of 2021.

80. Marlene Trempey reports that she received numerous complaints from parents that respondent made demeaning and disrespectful comments towards Special Education students. Marlene Trempey reports that she ultimately asked for all of her Special Education students to be removed from respondent's classes due to all the negative feedback about respondent.

81. Kathleen Trempey reports that she would "would be very concerned with the safety and the mental health of our students" if respondent returned to De Anza

because he refuses to collaborate, is “not a nice person,” and “terrorized several of our students.”

2022/23 School Year at Pinole Valley High School

82. After the 2021/22 school year, respondent was involuntarily transferred from De Anza back to Pinole and he taught there through the 2022/23 school year.

83. Ryan Kolb testified at hearing. Kolb has been the assistant vice principal of Pinole for 14 years. He is familiar with respondent as a teacher at Pinole since 2017 (with the exception of the 2021/22 school year). Kolb reports that there were more than five complaints about respondent from students and employees prior to the 2022/23 school year, but several complaints during the 2022/23 school year, including the five complaints alleged in the statement of charges relating to that year. Kolb reports that many students refused to provide written statements, but would tell him something to the effect of “you guys gotta figure what’s going on in” respondent’s classroom.

84. Kolb authenticated 11 written statements submitted by Pinole students during the 2022/23 school year, each alleging unprofessional conduct by respondent.

THIRTEENTH ALLEGED INCIDENT (USED RACIAL SLURS AND GRABBED A PHONE FROM STUDENT GPC’S LAP)

85. In a written statement dated February 6, 2023, student GPC reported that approximately one week earlier respondent used racial slurs such as “beaner, wet bag, rice maker, [and] the n word.” She also reported that a week or two earlier, she was texting a friend, saw respondent walking towards her, put her phone between her thighs, and respondent walked up behind her and grabbed the phone, which made her

feel uncomfortable. Student GPC also reported that respondent had done the same to student S.

FOURTEENTH ALLEGED INCIDENT (GRABBED A PHONE FROM STUDENT S'S LAP)

86. In a written statement dated February 6, 2023, student S reported that she had placed her phone on her lap, "on top of my private area," and respondent grabbed the phone from her. S also reported that a week or two earlier respondent grabbed a phone resting on the "private area" of student GPC, which made that student uncomfortable.

FIFTEENTH ALLEGED INCIDENT (INAPPROPRIATE COMMENTS TO STUDENT DA)

87. In a written statement dated February 6, 2007,¹ student DA reported that: he asked respondent to release him from class to go to a meeting in the library for a special project; respondent told him that respondent did not believe "a student or kid like you" could get into such a special project and "I don't even think you have a 2.0 GPA"; and after DA showed respondent a letter documenting the meeting, respondent stated "[w]ow, so they give these to anybody."

¹ This date is certainly incorrect and the actual year was very likely 2023.

SIXTEENTH ALLEGED INCIDENT (INAPPROPRIATE COMMENTS TO STUDENT JS AND OTHER ACTS)

88. In a written statement dated February 6, 2023, student JS reported that: she was not comfortable in respondent's class "because of the students and [respondent's] use of language"; respondent called her "beautiful black princess," "ghetto," and "black beautiful sister"; respondent frequently commented on her acne, and the acne of other students; and she told him multiple times not to make these comments. JS also reported that respondent used the "n-word" and other "slurs" in class. JS also reported that respondent told her that she was ungrateful because she did not care about her shoes.

SEVENTEENTH ALLEGED INCIDENT (INAPPROPRIATE COMMENTS TO STUDENT TG AND OTHER ACTS)

89. In a written statement dated February 6, 2023, student TG reported that respondent: frequently made "rude jokes" and inappropriate comments about students' appearances, such as "I'm laughing at your eyebrows, did you draw them on yourself?"; left "inappropriate text messages for students to see"; made "creepy comments like 'you're a sharp young wom[a]n I like that'"; and also violently "snatched computers and cell phones from students with no warning."

