

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

In the Matter of the Accusation Against:

MICHAEL JASON WILLIS, Respondent

Agency Case No. 2-381361952

OAH No. 2024010964

PROPOSED DECISION

Sean Gavin, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on June 24, 2024, in Sacramento, California.

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

Joshua F. Richtel, Attorney at Law, represented Michael Jason Willis (respondent), who was present throughout the hearing.

Evidence was received, the record closed, and the parties submitted the matter for decision on June 24, 2024.

FACTUAL FINDINGS

Jurisdictional Matters

1. On September 5, 2002, the Commission issued respondent an Emergency 30-Day Substitute Teaching Permit. The permit expired November 1, 2008, and has not been renewed.

2. On March 19, 2007, the Commission issued respondent a Preliminary Designated Subjects Adult Education Teaching Credential: Full Time. The credential expired April 1, 2012, and has not been renewed.

3. On August 10, 2007, the Commission issued respondent a Short-Term Staff Permit. The permit expired August 1, 2008, and has not been renewed.

4. On November 6, 2007, the Commission issued respondent an Intern Education Specialist Instruction Credential. The credential expired December 1, 2009, and has not been renewed.

5. On December 1, 2009, the Commission issued respondent a Level I Education Specialist Instruction Credential. The credential expired January 1, 2015, and has not been renewed.

6. On December 28, 2011, the Commission issued respondent a Level I Education Specialist Instruction Credential (Added Authorization). The credential expired January 1, 2015, and has not been renewed.

7. On June 17, 2014, the Commission issued respondent a Level II Education Specialist Instruction Credential (Credential). The Credential was in full force at all

relevant times mentioned herein and, as of the hearing date, was scheduled to expire on July 1, 2024, unless renewed.

8. On November 7, 2023, complainant, acting solely in her official capacity, signed and thereafter filed an Accusation seeking to discipline respondent's Credential based on his alleged unprofessional conduct, acts involving moral turpitude, immoral conduct, and evident unfitness for service. Specifically, complainant alleged that on January 5, 2022, while employed as a special education teacher at River Bluff Elementary School (River Bluff) in the Central Unified School District (District), respondent was arrested after he picked up a 15-year-old prostitute in his car. Further, complainant alleged that when a District investigator interviewed respondent on March 1, 2022, he made several false and misleading statements. Respondent timely filed a Notice of Defense. This hearing followed.

Complainant's Evidence

FRESNO POLICE DEPARTMENT REPORT

9. On January 5, 2022, officers of the Fresno Police Department were surveilling an area known for prostitution. They observed Victim 1, an individual they knew from prior experience to be a 15-year-old working as a prostitute, standing on a street corner. Thereafter, they saw respondent approach Victim 1 in his truck and communicate with her. She nodded and pointed to a nearby parking lot behind a motel. Respondent drove to the area she indicated. Victim 1 then walked to respondent's truck and got into the front passenger seat. The officers immediately intervened.

10. When the officers interviewed respondent, he told them he was in the area to buy a recharger for his vaping device at a gas station. When asked what he

discussed with Victim 1, he said she offered to pay him \$100 for a ride. He drove to the parking lot behind the motel because he did not want people to see Victim 1 get in his truck. They then discussed a price but not a specific sex act because the police intervened too quickly. He said he had never met Victim 1 before. He did not know her age but did not believe she was a child.

11. Respondent acknowledged to the police he had picked up prostitutes in the same area before. In the past, he had always asked for oral sex in his truck. Respondent also told the officers he was married, had a 14-year-old son, was a teacher at River Bluff, and needed help for his sex addiction. Based on the officers' observations and respondent's statements, they arrested and cited him for loitering for the purpose of prostitution, in violation of a Fresno city ordinance. The officers then prepared a police report summarizing their observations and respondent's statements.

