

**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS AND THE  
COMMISSION ON PROFESSIONAL COMPETENCE FOR THE  
PALERMO UNION ELEMENTARY SCHOOL DISTRICT  
STATE OF CALIFORNIA**

**In the Matter of the Dismissal of:**

**TINA JAMISON, A Permanent Certificated Employee,  
Respondent**

**OAH No. 2022100662**

**DECISION**

This matter was heard before a Commission on Professional Competence (Commission) of the Palermo Union Elementary School District (District) by videoconference on February 21 and 22, 2023. The Commission included Relena Ellis, Janine Hughes, and Sean Gavin, Administrative Law Judge, Office of Administrative Hearings, presiding from Sacramento, California.

Christian Keiner and Chelsea Tibbs, Attorneys at Law, represented the District.

Eric Lindstrom, Attorney at Law, represented Tina Jamison (respondent), who was present throughout the hearing.

The matter was submitted for decision when the Commission concluded its deliberations on February 22, 2023.

## **FACTUAL FINDINGS**

### **Background and Procedural History**

1. Respondent is a permanent certificated employee of the District. She holds a Child Development Site Supervisor permit and is authorized to supervise a childcare and development program operating at a single site. Since 2012, respondent has been assigned to teach preschool at Helen Wilcox Preschool (Wilcox). Respondent's direct supervisor is Kimberly Butcher, the District's Preschool Director.

2. On August 26, 2022, the District's Superintendent, Kathleen Andoe-Nolind, notified respondent that she was placed on administrative leave from her employment with the District pending completion of an investigation into an incident that occurred on August 23, 2022. The District's allegations regarding the incident are set forth in Factual Finding 4, below.

3. On October 12, 2022, Superintendent Andoe-Nolind signed the Statement of Charges<sup>1</sup> recommending termination of respondent's employment with the District on the basis of (1) immoral conduct; (2) 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 or by the governing board of the

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<sup>1</sup> Before the hearing, respondent moved to strike paragraphs 8 through 11 of the Statement of Charges because the events alleged in those paragraphs occurred more than four years before the filing of the Statement of Charges. Over the District's opposition, the ALJ granted the motion, and paragraphs 8 through 11 were stricken.

District; and/or (3) evident unfitness for service. Respondent timely filed a request for hearing and this hearing followed.

## **District's Allegations and Respondent's Written Statement**

4. The District's allegations in support of the charges are set forth in the Statement of Charges as follows:

On or about August 26, 2022, a preschool student made a 'spitting' action towards Respondent. Respondent 'reacted by striking the [Student's] face with an open palm.'

Respondent, just after the incident, admitted, 'I just slapped a child,' as well as admitting that day she 'slapped [Student] in the face.'

On or about June 16, 2020, the District discovered that Respondent's District owned, classroom iPad contained photos of nude children. Respondent received a letter of warning regarding her violation of the District's 'iPad Use Agreement,' and Board 24 Policy 4040(b), 'for use of personal photos and particularly photos of this nature.'

On or about November 5, 2019, Respondent received a Conference/Conversation Summary from the District Preschool Director, Kimberly Butcher, regarding her conduct which 'included raising your voice at a student, not fostering a classroom climate of collaboration and respect, and the allegation of [Respondent] putting your hands on the student's face during the intervention.' The remainder

of the Conference/Conversation Summary set forth directives for next steps and classroom management strategies.

## **District's Evidence**

### **INCIDENT ON AUGUST 26, 2022**

5. Jodie Duggins has been a site supervisor at Wilcox for approximately six years. She has taught in the classroom next to respondent for many years and believes respondent is good at working with children and staff. She has no animosity toward respondent.

6. On August 26, 2022, at approximately 9:30 a.m., respondent entered Ms. Duggins's classroom and appeared "visibly upset." Ms. Duggins asked if something was wrong and respondent said, "I just slapped a child." Ms. Duggins advised respondent to call Director Butcher.

7. Director Butcher also testified at hearing. She has been the Director at Wilcox for approximate four years. Before that, she had more than 25 years of experience as a director for other school districts. As Director at Wilcox, she is responsible to ensure students' and parents' rights are protected, including those involving physical safety and positive classroom interactions.