EIGHTEENTH ALLEGED INCIDENT (INAPPROPRIATE COMMENTS TO STUDENT ELW)

90. In a written statement dated February 3, 2023, student ELW reported that respondent made inappropriate comments about her appearance, including the size of her forehead and the color/texture of her skin. ELW reported that respondent stopped

her on her way to class, covered his face and acted as if her forehead was blinding him, and then said it was "humongous" and was "blinding" him. ELW also reported that respondent said her skin was "ashy," asked a classmate if that student had Vaseline (petroleum jelly) for ELW, and stated that ELW needed the Vaseline. ELW also reports that on one occasion in class respondent called her "good girl" and then said "[w]hy you and Alex [another student, ELW's ex-boyfriend] eyeballing each other you guys should sit next to each other." When ELW refused to sit next to Alex, respondent said "Oh yeah because you finally found better and finally dating someone you [SIC] own race." ELW reported this made her feel uncomfortable and "ready to walk out of the classroom."

RESPONDENT'S EVIDENCE REGARDING THE STUDENT COMPLAINTS AT PINOLE

91. Respondent reports that he was never interviewed regarding student complaints at Pinole.

92. Respondent is familiar with each of the students who submitted the written statements described in Factual Findings 85 through 90.

93. Respondent denies ever using a racial slur to describe any student. He reports teaching lessons about the use of language, including racial slurs. He submitted an assignment titled "The N-Bomb Gloria Naylor's Breakdown" that included Naylor's essay "The Meanings of a Word" addressing her experiences with the "n-word" and how that experience varied depending on the context of its use. He also submitted a 2021 email chain between himself and Pinole's principal. Respondent explained that a student had complained that he felt pressured to use the n-word during class (this complaint is not an allegation in this matter). In the email chain, respondent denied pressuring any student to use this term and also provided a

lengthy explanation of his teaching on this subject, which appears appropriately academic (there is no allegation in this matter that respondent's curricula were inappropriate).

94. Respondent admits that he routinely confiscated phones from students using them in class, but denies ever taking a phone from a student's lap. Respondent testified that he took the phone from GPC's hands, not her lap. Respondent opined that GPC, S, and TG made these allegations because they were disappointed their phones were taken away.

95. Surprisingly, respondent repeatedly testified that he never has conversations with students; he only delivers instructions and responds to inquiries, and that he gets to know students through their writing. However, when asked about student TG's allegations, respondent admitted that he "joked around" with her. Then he testified that he did not "make jokes" with her, but he did say "you did that" to her in reference to her doing her own makeup, which he describes as "an observation of a skill that she was developing," and not a joke:

No, we'd talk about observations. I'll make an observation.

Either she'd laugh or she wouldn't, or—it wasn't meant as a joke. It was an observation of a skill or talent being developed by a student, on their own.

Respondent testified that his exact words to TG were "[y]ou're starting to do your own makeup." He reports that he does not know if TG was offended by that statement. Later respondent testified that he is "absolutely not" concerned whether she interpreted his statement as a "rude and inappropriate joke." He explained that this is

because he had a strong rapport with TG's mother and TG's mother would have complained to him if TG had been offended.

96. Respondent denies ever using the terms "wetback," "beaner," or "rice maker" during a class, even in an instructional context. He described GPC's allegations as "creative fiction."

97. Respondent denies complimenting students' appearances. Respondent denies calling JS "black," "ghetto," or "sister," but admits calling her a "big black beautiful princess" and "black beautiful sister." He testified that he does not remember her asking him to stop using those terms. Respondent reports that he used these terms when a student was in a bad or desperate position, to let the student know the student "could overcome anything." Respondent testified that he remembers this day and JS was in tears before he made the comments.

She was crying. Tears were literally coming out of her eyes. She had an incident while walking into my classroom. I remember the day. She was in tears. So I don't, you know, can't recall all of a sudden when students are in tears or not in tears. I know when students are in emotional turmoil, because I know my students.

And with this student, with whom I share a community of practice, this is an inspirational thing that's been told to me and other sisters and brothers that I have spoken with, working with, lived with my entire life, within my community, which you are not a member, and I shared this because she was in a moment of turmoil and crying and in

desperation, and it was a source of inspiration. She cleaned it up that day. She walked off feeling a whole lot better.

Respondent testified that this incident occurred in December 2022, and that he was not at school on February 6, 2023, the date of most of the written statements at issue.

98. Respondent denies commenting on any student's acne.

99. Respondent denies any recollection of DA asking to go to a meeting in the library, but testified that DA was not on the list of students excused to leave class.