DISTRICT INVESTIGATION AND RESPONDENT'S INTERVIEW

12. Jack Kelejian is the District's Assistant Superintendent of Human Resources. One of his job duties is to handle employee discipline. To assist in that function, the District subscribes to a California Department of Justice alert system that notifies the District when any employee is arrested. Via that alert system, Mr. Kelejian learned of respondent's arrest on January 6, 2022. The District immediately placed respondent on administrative leave pending an investigation.

13. In mid-February 2022, the District hired William Leist of Leist and Associates to investigate the matter. Mr. Leist has been a licensed private investigator for approximately 10 years. Before that, he worked for the California Highway Patrol for 30 years. When he retired, he was the Statewide Commander of Internal Affairs. He has extensive experience and training in conducting investigations.

14. Mr. Leist reviewed the Fresno Police Department report. On March 1, 2022, Mr. Leist interviewed respondent at the office of his attorney, Mr. Richtel. Before the interview, Mr. Leist had respondent sign an Administrative Investigation Interview Acknowledgment. The form provided, in relevant part:

This is an administrative inquiry on behalf of the Central Unified School District, as such, the District expects complete cooperation with the interview process and that any and all answers to questions or information you divulge to be accurate, complete and truthful to the best of your abilities.

Any refusal to answer, or any type of evasion, deception, dishonesty or lack of cooperation on your part, could constitute insubordination and could lead to disciplinary action up to and including dismissal.

15. Based on the police report and respondent's interview statements, Mr. Leist then prepared a written investigative report, dated March 9, 2022. At hearing, Mr. Leist testified consistently with his report.

16. As noted in Mr. Leist's report, respondent described the events before and during his arrest. Specifically, he told Mr. Leist he was in the area looking for a Dumpster to place his trash. He explained the Dumpsters closer to his home were locked, so he drove to an area where he knew of unlocked Dumpsters.

17. Respondent then told Mr. Leist he was stopped at a stop sign when Victim 1 approached his truck and asked for a ride. Respondent declined. He continued driving until he found another Dumpster. There, Victim 1 again approached

him and asked for a ride. Respondent agreed because he felt bad for her. As soon as Victim 1 got in the truck, she grabbed respondent's crotch and asked if he had any money. Respondent told Mr. Leist, "Before I even got the chance to pull over and tell her to get the hell out of my car, I was surrounded by cops. She wasn't in my car for more than 30 feet."

18. Mr. Leist asked respondent whether he had ever before picked up a prostitute for the purpose of sex. Respondent said no. Mr. Richtel added that respondent qualified for a First Offender program through the City of Fresno, completed a class, and had all charges dropped.

19. Mr. Leist then asked respondent whether the police questioned him, to which he replied, "Yes. I told them exactly what I told you. They didn't believe me." He further explained he was scared because the police had surrounded him with their guns drawn. He told Mr. Leist three times that what he said to the police was the same as what he said in his interview.

20. Mr. Leist then told respondent the police report indicated he had said he was in the area to buy a vaping recharger. Respondent agreed, explaining, "Yes, I forgot about that." Mr. Leist also told respondent the police report indicated he had said Victim 1 offered \$100 for a ride. Respondent denied that. Next, Mr. Leist told respondent the police report indicated he had said he drove to the parking lot behind the motel because he did not want people to see Victim 1 get in his truck. Respondent acknowledged saying that to the police. He explained he did not want to reveal he was illegally dumping his trash.

21. Additionally, Mr. Leist told respondent the police report indicated he had acknowledged discussing a price with Victim 1, but not a specific sex act. Respondent

replied, "I didn't say that." Mr. Leist then told respondent the police report indicated he told the police he had previously picked up prostitutes in the same area and always asked for oral sex in his truck. Respondent replied, "That is not true." Mr. Leist asked if respondent believed the police "were just making stuff up," to which respondent replied, "They were telling me that stuff. They were telling me what people do in the area."

