

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

In the Matter of the Accusation against:

DENIQUE KRISTINE TARIN,

Preliminary Single Subject Teaching Credential

Certificate of Clearance

Respondent.

Agency Case No. 2-265727014

OAH No. 2023051080

PROPOSED DECISION

Administrative Law Judge Deena R. Ghaly, Office of Administrative Hearings (OAH), State of California, heard this matter on November 6, 7, and 8, 2023 by videoconference.

Deputy Attorney General Cristina Felix represented complainant Mary Vixie Sandy, Ed.D. (complainant) acting in her official capacity as the Executive Director of the Commission on Teacher Credentialing (Commission). Wilo B. Nunez, Attorney at Law, represented respondent Denique Kristine Tarin (respondent) who was present throughout the hearing.

Testimony and documentary evidence were presented at the hearing. The record was kept open until November 15, 2023, for the parties to submit closing statements and November 20, 2023, for the parties to submit responses to each other's closing statement. Both parties timely submitted closing statements; neither party submitted a response to the other party's closing statement. Complainant's closing statement was marked Exhibit 29 and respondent's statement was marked Exhibit B. The closing statements were lodged with the record and considered in preparing the Proposed Decision. The matter was deemed submitted on November 20, 2023.

SUMMARY

Complainant alleged respondent, while working as a middle school math teacher, developed an intense, close, and possibly sexual relationship with one of her students, NQ. (To protect the student's privacy, who was a minor when the acts at issue occurred, she is identified by her initials.) Based on the allegations, complainant charged respondent with unprofessional conduct, immoral conduct, acts of moral turpitude, and evident unfitness for service. Based on the number and seriousness of the charges and other aggravating factors, complainant seeks revocation of the credential and certificate issued to respondent by the Commission.

Respondent admitted to breaching professional norms in her dealings with NQ but maintained the relationship was one of friendship and mentorship and in no way romantic or sexual. Additionally, respondent contends her conduct was solely motivated by the best of intentions toward NQ. To the extent she breached professional norms, respondent maintained this was the result of her inexperience as a

teacher and with the professional world in general, as well as lack of training and support by her employing school and school district.

The evidence established respondent and NQ developed a close, perhaps overly close, relationship but not a sexual or romantic one. Respondent established she had NQ's best interests at heart and acted out of that interest, however misguided. The evidence also established respondent was otherwise a committed and skilled teacher with the potential to be an effective educator. Under the circumstances, discipline short of outright revocation is warranted. Accordingly, respondent's credential and certificate will be placed on probationary status with appropriate terms and conditions.

FACTUAL FINDINGS

Jurisdictional Matters

1. On April 27, 2016, the Commission issued a Preliminary Single Subject Teaching Credential to respondent. The Preliminary Single Subject Teaching Credential expired on May 1, 2021, and has not been renewed. On November 21, 2012, the Commission issued a Certificate of Clearance to respondent. The Certificate of Clearance expired on December 1, 2017, and has not been renewed.

2. On December 15 through 17, 2021, the Commission's Committee of Credentials determined probable cause existed to bring an adverse action against respondent. Respondent timely requested an administrative hearing; this hearing process ensued with complainant's filing of the Accusation.

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FACTUAL ALLEGATIONS

3. During times relevant to the charges in the Accusation, respondent was employed as a math teacher at John Leichthy Middle School (JLMS) in the Los Angeles Unified School District (LAUSD) teaching eighth grade students. In 2019, following receipt of a complaint, the Los Angeles Police Department (LAPD) commenced an investigation of an inappropriate relationship between respondent and one of her students, NQ, who was then 13 years old. LAPD also referred the matter to LAUSD, which commenced its own investigation.

4. Based on the LAUSD and LAPD investigation findings, the Commission determined respondent engaged in the following activities with NQ during the 2017-2018 school year and the summer after:

- Respondent transported NQ in her own vehicle to NQ's home, Respondent's home, and other locations without prior authorization from JLMS as required by school regulations;
- Respondent changed clothes together with NQ in a stall at a swimming pool facility;
- Respondent sent a picture to NQ's phone of a woman with her breasts exposed;
- Respondent called NQ on her cell phone and talked to NQ for long periods of time;
- Respondent hugged NQ on multiple occasions;

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- Respondent and NQ sometimes greeted each other by kissing each other's cheeks and, on at least one occasion, their lips accidentally touched;
- Respondent and NQ wore shirts each bearing a combination of their names. Both respondent and NQ wore these shirts at school;
- Respondent took NQ to respondent's home where she spent time alone with NQ in a room with the door closed; and
- Respondent spent time alone with NQ in her classroom with the door closed and the windows covered with construction paper.