SUBSEQUENT EVENTS

100. In respondent's written *Skelly* response, he described Pierce as "philandering Principal Pierce." In another section of the response, he described Pierce's claims as being "as faulty as his commitment to his nuptials." At hearing, when asked if he thought these statements were appropriate, respondent denied that these statements were unprofessional and testified they were appropriate because they showed that Pierce "will lie in all occasions."

101. At hearing, respondent testified that there is no truth to any of the District's allegations and he did nothing wrong or hurtful to anyone.

Respondent's Additional Evidence

102. Owen G. DeVance testified in support of respondent. DeVance has been a teacher for approximately 15 years, 10 in the District. Prior to that he was a human resources consultant for a large public utility for 30 years. He is a social studies teacher and familiar with respondent from their work together at Pinole and De Anza, including judging speech contests together.

103. DeVance reports that he considers respondent both a colleague and a friend. He regards respondent as a dedicated educator who loves his family. DeVance did not observe respondent in the classroom, but reports that he observed respondent interact with students one night during a play at Pinole and that respondent's actions that night were all positive. DeVance is not aware of any complaints about respondent, but reports that he does not hear students complain about any teachers because his students know that gossip about other teachers or students is "off limits."

Ultimate Findings

104. Respondent's testimony was often evasive and it was sometimes contradictory and implausible. The District's witnesses appeared sincere and testified in a straightforward manner, consistent with other evidence. In each instance where respondent's testimony conflicted with that of another witness, respondent's testimony was less credible. As a result, many of the District's allegations were proven.

2021–22 SCHOOL YEAR AT DE ANZA HIGH SCHOOL

105. The evidence shows that it is more likely than not that respondent:

- threatened student KN with his shoe or sandal (second alleged incident);
- threw his glasses at student KD (third alleged incident);
- referred to student DYR as "dirty" and "from North Richmond" (fourth alleged incident), compared her to a picture of a black water bug, told her she would "never earn anything unless flat on her back," and also called another student (who was of Mexican heritage) a "wetback";

- made a threatening gesture towards George Jackson (finger guns) (sixth alleged incident);
- made unprofessional statements to students (implying that they were dirty) and to Jackson ("looks like you got your dream job") (ninth alleged incident);
- wore a De Anza sweatshirt at school, that he had altered with a violent image that faculty and staff reasonably interpreted as a threat of violence or a statement of hatred for the school, students, or faculty.

106. The evidence was insufficient to show that respondent:

- inappropriately touched the head and stroked the hair of student JJF (first alleged incident);
- called an assistant principal "to escort [paraprofessional, Luisa Fuentes] Morato from the [class]room for performing her job duties" (fifth alleged incident);
- confronted office manager Jan Bridges using an "angry" and "offensive" tone related to a payroll issue (seventh alleged incident);
- hugged and patted the side of student JB about five or six times, causing AB to ask him to stop (eighth alleged incident);
- grabbed a tablet and charger out of student KC's hands (tenth alleged incident); or
- threw a pack of post-it notes at student HS and asked her mother how to say "beat your ass" in Arabic (eleventh alleged incident).

2022/23 SCHOOL YEAR AT PINOLE VALLEY HIGH SCHOOL

107. The evidence shows that it is more likely than not that respondent in early 2023:

- made an inappropriate joke about the cosmetic makeup of student TG (seventeenth alleged incident); and
- called student JS a “big black beautiful princess” and “black beautiful sister” (sixteenth alleged incident).

Respondent admitted making a statement about TG’s makeup and in her written statement TG characterized his statements as “rude jokes” and inappropriate comments. Respondent’s testimony that he was not making a joke, but merely “an observation of a skill that she was developing” was not credible. Respondent also admitted calling student JS a “big black beautiful princess” and “black beautiful sister.” Respondent’s testimony that he used those terms with the intention of being supportive was credible, even though JS apparently did not welcome these statements.

108. The evidence was insufficient to show that respondent:

- used racial slurs in the classroom outside an appropriate educational context (thirteenth and sixteenth alleged incidents);
- grabbed mobile phones from the laps or “private area” of students (thirteenth and fourteenth alleged incidents);
- made inappropriate comments to student DA, implying DA was not smart enough to be part of a Pinole special project (fifteenth alleged incident); or
- made inappropriate comments to student ELW (eighteenth alleged incident).