22. Finally, Mr. Leist told respondent the police report indicated he has asked the police for help with his sex addiction. Respondent replied, "They told me they offered a class and if I took the class, it would be removed from my record. I told them I was a teacher and was arguing with them and said this would basically ruin my credential." Respondent denied telling the police he had previously picked up prostitutes in the area and received oral sex from them. He claimed the police fabricated that information. He did not know why they did so.

23. At that point, Mr. Leist told respondent he did not believe him. He reminded respondent he had signed an acknowledgment promising he would be truthful. Mr. Leist then suspended the interview and privately informed Mr. Richtel he planned to request the police officers' body camera footage to verify respondent's statements. Mr. Richtel spoke with respondent privately for a few minutes, at which point Mr. Richtel told Mr. Leist respondent wanted to "come clean."

24. Mr. Leist resumed the interview, at which point respondent admitted he asked the police for help with his sex addiction. He also admitted he had told the police he picked up prostitutes in the past. Specifically, he twice picked up prostitutes in the two to three months before his arrest. He explained the first time, he got nervous and asked the person to get out of his car. Mr. Leist said he did not believe

that because respondent had told the police he had previously requested oral sex in his truck. Respondent then said the second time, he paid a prostitute \$80 for oral sex.

25. In addition, respondent acknowledged he picked up Victim 1 for the purpose of engaging in sex. Respondent insisted he did not know Victim 1 was 15 years old. When the police ultimately told him her age, he got scared and told the police he wanted help for his sex addiction. Mr. Leist asked respondent, "What is your responsibility as a grown man before engaging in sexual relations with a person whose age is questionable?" Respondent replied, "Ask how old she is." He acknowledged he did not ask Victim 1 her age. Finally, Mr. Leist asked respondent why he lied during the interview. Respondent replied, "Multiple reasons. One, I love my job and I am trying everything I can do to keep my job."

26. On April 12, 2022, after receiving Mr. Leist's report, the District served respondent with a Notice of Intent to Recommend Suspension without Pay and Dismissal. On April 22, 2022, respondent resigned from the District, effective June 30, 2022. On May 11, 2022, the District notified the Commission of respondent's resignation and the circumstances preceding it.

Respondent's Evidence

27. Respondent testified at hearing. Between 2006 and 2011 he worked for a different school district as a special education teacher. At the end of the 2010-2011 school year, he was named teacher of the year in that district. However, he wanted to work in the district where his children attended school, so for the 2011-2012 school year, he began teaching for the District. He stayed at the District for 11 years. Over that time, he coached several sports teams and briefly served as the athletic director.

In May 2021, he won a "Gandhi Award" from the school for having a "management style [that] creates a peaceful classroom environment."

28. Ultimately, respondent resigned from the District "for several reasons," including being embarrassed by his behavior. In April 2023, he wrote a letter to the Commission explaining his actions. Regarding his reasons for resigning, he wrote:

The reason I chose to resign from Central Unified School District rather than go through the dismissal process, was not a complete admission [of] guilt but rather an action to secure financial stability for my family. I don't believe that there is a sufficient nexus between my off duty conduct and my fitness and ability to teach. I was concerned that there would be a period that I would receive no income while fighting the allegations and I couldn't afford to take that financial hit. I told the district that I would resign if they paid me out for the remainder of the year. Which they agreed. Though it pained me to leave a school that I had served and loved - the same school my own children were attending at the time. I needed to ensure that I had an income to provide for my wife and two children, while I tried to secure a teaching position with another district.

29. Respondent has since found a new position teaching for the Firebaugh-Las Deltas Unified School District, where he teaches special education to students 12 to 14 years old. He enjoys teaching and does not believe his conduct poses a risk to students. He loves his job so much that, when Mr. Leist interviewed him, he lied because he hoped it would help him keep his job and Credential. In his letter to the

Commission, he explained, "The dishonesty noted in the investigation by Central was a crude attempt on my part to keep a job which I had loved, and to which I had dedicated my life, which is helping students for special needs be the best versions of themselves."