LAPD Investigation

5. Detective Howarth was one of the police officers assigned to investigate the complaint against respondent. Based on his testimony at the hearing and his report (see Exh. 12), the findings of his investigation are summarized as follows:

- The investigation was initiated in response to a complaint from NQ's mother (Mother) reporting respondent had sent inappropriate text messages to NQ's phone. Mother recognized respondent's number because she had spoken to respondent on the phone herself and had the number in her contacts. Mother allowed Detective Howarth to examine Mother's phone where he saw the number in question listed in Mother's contacts under respondent's name. LAPD also subpoenaed phone records from carriers and further corroborated the phone number belonged to respondent.
- Mother told Detective Howarth respondent had been tutoring NQ for the past couple of months either at NQ's home or at the library beginning sometime in the latter half of the 2017-2018 school year. According to

Mother, respondent also took NQ to other places like the beach and a public swimming pool, always in the company of at least one of NQ's siblings.

- An individual, identified only as "Witness" in his report, told Detective Howarth he had been sitting in his van parked in front of NQ's home. Per Detective Howarth's report, Witness reported "[h]e observed [respondent] drive up and double park next to his vehicle. [NQ] ran outside to [respondent's] vehicle and handed her a cup of coffee. [Respondent] grabbed [NQ's] breasts, above her clothes, with both hands. [Respondent] then pulled [NQ's] head closer to hers and they engaged in a romantic kiss." (Exh. 12, p. A167.)
- Regarding the excursion to the swimming pool, NQ's cousin, Jailene Trujillo, told Detective Howarth she was also there and observed respondent and NQ sharing a locked stall for approximately six minutes while changing their clothes.
- Detective Howarth interviewed NQ who told him respondent was her "best friend" and denied any sexual contact between them.

6. LAPD Detective Melissa Jindra also investigated Mother's complaint against respondent, eventually serving as the lead investigator on the matter. Detective Jindra interviewed respondent three times. Respondent confirmed the texts Mother intercepted and which were the basis of her complaint were from her. Detective Jindra also asked respondent whether she had ever romantically kissed NQ as had been reported by the unidentified witness. Respondent initially denied kissing NQ then later changed her answer, stating she and NQ sometimes "air kissed" or kissed each other's cheeks by way of greeting or as part of joking around, imitating

what they considered the old-fashioned manners of Mother and other older relatives who greeted each other by kissing each other's cheeks. In one instance, the two missed and ended up brushing lips. Respondent stated she considered NQ to be like a daughter and her closeness to NQ stemmed from relating to the particular hardships NQ and her family experienced because they were similar to those respondents experienced during her own childhood.

7. Detective Jindra interviewed NQ. According to Detective Jindra, NQ corroborated respondent's statements, noting that, because Mother worked extremely long hours and was often short-tempered and stressed, NQ came to see respondent as a substitute mother figure. Detective Jindra also interviewed the un-named witness who had reported seeing respondent grope and passionately kiss NQ. He told Detective Jindra he drank alcohol every day. At the hearing, Detective Jindra stated the witness's whereabouts are currently unknown.

Evidence from JLMS Personnel and LAUSD Investigation

8. Kelly Martinez is a school counselor at JLMS and worked with respondent during the 2017-2018 school year. According to her testimony at the hearing, some of the students in respondent's class complained to Counselor Martinez that respondent favored NQ and seemed to spend a lot of time with her, sometimes alone. Counselor Martinez also saw respondent wearing a shirt with lettering reading "NashDee," an apparent combination of respondent's and NQ's first names.

9. Carine Oldfield-Truong is credentialed as both a special education teacher and a school psychologist. She worked as a special education teacher at JLMS during the 2016-2017 and 2017-2018 school years and knew respondent both socially and as a professional colleague at that time. Ms. Oldfield-Truong testified at the

hearing, stating respondent was friendlier and more engaged with other staff members during the 2016-2017 school year and became more stand-offish and defensive in 2017-2018. Ms. Oldfield-Truong also stated respondent seemed “obsessed” with NQ, spending breaks and the lunch hour together and giving NQ treats like hot chocolate and donuts without providing the same for other students. According to Ms. Oldfield-Truong, respondent’s actions were the subject of discussion among the other teachers. She tried to speak to respondent about the matter but respondent rebuffed Ms. Oldfield-Truong’s efforts. Ms. Oldfield-Truong also observed respondent’s school room windows were covered with construction paper so it was not possible to see inside it from an exterior hallway.