Respondent's denials of these allegations were not credible, but the District did not present any percipient testimony to support the students' written statements and the students were not available for cross-examination. It is also possible that one or more students may have viewed an educationally appropriate discussion of racial slurs in the classroom as inappropriate.

109. The District did not provide evidence of performance evaluations of respondent.

110. The District's efforts to terminate respondent were not motivated by respondent's health and safety complaints. Pierce's testimony on this issue was credible and supported by the large number of students, parents, staff, and other teachers who complained about respondent's conduct at De Anza and the following year at Pinole.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The District bears the burden to prove cause to dismiss respondent. The standard of proof is a preponderance of the evidence. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1038-1039.) The Commission has considered all testimonial and documentary evidence, and weighed all witnesses' credibility, in making the factual findings above. These findings reflect a preponderance of the evidence.

Respondent Received Sufficient Due Process Prior to the District's Move to Dismiss Him

2. Respondent asserts that he should not be terminated because the District failed to provide him due process prior to moving for dismissal, based on his own testimony that no one from human resources "sat down with [him] prior to the issuance of the Statement of Charges to discuss their concerns and allegations." However, the evidence established that the District secured a third-party investigation into the De Anza allegations prior to suspending respondent for 45 days in November 2021 and provided respondent the right to a *Skelly* hearing in spring 2023. Respondent received sufficient due process prior to the District's move to dismiss him.

First Cause for Dismissal (Immoral Conduct)

3. Pursuant to Education Code section 44932, subdivision (a)(1), a school district may dismiss a permanent certificated employee for immoral conduct. Courts have interpreted this term to mean conduct "indicative of corruption, indecency, depravity, [or] dissoluteness," as "shameless conduct showing moral indifference to the opinions of respectable members of the community," or as "an inconsiderate attitude toward good order and the public welfare." (*Palo Verde Unified Sch. Dist. v. Hensey* (1970) 9 Cal.App.3d 967, 972.) (All further statutory citations are to the Education Code.)

4. In *Crawford v. Commission on Professional Competence of Jurupa Unified School District* (*Crawford*) (2020) 53 Cal.App.5th 327, 337, the Court of Appeal held that negative comments about groups of students on social media may be sufficient support for a finding of a charge for immoral conduct. There, a school guidance counselor called students "useful fools" while attempting to illustrate the

economic impact of immigrants in the United States and stated that the cafeteria was “much cleaner” without these students on campus. (*Id.*, p. 332.) The Court held that the employee’s conduct was immoral because her negative comments about students “w[ere] ‘detrimental to the mission and functions of [her] employer.’” (*Id.*, p. 345.) In reaching its decision, the Court upheld the school district’s ability to terminate the counselor for immoral conduct and evident unfitness for service. (*Ibid.*)

5. Respondent threatened to and did throw objects at students; made numerous demeaning, or racially or sexually harassing statements to students; threatened a staff member; and wore a sweatshirt at school altered with a violent image which faculty and staff reasonably interpreted as a threat of violence or a statement of hatred for the school, students, or faculty. (Factual Findings 105 & 107.) Respondent’s misconduct continued after Pierce and White met with him and gave him a written warning. (Factual Finding 64, 71, 72, & 107.) Respondent’s actions were more detrimental to the “mission and functions” of his employer than those of the guidance counselor in *Crawford*. These actions constitute immoral conduct under section 44932, subdivision (a)(1).

Second Cause for Dismissal (Unprofessional Conduct)

6. Pursuant to section 44932, subdivision (a)(2), a school district may dismiss a permanent certificated employee for unprofessional conduct. The term “unprofessional conduct” is not defined by the Education Code, but the California Supreme Court has held the term may be construed consistent with common usage as conduct that “violates the rules or ethical code of a profession or such conduct which is unbecoming a member of a profession in good standing.” (*Board v. Swan* (1953) 41 Cal.2d 546, 553 [overruled on other grounds].) Respondent’s conduct was

unprofessional under section 44932, subdivision (a)(2). (Factual Findings 105 & 107, see Legal Conclusion 5.)

Third Alleged Cause for Dismissal (Unsatisfactory Performance)

7. Pursuant to section 44932, subdivision (a)(5), a school district may dismiss a permanent certificated employee for unsatisfactory performance.