30. Regarding the conduct underlying his arrest, respondent noted in his letter, in relevant part, "The information stated in the file from Central Unified School District states that I was arrested for soliciting prostitution of a 15-year-old minor is untrue and false." Instead, he clarified he was cited for "Loitering for Prostitution," but the City attorney dropped the citation 10 days later. He submitted a letter from the Deputy City Attorney confirming as much. He testified that before his arrest, he had twice hired a prostitute, but both times "chickened out" and "didn't complete the act." On cross-examination, he clarified he meant he had never "slept" with a prostitute. However, he twice paid for and received oral sex from a prostitute.

31. At hearing, respondent explained he was having marital problems and "mentally checking out" at the time of his arrest. He does not believe he has a sex addiction. Rather, he feels more like "an addict," but not necessarily a "sex addict." In the past, his addictive behavior manifested differently. For example, he used to be agoraphobic. Later in life, he played video games a lot and loved buying scratch-off lottery tickets. He believes all his addictive behaviors stem from his underlying anxiety. He coped with his anxiety by "checking out unknowingly."

32. After respondent's arrest, he "hit rock bottom" and sought therapy. His son was close to Victim 1's age, which scared him. With his wife, he attended Life Star, an outpatient therapy program to treat his sex addiction. Life Star entailed three months of intensive group therapy, group therapy with his wife, and individual therapy, followed by reading a book series and then "individual work." He attended

Life Star for approximately eight months. He praised his Life Star therapist, though at hearing he could not correctly recall the therapist's first name.

33. While completing Life Star, respondent also attended weekly Sex Addict Anonymous (SA) meetings. His work in SA helped him see how his addiction affected him and those around him. He gained insight into why he engaged in "risky behavior."

34. After Life Star, respondent began attending Refuge Recovery, a recovery program for "all addictions" based on Buddhist principles. He attends two Refuge Recovery meetings per week, at which he and the other attendees meditate and review written materials. As part of Refuge Recovery, he and his wife check in with one another nightly to "stay grounded and connected." In their check-ins, they thank one another for something, ask whether either of them "acted out" that day, and verify they have both meditated. The check-ins follow an acronym, F.A.N.O.S. The letters stand for feelings, affirmations, needs, and spirituality. Respondent could not recall the meaning of the O.

35. Respondent also completed "Breaking the Chains," a program for first offenders offered through the Fresno Police Department. Respondent testified he completed the three-day program voluntarily. He also testified he did not pay the fine associated with his arrest and citation because he believed completing Breaking the Chains satisfied his obligations. The program presenter discussed her experience as a sex-trafficked minor. Respondent gained "a pretty good perspective" from the program.

36. Based on his completion of Life Star and Breaking the Chains, as well as his ongoing attendance at Refuge Recovery and the support of his wife and family, respondent believes he is unlikely to reoffend. He has learned from this experience to

"Be who I am and not who I want or think I am." His life is much better now and he more fully appreciates what he has. Before his arrest, he felt "like too little butter scraped over too much bread." Now, he is glad not to be in "a dark place" anymore.

CHARACTER SUPPORT LETTERS

37. At hearing, respondent submitted three letters of support. His mother-in-law wrote a letter in which she described respondent as "a good friend to me and my family." In her opinion, respondent is "honest, hard-working, and personable." She praised him as a knowledgeable and responsible teacher and coach. Her letter did not mention respondent's arrest, the conduct underlying the arrest, or respondent's rehabilitation therefrom.

38. Josie Salcido has been a special education aide for the District for more than 20 years. She has known respondent for 10 years and served as an aide in his classroom. She characterized him as "an exceptional teacher" who was "very respectful toward staff, parents, and students and handled himself with poise and proficiency in every aspect." She believes he is "a family man" who "did not take part in any sort of misconduct or inappropriate behavior." She described the circumstances leading to his resignation as "a bad situation" but clarified "this incident does not speak to his character, his professionalism, or his abilities as a teacher."