10. Alyson Hendrix is a senior investigator with LAUSD’s student safety investigation team and was assigned to investigate respondent. Before joining LAUSD, Ms. Hendrix spent seven years working with New Jersey Child Protective Services. Ms. Hendrix testified at the hearing and stated LAUSD commenced investigating respondent after it received a referral from LAPD. Ms. Hendrix did not interview respondent. She interviewed NQ, whom Ms. Hendrix described as “guarded.” According to Ms. Hendrix, NQ wanted to emphasize she did not feel like a victim and was not afraid of respondent. NQ did tell Ms. Hendrix; however, she worries about respondent and that respondent had told NQ she fears the investigation could lead to respondent losing custody of her son. Ms. Hendrix also spoke to four students who had been in respondent’s class. They all lauded respondent as a good, fun, helpful teacher, “a little bit strict” but generally a favorite among their teachers.

11. Adalberto Vega is a regional director and principal supervisor for LAUSD, overseeing five principals, a position he has held since July 2023. He previously served as JLMS’s principal for eight years including the years respondent worked there.

During his testimony at the hearing, Mr. Vega stated he knew respondent to be a positive, effective teacher.

12. He also stated he saw respondent wearing the shirt with the “NashDee” lettering, which he found to be a violation of LAUSD’s Code of Ethics because it was not equitable and demonstrated favoritism. Mr. Vega also recalled two JLMS staff members bringing their concerns about respondent’s relationship with NQ to him.

13. Although Mr. Vega recalled routinely walking through all areas of JLMS, including by respondent’s classroom, he never saw her classroom windows covered by construction paper and, had he seen that, he would have removed the construction paper himself or instructed respondent to do so.

14. Mr. Vega stated a teacher driving students’ home, changing clothes with a student, and spending time alone with students behind closed doors all violate LAUSD’s codes of conduct. He also noted, however, that if these activities occurred with parent approval and knowledge, it would be more of a “gray area.”

Additional Evidence Presented by Complainant

15. LAUSD’s Ethics Policy Statement provides in part:

District employees shall not only be aware that public service is a public trust, but also conduct themselves, both inside and outside the school district’s services, in a manner that deserves the respect of the students, parents, and the communities the District serves.

[¶] . . . [¶]

District employees are expected to conduct themselves in the course of their employment by word, gesture, act, and demeanor to ensure that all others are given fair and just consideration, regard, and treatment.

(Exh. 19, p. A303.)

16. LAUSD's Employee Code of Ethics provides that LAUSD employees shall "[m]aintain appropriate relationships with students. We are committed to ensuring that employee-student relationships are positive, professional, and nonexploitive."

(Exh. 19, p. A308.)

17. The declaration of Ginelly Lorenzo, one of NQ's cousins, was admitted into evidence under Government Code section 11514. (Under Government Code section 11514, a declaration may be introduced into evidence as direct evidence unless the adverse party timely objects and requests an opportunity to cross-examine the declarant. In this case, respondent did not object to the admission of Ms. Lorenzo's declaration.)

18. In her declaration, Ms. Lorenza stated that respondent and NQ routinely "hung out" after school and on weekends and Ms. Lorenzo often joined them, including a time when they went to the swimming pool and respondent and NQ changed together in the same stall "as there were no other stalls available." (Exh. 25, p. A1011.) Ms. Lorenzo also stated she sometimes accompanied NQ to visit respondent at respondent's home and NQ and respondent "would go into [respondent's bedroom] to watch a movie or be with the cat." (Exh. 25, p. A1011.) Ms. Lorenzo further stated in her declaration that she never saw respondent and NQ kiss but did see them hug and was aware that they communicated by text and calls.

19. Images respondent sent to NQ include one of a woman's chest, her partially uncovered breasts covered with hair, a man with a deformed chin resembling a scrotum, a woman's breast with an inverted nipple, and a slender woman with large, pendulous breasts with enlarged areola. (Exh. 21, pp. A563-A571.)

Respondent's Evidence

NQ

20. After beginning high school, NQ wrote a lengthy letter to explain her perspective on the allegations against respondent, the resulting investigations, and how they have impacted NQ. As she put it:

[I'm] writing this letter because I feel as if my voice isn't being heard, I've had endless amounts of conversations with my family about my thoughts and ideas and how I feel about this situation but they refuse to listen to what I have to say. Also, I've been interviewed by many detectives and not one seemed to listen or refused to understand what I had to say about [respondent]. They still filed charges and continued to ruin her life. This whole year I haven't been able to focus on school the way I wanted to. I felt harassed throughout the year because everyone would always mention the situation.

(Exh. 28, p. A1032.)