8. Sections 44660 through 44665 set forth the requirements for evaluating certificated employees. Section 44662, in relevant part, provides:

(b) The governing board of each school district shall evaluate and assess certificated employee performance as it reasonably relates to:

(1) The progress of pupils toward the standards established pursuant to subdivision (a) and, if applicable, the state adopted academic content standards as measured by state adopted criterion referenced assessments.

(2) The instructional techniques and strategies used by the employee.

(3) The employee's adherence to curricular objectives.

(4) The establishment and maintenance of a suitable learning environment, within the scope of the employee's responsibilities.

9. Section 44664, in relevant part, provides:

(b) The evaluation shall include recommendations, if necessary, as to areas of improvement in the performance of the employee. If an employee is not performing his or her duties in a satisfactory manner according to the standards prescribed by the governing board, the employing authority shall notify the employee in writing of that fact and describe the unsatisfactory performance. The employing authority shall thereafter confer with the employee making specific recommendations as to areas of improvement in the employee's performance and endeavor to assist the employee in his or her performance. If any permanent certificated employee has received an unsatisfactory evaluation, the employing authority shall annually evaluate the employee until the employee achieves a positive evaluation or is separated from the district.

10. Before a school district may dismiss a permanent certificated employee for unsatisfactory performance, it must comply with section 44938, subdivision (b), which, in relevant part, provides:

(1) At least 90 calendar days prior to the date of the filing, the board or its authorized representative has given the employee against whom the charge is filed, written notice of the unsatisfactory performance, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity

to correct his or her faults and overcome the grounds for the charge. The written notice shall include the evaluation made pursuant to Article 11 (commencing with Section 44660) of Chapter 3, if applicable to the employee.

11. The District did not provide evidence of unsatisfactory performance evaluations (Factual Finding 109) and does not argue or point to any evidence to show that it proved cause to dismiss respondent on this basis. Cause does not exist to dismiss respondent from employment for unsatisfactory performance under section 44932, subdivision (a)(5).

Fourth Cause for Dismissal (Evident Unfitness for Service)

12. A school district may dismiss a permanent certificated employee for "evident unfitness for service." (§ 44932, subd. (a)(6).) Evident unfitness for service means "clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies." (*Woodland Joint Unified School Dist. v. Commission on Professional Competence (Woodland)* (1992) 2 Cal.App.4th 1429, 1444.) This cause for discipline 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." (*Id.* at p. 1444.) Such evident unfitness may exist, for example, when a teacher is repeatedly and incurably insubordinate, or is incapable of maintaining cordial, cooperative, and professional relationships with colleagues. (*Id.*, at pp. 1436-1440.)

"Unprofessional conduct" is, as it were, often a lesser included form of proscribed behavior within "evident unfitness for service." Thus, conduct constituting "evident

unfitness for service” will often constitute “unprofessional conduct.” But the converse is not true. “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.”

(*Id.* at p. 1445.)

13. As discussed in Legal Conclusions 5, respondent committed numerous acts of unprofessional conduct, even after formal counseling to cease. At hearing, respondent’s testimony lacked candor and he refused to admit even a single instance of wrongdoing. He appears to be incapable of maintaining cordial, cooperative, and professional relationships with colleagues or many of his students. Respondent is evidently unfit for service as a teacher under section 44932, subdivision (a)(6). (See *Woodland, supra*, 2 Cal.App.4th at 1429, 1444.)

Fifth Cause for Termination (Persistent Violation of or Refusal to Obey Applicable Laws or Regulations)

14. A school district may dismiss a teacher who engages in a persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district. (§ 44932, subd. (a)(8).) Such violations by the teacher must be “stubborn and continuing.” (*San Dieguito Union High School District v. Commission on Professional Competence* (1985) 174 Cal.App.3d 1176, 1183.) The willful refusal of a teacher to obey the reasonable rules and regulations of the employing board of education is insubordination. (*Board of Educ. of City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 552, overruled on other grounds by *Bekiaris v.*

Board of Education (1972) 6 Cal.3d 575.) However, a contentious debate between a teacher and principal about teaching objectives, even where the teacher repeatedly refused a principal's request to write two objectives to be used in the evaluation process, is not cause to dismiss a teacher for persistent violation. (*Bourland v. Commission on Professional Competence* (1985) 174 Cal.App.3d 317, 321.) Nor is a single violation of a school board's rules, by itself, cause for dismissal under this section. (*Oakdale Union School Dist. v. Seaman* (1972) 104 Cal.Rptr. 64.)