39. Craig Schorling worked as a teacher alongside respondent for seven years at River Bluff. He described respondent as a dedicated and caring teacher and coach. He noted, "I was made aware of the allegations being investigated in regards to [respondent]. My first and current thought was that this is not something that changes my opinion of his professional work ethic and dedication to teaching."

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant bears the burden of proving the existence of grounds for disciplining respondent's Credential and must do so by clear and convincing evidence to a reasonable certainty. (*Daniels v. Dept. of Motor Vehicles* (1983) 33 Cal.3d 532, 536 ["When an administrative agency initiates an action to suspend or revoke a license, the burden of proving the facts necessary to support the action rests with the agency making the allegation"]; *Gardener v. Comm'n. on Professional Competence* (1985) 164 Cal.App.3d 1036, 1039-1040 [recognizing that the clear and convincing evidence standard applies to proceedings to discipline a teacher's credential, whereas the lesser preponderance of the evidence standard applies to proceedings to dismiss a teacher from particular employment].) "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.)

Causes for Discipline

2. Complainant proved by clear and convincing evidence that respondent engaged in the misconduct alleged in the Accusation. Specifically, on January 5, 2022, respondent picked up a 15-year-old girl for the purpose of paying her for a sex act. He was arrested and ultimately resigned from the District as a result. During the District's investigation, he lied to the investigator several times because he wanted to preserve his job and Credential.

3. The Commission may discipline a credential based on the holder's unprofessional conduct. (Ed. Code, § 44421.) Respondent's conduct—namely, attempting to hire a child to perform a sex act and then lying about his conduct during the District's investigation—was unprofessional because it violated the rules or ethical code of the teaching profession and was unbecoming of a teacher in good standing. (*Bd. of Education v. Swan* (1953) 41 Cal.2d 546, 553; quoting, 66 Corpus Juris, p. 55.) Cause therefore exists to discipline respondent's Credential for unprofessional conduct pursuant to Education Code section 44421.

4. The Commission may discipline a credential "for any cause that would have warranted the denial of an application for a credential or the renewal thereof." (Ed. Code, § 44421.) An application for a credential may be denied if the applicant "has committed any act involving moral turpitude." (Ed. Code, § 44345, subd. (e).) "Moral turpitude" has been defined as "everything done contrary to justice, honesty, modesty or good morals." (*Rice v. Alcoholic Beverage Appeals Bd.* (1979) 89 Cal.App.3d 30, 36.) An act involves moral turpitude if it involves a serious breach of a duty owed to another or to society. (*In re Stuart K. Lesansky* (2001) 25 Cal.4th 11, 16.)

5. Respondent's attempt to hire a child to perform a sex act and his subsequent lies about his conduct during the District's investigation constitute acts involving moral turpitude. Cause therefore exists to discipline his Credential for committing acts involving moral turpitude pursuant to Education Code sections 44421 and 44345, subdivision (e).

6. The Commission may discipline a credential based on the holder's immoral conduct. (Ed. Code, § 44421.) In describing what constitutes "immoral conduct" within the context of the Education Code, a California appeals court noted:

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.

(*Bd. of Ed. of San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811, (quoting *Orloff v. Los Angeles Turf Club* (1951) 36 Cal.2d 734, 740.))

7. Respondent’s attempt to hire a child to perform a sex act and his subsequent lies about his conduct during the District’s investigation constitute immoral conduct. Cause therefore exists to discipline his Credential for immoral conduct pursuant to Education Code section 44421.