21. In the letter, NQ also wrote about her life, particularly the hardships of living without a dad and with a mom who was overworked and stressed from trying to

support a household as a single parent. In these ways, as noted below, NQ's story is like respondent's. NQ also wrote about how she came to know respondent. NQ and several other girls spent detention periods in respondent's class. Instead of finding it an unpleasant experience, NQ was glad to have the company and influence of respondent: "[a]fter a while it didn't even seem like a punishment, it was the best thing that ever happened to me. Lunch detention kept me and the rest of the girls out of trouble, we would joke around and talk to [respondent] about all types of random stuff. [Respondent] told me about a basketball clinic during spring break that Mr. Martinez and her decided to make happen." (Exh. 28, p. A1036.)

22. During the summer following the 2017-2018 school year, NQ introduced respondent to Mother. NQ, the rest of NQ's family and respondent and her son, then ten years old, began to spend time together. It was during this period that NQ began to know respondent more personally. However, throughout NQ's eight-page letter, she is clear that the relationship was platonic. As importantly, NQ stressed her relationship with respondent was a bright spot – a source of support, fun, and hope during an otherwise difficult and lonely time:

We went to [S]unken [C]ity together, a place where you can see the nice view and see all these rocks with graffiti. I had fun, we all did after that went to eat as a family and made it back home . . . After that day, we were like a family[.]

[Respondent] would come over with her son . . . It was never just [respondent] and I[.] . . . [Respondent] would tutor my little siblings and would take us out to have fun. For example, at that pool, not only did she take my siblings but she took my cousins as well.

(Exh. 28, p. 1037.)

23. NQ's letter also addressed the incident at the pool where respondent and she shared a changing stall:

As soon as we got to the lockers we saw women changing without covering up. It makes sense because it's a girls locker room where we all change and are divided by gender for a reason so we all have the same body parts. It was packed in there. We saw plenty of bodies without clothes. We luckily had gotten in there on time because there were three restroom stalls that weren't being used. In the first stall my cousin was in there, the second stall my little sister and cousin were in there and the last stall respondent and I were in. It was the biggest stall and of course we had towels while changing and we were in different corners. I honestly don't see anything wrong with that because while I was in the locker room I saw other females dressing/showering that were showing their breast[s] and other female private parts.

(Exh. 28, p. A1087.)

24. NQ blames her family for the investigations into respondent. In her letter, NQ described extraordinary hostility and petty jealousies by various family members toward respondent and noted that, even as they accepted respondent's tutoring services and invitations to excursions, her family members spoke critically about respondent and speculated about whether respondent was wealthy from her

employment as a teacher. NQ also referenced "Orlando," a vagrant and alcoholic who lived in his van outside NQ's family home and often openly ogled NQ as she walked by his vehicle, as the possible source of false reports of respondent committing misconduct.

25. NQ ended her letter by describing respondent's positive influence on her despite the hardships NQ endured from the investigations and from having respondent removed from her life:

The reason why I haven't given up is because [respondent] taught me to keep going no matter what. She always told me to be independent and educate myself so I can speak up for myself. I want to show her and everyone that all the time and effort she put in mentoring me wasn't for nothing. [Respondent] was always Loyal and respected me and saw me for who I was. She went out of her way to try to help me. . . . I think as a student we need more teachers like her. Teachers that inspire kids to keep going and get an education, not teachers that bring you down and call you stupid. A teacher like that sees a kid struggling and goes out of their way to help. A teacher that goes above and beyond to make all her students feel like they matter and give advice. After all this I want [respondent] to continue her career and inspire many more of her students because she is a positive role model for students with issues and backgrounds like me.

(Exh. 28, pp. A1039-A1040 [Capitalized text in original.]

26. NQ is now 19 years old. She is a restaurant assistant manager and a college student studying business administration. NQ has not seen or communicated with respondent since at least when LAPD started its investigation in 2019.

27. NQ testified at the hearing. She stated she thought respondent was a very good teacher who related well to the students. NQ described their relationship initially as a "standard" student-teacher relationship. It was only later in the 2017-2018 school year and then the summer after the school year and with Mother's knowledge and permission, that respondent began to tutor NQ and NQ's siblings at various locations including at a local park, the library, and NQ's grandmother's house. NQ acknowledged respondent sometimes drove NQ and her siblings to and from these locations but never to or from school. Sometimes, respondent tutored NQ and other students early in the morning in her classroom. The door was closed, not locked and the school custodian frequently walked into the classroom without knocking during these sessions.

28. In her testimony, NQ described, consistent with her letter, respondent taking NQ, her siblings, and sometimes her cousins, and respondent's son on various excursions, to beaches, swimming pools, and the University of Southern California campus on the Fourth of July to see the fireworks. Mother went on one of these trips but declined to go on any others. During the relevant period, Mother owned a beauty salon and worked long hours most days of the week.