15. Without further specificity or explanation, respondent cites *Bd. of Ripon Unified School Dist. v. Commission on Professional Conduct (Ripon)* (2009) 177 Cal.App.4th 1379, and argues that to "show willful refusal the District must show direct insubordination." No such rule is apparent in the statute, *Ripon*, or any of the cases cited in Legal Conclusion 14.

16. Respondent's misconduct was a detriment to the integrity and goals of the District, demonstrated disrespect to students and staff members, and the Altered Sweatshirt presented an image inconsistent with respondent's responsibilities, and thus respondent repeatedly violated the District's professional standards, positive school climate, and dress and grooming policies set forth in Factual Findings 10 through 12. Respondent engaged in a persistent violation of or refusal to obey District policies under section 44932, subdivision (a)(8).

Analysis of the *Morrison* Factors

17. The ultimate question is whether respondent is unfit to teach under the factors established by the California Supreme Court in *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 229-230. The *Morrison* factors are: (1) the likelihood that the conduct in question may have adversely affected students or fellow teachers,

and the degree of such adversity anticipated; (2) the proximity or remoteness in time of the conduct; (3) the type of teaching certificate held by the teacher; (4) the extenuating or aggravating circumstances, if any, surrounding the conduct; (5) the praiseworthiness or blameworthiness of the motives resulting in the conduct; (6) the likelihood of the recurrence of the questioned conduct; and (7) the extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers. Only the pertinent factors must be addressed. (*West Valley-Mission Community College Dist. v. Concepcion* (1993) 16 Cal.App.4th 1766, 1777.) The factors may be applied to all of the proven conduct in the aggregate. (*Woodland Joint Unified School Dist., supra*, 2 Cal.App.4th at pp. 1456-1457.)

18. In this case, application of the pertinent Morrison factors demonstrates that respondent is unfit to teach.

- Respondent's conduct had a severe adverse effect on several students, teachers, and staff members, as reported under oath by students DYR and KD, administrators Pierce and White, staff members Jackson and Fletcher, and teachers Marlene and Kathleen Trempy.

- Respondent's misconduct was relatively recent.
- Aggravating factors include the large number of acts of wrongdoing, the serious negative impact on children entrusted to respondent's care, respondent's continued misconduct after receiving oral and written counseling to cease, and respondent's refusal to admit he committed almost all of these acts or acknowledge any wrongfulness of the acts. A mitigating factor is respondent's approximately 14 years of teaching without adverse action.

- Respondent's motives are not entirely clear, but there is nothing plausibly praiseworthy about his motives for the various wrongful acts, each of which involved hurtful words or behavior to a student, teacher, or staff member.
- Because respondent refuses to acknowledge any wrongdoing, he demonstrated no remorse or rehabilitation and the likelihood that he would repeat the same or similar misconduct is very high.
- No constitutional rights are implicated by this disciplinary action.

Disposition

19. The Commission on Professional Competence concludes that cause exists to dismiss respondent based on immoral conduct, unprofessional conduct, evident unfitness for service, and persistent violation of or refusal to obey school policies under section 44932, subdivisions (a)(1), (2), (6), and (8). Cause was not established to dismiss respondent for unsatisfactory performance under section 44932, subdivision (a)(5). The Commission reached this decision on a unanimous vote. Each ground for dismissal provides a separate and independent basis for respondent's dismissal.

ORDER

Respondent Kendricks Anderson is dismissed from his position as a permanent certificated employee of the West Contra Costa Unified School District.

DATE: 07/30/2024



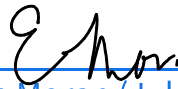
MICHAEL C. STARKEY

Commission Member

Administrative Law Judge

Office of Administrative Hearings

DATE: 07/30/2024



Erin Moran (Jul 30, 2024 08:58 PDT)

ERIN C. MORAN

Commission Member

DATE: 07/30/2024



Marina Mae Amador (Jul 30, 2024 10:37 PDT)

MARINA MAE AMADOR

Commission Member