8. The Commission may discipline a credential based on the holder’s evident unfitness for service. (Ed. Code, § 44421.) “Evident unfitness for service” means a teacher is clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies. (*Woodland Joint Unified School Dist. v. Com. on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) “Unlike ‘unprofessional conduct,’ ‘evident unfitness for service’ connotes a fixed character trait, presumably not remediable merely on receipt of notice that one’s conduct fails to meet the expectations of the employing school district.” (*Ibid.*)

9. Here, complainant did not prove respondent's attempt to hire a child to perform a sex act demonstrated his evident unfitness for service because there was insufficient evidence to show a "fixed character trait." However, complainant did prove by clear and convincing evidence that respondent's dishonesty with the District investigator demonstrated his evident unfitness for service. Specifically, respondent signed an acknowledgement in which he promised to tell the truth. Then, he immediately lied to the District investigator, blatantly and repeatedly. When he finally told the truth, it was only after the investigator threatened to review the police officers' body camera footage. He acknowledged he lied for personal gain in the form of keeping his job and Credential.

10. Moreover, respondent's hearing testimony was not credible. His testimony was inconsistent with his statements to the District investigator and with his own written statement submitted to the Commission. For example, he denied a sex addiction at hearing, but clearly confessed to one in several previous circumstances. He also initially denied consummating any sex act with a prostitute. When further questioned on cross-examination, however, he clarified he never "slept" with a prostitute but paid for and received oral sex twice before. Apart from such a distinction being unpersuasive and unconvincing, it was also inconsistent with his statements to the police and to the District investigator. Finally, respondent's statements about the nature and extent of his rehabilitative efforts were not credible. Despite his claims about the importance and impact of his therapy and Refuge Recovery work, he could not recall the first name of his therapist and could not recall the acronym of the supposedly nightly check-ins he completes with his wife. Similarly, he claimed his completion of Breaking the Chains was voluntary but in reality, he completed the program to comply with the City's First Offender Program and have his charges dismissed.

11. Complainant proved by clear and convincing evidence that respondent engaged in repeated acts of dishonesty. As a result, cause exists to discipline his Credential for evident unfitness for service pursuant to Education Code section 44421.

MORRISON FACTORS

12. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, the California Supreme Court concluded a teaching credential cannot be disciplined for immoral conduct, unprofessional conduct, or conduct involving moral turpitude “unless that conduct indicates that the [educator] is unfit to teach.” (*Id.* at p. 229.) The Court outlined factors to consider when determining whether an educator’s conduct demonstrates unfitness to teach, which have been codified in California Code of Regulations, title 5, section 80302, subdivision (a). The criteria are as follows: (1) the likelihood of adverse effects on students, fellow teachers, or the educational community; (2) the proximity or remoteness in time of the misconduct; (3) the type of credential held by respondent; (4) extenuating or aggravating circumstances; (5) praiseworthiness or blameworthiness of motives; (6) likelihood of recurrence; (7) the extent to which disciplinary action may chill or have an adverse impact upon the exercise of constitutional rights among teachers or other persons involved; and (8) the publicity or notoriety of respondent’s misconduct.

13. Respondent’s unprofessional conduct was likely to have an adverse effect on the educational community as a whole. His unprofessional conduct occurred less than three years ago, which is fairly recent. Respondent’s Credential enables him to work closely with students receiving special education, who are often among the most vulnerable and the least able to advocate for themselves. Respondent bears the sole responsibility for his unprofessional conduct. Given respondent’s lack of candor about his conduct, coupled with his fairly minimal corroborating evidence of rehabilitation,

there is a likelihood he would engage in additional misconduct in the future. Disciplining respondent's Credential is unlikely to have a negative impact on other teachers' exercise of their constitutional rights. There was no evidence about the publicity or notoriety of respondent's misconduct.

AGGRAVATING AND MITIGATING FACTORS

14. The Commission's regulations define "aggravating factor" as "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).) The definition includes six examples:

- (1) a prior record of adverse action including the nature and extent of that record;
- (2) that the misconduct evidences multiple acts of wrongdoing or demonstrate a pattern of misconduct;
- (3) that the misconduct was surrounded by or followed by bad faith, dishonesty or other violation of the laws governing educators;
- (4) that the misconduct significantly harmed a child entrusted to the care of a credential holder or applicant, significantly harmed the public or the educational system;
- (5) that the holder or applicant demonstrated indifference toward the consequence of the misconduct, which includes failure to comply with known court orders; or

(6) that the holder or applicant had prior notice, warnings or reprimands for similar conduct from any reliable source.