29. NQ acknowledged she and respondent frequently communicated by text with NQ sometimes using a sibling's phone and an alias for respondent in her contact list. NQ took these steps to try to circumvent Mother's surveillance of her phone use.

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30. NQ stated she created the "NashDee" lettering and painted it on a graffiti wall and other places as a symbol of her and close friendship with respondent.

31. During the hearing, NQ reiterated her relationship with respondent was purely and solely a friendship, albeit a very close one. She denied any sexual contact of any kind with respondent. To the extent there was physical contact – side hugs, kissing each other's cheeks-it was nonsexual in nature. The one brushing of lips between them was an accident as they brought their heads toward each other intending to kiss each other's cheeks.

32. When NQ was asked whether she was afraid of, or for, respondent, NQ answered in the negative, noting that, after six years of being repeatedly questioned about her relationship with respondent she (NQ) was "over it" and just wanted to get on with her life. NQ elaborated, stating "This situation has made me feel unheard, walked all over, misunderstood, just confused about why we are hereThis case has put me through a lot I'm constantly speaking good about the situation and not being heard . . . Emotionally, I'm tired."

Jose Martinez

33. Jose Martinez is a child social worker for Los Angeles County. Previously, he was a teacher for LAUSD and was assigned to two schools, including JLMS, during the period respondent worked there. Mr. Martinez was a special education teacher and also coached basketball and football.

34. Mr. Martinez testified at the hearing, stating during their time together, respondent assisted with coaching basketball and oversaw the "Students Run LA" extracurricular club which trains students to run in the LA Marathon. He noted

respondent did this without receiving any additional remuneration beyond her teacher salary.

35. Mr. Martinez and respondent have been in a dating relationship since 2018. He often went by respondent's classroom when they worked together and stated her windows were never covered and her door was never locked.

Respondent

36. Respondent testified at the hearing. She described a difficult childhood, her father having been killed when she was two years old and her mother, like NQ's, struggling to provide for respondent and her siblings as a single mother. Respondent stated she worked very hard to become an educated, independent woman, capable of raising her son with stability and opportunities she did not have. At school, respondent was an accomplished student and athlete, playing competitive basketball and running marathons. She double majored in math and education in college and is the first in her family to graduate college and become a licensed professional.

37. Respondent stated she wanted to give opportunities, support, and encouragement to students facing similar socioeconomic challenges as she had endured and overcome. In addition to volunteering her time to coach sports at JLMS, she tutored students before and after school and during any breaks. She never charged parents to tutor their children.

38. Respondent stated Mr. Martinez brought NQ to respondent's attention. Mr. Martinez believed NQ desperately needed a female role model. Respondent related to NQ – they shared similar family backgrounds and respondent recognized in NQ a degree of sadness and loneliness. She also saw in NQ potential for achievement

and a propensity to be a natural leader. Respondent wanted to help NQ reach her full potential.

39. Respondent acknowledged that, for all her good intentions, she was inexperienced and naïve about the complexities and dangers of getting too close to students. Because the relationship with NQ and her family only truly developed after school was out for the summer and largely took place off school premises, respondent became increasingly disengaged from the norms of student-teacher relationships. Her professional judgment failed her.

40. Regarding the specific factual allegations with which respondent is charged, she admitted to: driving NQ and her siblings to various places but never to or from school and always with Mother's permission; changing with NQ at a stall when she took NQ, NQ's siblings, and NQ's cousins to a swimming pool; sending pictures and messages to NQ via text; kissing NQ but not romantically or sexually; wearing a shirt with the "NashDee" insignia on it; spending time alone with NQ in a room at respondent's home; and spending time alone with NQ tutoring her in respondent's classroom but never with the door locked or the windows covered.

41. Respondent stated she now recognizes the inappropriateness of, in particular, the pictures she sent to NQ via text message. Respondent contended that, at the time, she thought they were funny images in the language and style of NQ's generation and therefore, a way to connect. Reflecting on them years after, however, she stated she now has a different perspective and can see she should never have sent such images to a child. Respondent also regrets changing clothes with NQ, if only because it put both of them in a position of having to answer intrusive questions. Respondent is adamant, however, that anything and everything she did with, and communicated to NQ was intended to be helpful, friendly, a source of wholesome fun,

or an opportunity to mentor and guide NQ. Respondent maintained she saw NQ as a daughter, and wanted only her happiness and well-being.

42. As a result of the charges brought against her, respondent entered into a structured settlement with LAUSD in 2018 and has not returned to teaching since then. She is currently working as an apprentice electrician through a program sponsored by the International Brotherhood of Electrical Workers.