8. At approximately 10:30 a.m. on August 26, 2022, respondent called Director Butcher and asked if she had time to talk. Director Butcher asked if anything was wrong, to which respondent replied that she had slapped a child, who was three years old. Respondent was "crying hard" and explained that the student was repeatedly touching a keyboard she was not supposed to touch. When respondent

asked her not to, the child spat in respondent's face. Respondent explained she reacted by smacking the child's face. The child ran to another part of the classroom. After a few minutes, respondent approached her, calmed her, and apologized. Director Butcher summarized her conversation with respondent in writing after it ended. At hearing, she testified consistent with the notes she made that day.

9. Director Butcher met with Superintendent Andoe-Nolind later on August 26, 2022, and Superintendent Andoe-Nolind decided to place respondent on administrative leave. She explained, based on her decades of experience in education, that three-year-olds, and older students, regularly engage in that kind of behavior. While working in a middle school, Superintendent Andoe-Nolind was intentionally spat upon and physically assaulted. Even in those circumstances with significantly larger students, she never believed it was appropriate to slap a child.

10. On August 29, 2022, Director Butcher submitted an Unusual Incident/Injury Report to the Department of Social Services Community Care Licensing Division (State Licensing). State Licensing program analysts investigated the incident and prepared a Facility Evaluation Report in which they cited Wilcox for a "Type A" violation of the student's personal rights. Director Butcher explained "Type A" is the most serious category of violation. Based on the report, State Licensing required Wilcox to provide a copy of the report to parents of children enrolled then or at any time in the next year, keep a signed form from each parent acknowledging receipt of the report, and post a notice regarding the investigation for 30 days. The school complied with all requirements.

## **INCIDENT ON JUNE 16, 2020 – NUDE PHOTOS ON IPAD**

11. In mid-2020, most District employees worked from home due to the COVID-19 pandemic. The District provided them with iPads to facilitate their work. In June 2020, a member of the District's information technology (IT) staff asked respondent to provide access to her iPad for a routine software update. When accessing the iPad, the IT employee discovered nude photos of children on the device and alerted Director Butcher.

12. Director Butcher and Superintendent Andoe-Nolind viewed the photos and confirmed the children were not clothed. Director Butcher then met with respondent to discuss the photos. Respondent explained they were photos of her grandchildren playing in a pool. Director Butcher reminded respondent not to use District equipment to store personal photos, particularly of nude children, as such images "could be misconstrued." Director Butcher provided respondent with a letter confirming their conversation and her instruction to "remove all personal photos from the classroom iPad" and "refrain from using the iPad for the storage of personal information, photos, or videos."

## **INCIDENT IN OCTOBER 2019**

13. Heather Peterson has worked for the District for more than 10 years. She is a librarian at Wilcox. In October 2019, she was an instructional aide at Wilcox. The class she assisted shared a playground with the class respondent taught. In mid-October, as Ms. Peterson's class was entering the playground, she saw respondent and her aides "rounding up" their students to return to the classroom. Ms. Peterson heard a child "causing a ruckus." She saw respondent scream at the boy, "get into his face," squeeze his face "intensely" with her thumb and fingers, shake him by the forearms,

and “toss him” toward the line of students. Ms. Peterson was “shocked” and “appalled” by what she considered “disgusting” behavior. She immediately reported the incident to her supervisor.

14. Director Butcher and Superintendent Andoe-Nolind both reviewed video surveillance footage of the incident. At hearing, they explained that from the angle of the video, they could see respondent lean into a group of students, but did not have a clear view of the student’s face or respondent’s hands. Director Butcher also interviewed Ms. Peterson, who described the event as “frightening.”

15. On November 1, 2019, Director Butcher and Superintendent Andoe-Nolind met with respondent and discussed, among other things, the allegation that respondent yelled at and inappropriately touched a child. At the meeting, respondent acknowledged raising her voice, but denied touching the child inappropriately. On November 5, 2019, Director Butcher gave respondent a “Conference/Conversation Summary” in which she wrote, among other things:

During the conversation, we discussed your conduct, which included raising your voice at a student, not fostering a classroom climate of collaboration and respect, and the allegation of you putting your hands on the student [sic] face during the interaction. You clarified that you would never put your hands on a child, but that you may have raised your voice out of frustration. We discussed how your interaction with your student affected your student and staff. We discussed, in general, student behavior trends.