15. Here, several of the aggravating factors are present. Specifically, respondent's misconduct included not only the initial acts on January 5, 2022, but also his repeated dishonesty during the District's investigation. In lying to the District investigator, respondent demonstrated both indifference toward the consequences of his actions as well as a disregard for the acknowledgement he signed promising to tell the truth.

16. Neither the Education Code nor the regulations adopted by the Commission specify what constitutes "extenuating circumstances." However, the California Code of Regulations defines "mitigating factor" as "an event or circumstance which demonstrates that the public, schoolchildren and the profession would be adequately protected by a more lenient degree of adverse action or no adverse action whatsoever." (Cal. Code Regs., tit. 5, § 80300, subd. (m).) The definition includes seven examples:

(1) absence of any prior record of adverse action over many years of educational service, coupled with present misconduct which is not deemed most serious;

(2) lack of harm to the person who is the object of the misconduct;

(3) emotional or physical difficulties suffered by the holder or applicant which substantially contributed to the misconduct; provided that the difficulties were not the product of illegal conduct by the credential holder or

applicant, such as illegal drug or substance abuse; and further provided that the credential holder or applicant has established through clear and convincing evidence that he or she no longer has such difficulties;

(4) a demonstration of good character of the applicant or holder attested to by references from the educational community or the general community from individuals aware of the extent of the applicant's or holder's misconduct;

(5) objective action taken by the applicant or holder, spontaneously demonstrating remorse at the time of the misconduct, and recognition of the wrongdoing which is designed to timely make amends for the consequences of the misconduct;

(6) the proximity or remoteness in time relative to the seriousness of the misconduct; or

(7) the nature and extent of subsequent rehabilitation.

17. Here, respondent established the presence of some mitigating factors, but they are few and limited. He has no record of prior adverse action. Although he was experiencing some emotional difficulties as of January 2022, he did not credibly explain how those difficulties contributed to his dishonesty to the District investigator. Rather, he acknowledged he lied to the investigator so he could maintain his job and Credential. His mother-in-law and former colleagues attested to his good character

before the incident, but they did not explain what steps he has taken to rehabilitate himself, nor did they address his lies to the District investigator.

APPROPRIATE DISCIPLINE

18. Complainant proved there is cause to discipline respondent's Credential for unprofessional conduct, engaging in acts involving moral turpitude, immoral conduct, and evident unfitness for service. Based thereon, the Commission "shall privately admonish, publicly reprove, revoke or suspend" the Credential. (Ed. Code, § 44421.) When determining what level of discipline to impose, the Commission should consider the aggravating and mitigating factors previously identified. (Cal. Code Regs., tit. 5, § 80300, subds. (b), (m).)

19. As discussed above, complainant proved respondent engaged in the misconduct alleged in the Accusation. Complainant further proved, after applying the *Morrison* factors, that respondent's conduct indicates his unfitness to teach. When all the evidence is considered, there was insufficient evidence of rehabilitation or respondent's continued fitness to perform the duties authorized under his Credential, even on a probationary basis. Based on the presence of multiple aggravating factors, coupled with the lack of significant or strong mitigating factors, the appropriate discipline here to protect the public is to revoke respondent's Credential.

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ORDER

The Level II Education Specialist Instruction Credential, and all other credentials, certificates, and authorizations issued to respondent Michael Jason Willis by the Commission, are REVOKED.

DATE: July 24, 2024


Sean Gavin (Jul 24, 2024 12:01 PDT)

SEAN GAVIN

Administrative Law Judge

Office of Administrative Hearings