Analysis

43. The factual allegations against respondent were largely established as respondent admitted to the actions. There is insufficient evidence to establish a sexual relationship between respondent and NQ. On the contrary, such a relationship, consistently denied by both participants, appears to be based only on innuendo and rumor. The evidence established NQ and respondent had a close friendship marked by frequent and unguarded communication and time together. This relationship served as a refuge for NQ from difficult family and life circumstances. Nonetheless, in light of respondent's role as an educator, the relationship crossed professional boundaries and left NQ vulnerable to years of intrusive investigation and malicious gossip, circumstances that clearly harmed her.

LEGAL CONCLUSIONS

General Provisions

1. Education Code section 44000, et seq. (further statutory references are to the Education Code unless otherwise designated) and California Code of Regulations, title 5 (Regulation or Reg.) section 80001, et seq. provide that the Commission is

responsible for the credentialing of public school teachers, including issuing credentials and taking adverse action against applicants and credential holders. Section 44002 defines "credential" as a "credential, certificate, life document, life diploma, permit, certificate of clearance, or waiver issued by the commission."

2. Section 44000.5 defines "adverse action" as "the denial of an application for a credential, a private admonition, or public reproof of a credential holder, or the suspension or revocation of a credential." In *Broney v. Com. on Teacher Credentialing* (2010) 184 Cal.App.4th 462, the court acknowledged the Commission's authority to place a teacher's credentials on a probationary status as a disciplinary measure.

3. Section 44440, subdivision (b) provides among other things that expiration of a credential does not deprive the Commission from its authority to proceed with disciplinary proceedings against the credential holder.

4. Complainant bears the burden of proving the alleged grounds for discipline by clear and convincing evidence to a reasonable certainty. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1039-1040.)

Causes for Discipline

UNPROFESSIONAL CONDUCT

5. As a first cause for discipline, complainant charged respondent with committing acts of unprofessional conduct pursuant to section 44421. In the context of teacher discipline, "unprofessional conduct" is conduct that "violates the rules or ethical code of a profession or . . . is unbecoming a member of a profession in good standing. (*Board of Educ. of City of Los Angeles v. Swan* (1953) 41 Cal.2d 546 (citations

omitted), overruled on other grounds in *Berkiaris v. Board of Education* (1972) 6 Cal.3d 575, 588, fn.7.)

6. Complainant proved by clear and convincing evidence that respondent engaged in unprofessional conduct when she displayed favoritism to NQ in the classroom by wearing a shirt with the "NashDee" lettering and generally paying more attention to her in front of other students in violation of LAUSD's ethics policies. The evidence also established respondent engaged in unprofessional conduct by sending respondent pictures of disfigured body parts because such conduct is unbecoming of a licensed education professional.

7. Other conduct, especially to the extent it took place during school breaks, off campus and with Mother's knowledge and permission, such as tutoring NQ and her siblings, driving them to various excursions, inviting them to her home, spending time alone with NQ in a room in respondent's home, and changing clothes with her in a stall at a pool, while untypical, are not found to be in violation of LAUSD's policies and rules and are not deemed unbecoming conduct and therefore not unprofessional conduct under the circumstances.

IMMORAL CONDUCT

8. As a second cause for discipline, complainant charged respondent with committing acts of immoral conduct pursuant to section 44421. The term "immoral" has been deemed 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 and 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." (*Palo Verde Unified School District of Riverside County v. Hensey* (1970) 9 Cal.App.3d 967, 972.)

9. The evidence presented established a single instance of immoral conduct, sending images of unclothed and disfigured bodies to NQ. As a child, NQ was likely to find the images, which are crude and unnecessarily provocative, confusing, and possibly frightening. As a licensed teacher, respondent should have shown better judgment and sensitivity to NQ and refrained from sending her these disturbing images.

MORAL TURPITUDE

10. As a third cause for discipline, complainant charged respondent with committing acts of moral turpitude pursuant to sections 44421 and 44345, subdivision (e). "Moral turpitude is a concept that 'defies exact description' [citation] and 'cannot be defined with precision' [citation]." (*In re Grant* (2014) 58 Cal.4th 469, 475-476.) "Our Supreme Court has defined moral turpitude as 'an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man.' [Citation.] Moral turpitude has also been described as any crime or misconduct committed without excuse, or any 'dishonest or immoral' act not necessarily a crime. [Citation.] The definition depends on the state of public morals and may vary according to the community or the times, as well as on the degree of public harm produced by the act in question. [Citation.]" (*Clerici v. Department of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1027; see also *Ricasa v. Office of Administrative Hearings* (2018) 31 Cal.App.5th 262, 281; *Gold v. Fox* (1979) 98 Cal.App.3d 167, 185. Moral turpitude has also been described as the "'general readiness to do evil.' [Citation.]" (*Donley v. Davi* (2009) 180 Cal.App.4th 477, 458.)

11. Consistent with the analyses above regarding the unprofessional conduct and immoral acts charges, some of respondent's actions and choices raise the specter of moral turpitude. It is clear, however, from the courts' descriptions and detail in analyzing this concept that "moral turpitude" encompasses more serious and disturbing conduct than what is at issue in the instant case. Here, respondent's actions, while they may be construed as lacking judgment, professionalism, foresight, and maturity, do not reach such levels as could be described as depraved or evil. Moreover, nothing in the record supports a finding of dishonesty or criminality in respondent's action. As such, this cause of discipline has not been established.

EVIDENT UNFITNESS FOR SERVICE

12. As a fourth cause for discipline, complainant charged respondent with demonstrating defects or inadequacies indicating evident unfitness for service. "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* (1992) 2 Cal.App.4th 1429, 1444-1445.) Evident unfitness for service requires that unfitness be attributable to a defect in temperament which "connotes a fixed character trait, presumably not remedial upon receipt of notice that one's conduct fails to meet the expectation of the employing school district. (*Id.* at p. 1444.)

13. The evidence did not establish respondent demonstrated evident unfitness for service. Respondent made mistakes and she has much to learn but none of the evidence indicates she cannot or will not change and improve. The evidence also established respondent has many positive traits indicating a propensity to be an accomplished educator, including intelligence, empathy, and the energy and interest to affirmatively support students in reaching their potential.

MORRISON FACTORS

14. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, the California Supreme Court held that “an individual can be removed from the teaching profession only upon a showing that his retention in the profession poses a significant danger of harm to either students, school employees, or others who might be affected by his actions as a teacher.” The *Morrison* court set out criteria for determining the relationship between alleged misconduct and the subject’s fitness, competence, or ability to effectively perform the duties authorized by the credential at issue. These criteria, known as the *Morrison* factors, have been codified at Regulation 80302, subdivision (a). The *Morrison* factors and their application to this case are as follows:

(i) The likelihood that the conduct may have adversely affected students, fellow students, fellow teachers, or the educational community, and the degree of such adversity anticipated. Respondent’s actions and the poor judgment behind them adversely affected NQ by leaving her vulnerable to intrusive inquiry. Also, respondent’s decision to share grotesque and disturbing images, apparently meant to elicit laughter, may have been frightening to NQ. Other of respondent’s students who witnessed the special bond between respondent and NQ may also have been adversely affected by feeling excluded and unappreciated, at least in comparison to NQ.

(ii) The proximity or remoteness in time of the conduct. It has been several years since respondent’s actions; however, this cannot be considered a positive factor since respondent left the teaching profession after separating from JLMS and LAUSD.

(iii) The type of credential held by the subject. Respondent taught math, a core subject of central importance to the proper education of her students. Allowing herself

to be drawn into the personal circumstances of one student at the expense of the attention and care she owed to all her students is a negative factor.

(iv) The extenuating or aggravating circumstances surrounding the conduct and
(v) The praiseworthiness or blameworthiness of the motives resulting in the
misconduct. At the time respondent became close to NQ, NQ was in crisis and in need of support and help. However imperfect, respondent's efforts showed NQ she was less alone in the world than she believed. Thus, there were extenuating circumstances driving respondent's actions and the resulting relationship she formed with NQ and her motives are praiseworthy.

(vi) The likelihood of the recurrence of the questioned conduct. Respondent has expressed remorse and accountability indicating, with additional training and support, the recurrence of the questioned conduct is unlikely.

(vii) The extent to which disciplinary action may inflict an adverse impact or
chilling effect upon the constitutional rights of the person involved, or other certified
persons. Nothing in the record supports a finding that disciplining respondent would adversely affect or chill respondent's or other teachers' constitutional rights.

(viii) The publicity or notoriety given to the conduct. Other teachers, a counselor, the school principal, NQ's family members, and at least some students became aware of respondent's actions in how she treated NQ, resulting in a degree of publicity and notoriety within the school community.

Factors in Aggravation

Regulation section 80300 defines "aggravating factor" as "an event or circumstance which demonstrates that a greater degree of adverse action for an act of

unprofessional misconduct is needed to adequately protect the public, school children or the profession.” (Reg. § 80300, subd. (b).) Among the aggravating factors set out in Regulation section 800300 and cited by complainant are that the misconduct involved multiple acts of wrongdoing and demonstrate a pattern of misconduct and that respondent’s acts significantly harmed a child in her care. Respondent’s actions included a few instances of inappropriate conduct. Not all these instances clearly violated school rules and policies, falling into the “gray area” discussed by Mr. Vega. Moreover, not all of them were adverse. The evidence does not establish respondent “significantly harmed” NQ. Respondent could have been more careful and mature in caring for NQ and maintaining some professional boundaries. She may well have been a more effective mentor and role model had she done so. But it is clear from her own writing and testimony several years after the incidents giving rise to the instant case that NQ benefited from respondent’s efforts on her behalf, however imperfect the execution.

Disposition

15. With some causes for disciplinary action established, the next step is to determine the appropriate disposition. Respondent’s conduct demonstrates lapses of professional judgment. Particularly with respect to the images respondent sent to NQ via text, her conduct demonstrates an extreme lapse of professional judgment. In the context of other evidence demonstrating respondent’s commitment and skills as a teacher, however, the overall circumstances militate against a disciplinary order revoking her credentials. An appropriate disciplinary order would reflect the complexity of the situation and allow respondent to remain in the profession but under restrictions that provide oversight and additional education to remedy her deficiencies. To that end, respondent’s certificates will be placed on probationary

status for three years and under appropriate terms and conditions as set out in the order below.

ORDER

The Preliminary Single Subject Teaching Credential and Certificate of Clearance issued by the Commission to respondent Denique Kristine Tarin are revoked. However, the revocations are stayed, and respondent is placed on probation for three years from the effective date of this order on the following terms and conditions.

1. **Severability Clause.** Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

2. **Compliance with Probation.** Respondent shall fully comply with all the terms and conditions of this Order and cooperate with the Commission and her assigned probation compliance monitor in the monitoring and investigation of respondent's compliance with probation terms. Respondent shall participate in a telephone or in-person review of the probation terms with respondent's assigned monitor. Respondent must participate in such review within 14 calendar days after written request is mailed by the monitor.

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3. Notification of Current Mailing Address, Email Address, and Telephone Number. Respondent shall notify the monitor of her current mailing address, email address, and telephone number where voicemail or text message may be left. Respondent shall notify the monitor, in writing, within 72 hours, of any change of mailing address, email address, or telephone number.

4. Submit Written Reports. Respondent shall report to the Commission, on a schedule designated by the Commission or the monitor. Reports shall be made either in person or in writing, as directed. Among other requirements as determined by the Commission, respondent shall state in each report under penalty of perjury whether she has complied with all the terms and conditions of probation.

5. Obey All Laws. Respondent shall obey all federal, state, and local laws, including all provisions of the California Education Code. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 30 days of the effective date of the decision, unless previously submitted as part of the teaching credential application process as determined by the monitor.

6. Employment Reporting Requirements. If respondent is currently employed in a position that requires her to have a California teaching credential, respondent shall provide a copy of this Order and the Accusation and Statement of Issues to her employer (as defined in California Code of Regulations, title 5, section 80300) and immediate supervisor within five days after its effective date. If, during the probation period, respondent obtains new employment that requires her to have a California teaching credential, respondent shall provide a copy of this Order and the Accusation and Statement of Issues to her employer and immediate supervisor before commencing work.

In addition, respondent shall notify her monitor in writing within five business days of the effective date of this Order of the name and address of her current employer that requires her to have a California teaching credential. Respondent shall notify her monitor in writing within three business days of the cessation of any employment that requires a California teaching credential, or change of employer that requires her to have a California teaching credential. Notifications shall contain an explanation of the circumstances surrounding the cessation or change of employment.

7. **Education Course:** Within 60 days of the effective date of this order, respondent shall enroll in a course in educational ethics approved in advance by the Commission. Respondent shall pay all costs to attend and complete the required course. Respondent shall complete the required course during the first year of probation. Within five days of successfully completing the course, respondent shall send a certificate of completion to the Commission.

8. **Maintenance of Active Credential.** Respondent shall at all times maintain an active, current credential with the Commission, including during any period of suspension.

9. **Violation of Probation.** If respondent violates any term or condition of this Order, the Commission may refer the matter to the Attorney General's Office to file a Petition to Revoke Probation, and after giving respondent notice and opportunity to be heard, may set aside the stay order, and impose the stayed discipline. If during the period of probation, a Petition to Revoke Probation has been filed against respondent's credentials, or the Attorney General's Office has been asked to prepare a Petition to Revoke Probation against respondent's credentials, the probationary period shall automatically be extended and shall not expire until final action is taken on the Petition by the Commission.

10. **Completion of Probation.** Upon successful completion of probation, respondent's credential(s) shall be fully restored. This Order will remain a matter of public record after completion of the probationary period.

DATE: 12/19/2023

Deena R. Ghaly
Deena R. Ghaly (Dec 19, 2023 16:46 PST)

DEENA R. GHALY

Administrative Law Judge

Office of Administrative Hearings