## **Respondent's Evidence**

### **RESPONDENT'S TESTIMONY**

16. Respondent began working for the District as an aide in 1994. Since 2010, she was a site supervisor at Wilcox, working in the full-day class since 2012.

17. Regarding the incident on August 26, 2022, respondent explained that the student was continually touching a keyboard that is only for adults. Respondent asked her to stop, and the child hissed, to which respondent replied, "no thank you." When the student continued to touch the keyboard, respondent asked her to stop again, and the student spat on respondent. She described the spitting as "blowing a raspberry," during which the child blew out forcefully while holding her tongue between her lips. Startled, respondent had "an automatic reflex" and "tapped" the student with her hand. She recalls feeling "shocked, but not frustrated" with the student. She touched the student "slightly on the lower cheek" with her fingertips. It "wasn't a slap," and respondent insisted "the whole side of my hand didn't make contact with her face."

18. After touching the student's face, respondent's "whole world stopped." The student ran to another part of the classroom and whimpered and cried by herself. Respondent approached her and apologized. The student soothed her and said, "it's OK," to which respondent replied, "no, it's not." She explained to the student that it was "also not OK to spit in my face." Respondent then went to Ms. Duggins's classroom because she was feeling "pretty much out of sorts." Ms. Duggins advised her to call Director Butcher, which respondent did. Respondent does not recall telling Ms. Duggins that she "slapped" the child, but also does not believe Ms. Duggins



testified dishonestly. At hearing, she did not recall what words she used to describe the events to Director Butcher.

19. As for her use of the District's iPad, respondent explained she took photos of her grandchildren playing during a water balloon fight. During the hearing no inquiry was made of her regarding whether the children were clothed. When Director Butcher instructed her to delete the photos, she did so right away and never used the iPad to take personal photos again. She does not recall receiving a letter of warning from Director Butcher on June 17, 2020, nor being formally disciplined for her misuse of the iPad.

20. Regarding the allegation that she yelled at a child and squeezed his face in October 2019, respondent has no recollection of those events. She was "shocked" when Director Butcher brought up those allegations during their conference on November 1, 2019, and explained that she would never put her hands on a student inappropriately. She saw the video and confirmed that the angle did not show her hands or the student's face. At hearing, she recalled that Ms. Peterson was present at that time, but was behind respondent and did not have a clear view of the events. She believes the camera had a better viewpoint than Ms. Peterson.

### **TESTIMONY OF OTHER WITNESSES**

21. Respondent called five additional witnesses. Jane Shettlesworth has been an aide for the District since 2005 and an aide in respondent's classroom since approximately 2012. She believes respondent excels at redirecting and deescalating children when they are upset. She has never seen respondent scream at or behave roughly toward a child. She was off work on August 26, 2022, and did not witness respondent's actions that day. She took over as an associate teacher for respondent's

classroom to help fill in for respondent after she was placed on administrative leave. She assisted the school in having parents sign the State Licensing form.

22. Karina Sandoval-Cantu has been a part-time aide in Ms. Duggins's classroom for approximately three years. She works in respondent's classroom a few times per month and was assisting in respondent's classroom on August 26, 2022. She noticed the child in question was crying, screaming, and "having a rough time" that morning. She believes respondent was calm with the child. She did not witness anyone slap the child.

23. Ronda Rodriguez has worked as a teacher at a different school in the District for approximately 21 years. Her grandchildren attend Wilcox and she has seen respondent interact with them and other students. She has never seen respondent be physically aggressive or yell at any children. She believes respondent is "nurturing and affectionate" and tries to make children comfortable. She was not present on August 26, 2022, but believes, as a preschool teacher, it is never appropriate to slap a child.

24. Tara McClain has been an aide with the District for approximately four years and has worked in respondent's classroom since 2021. She described respondent as "a fun-loving hippie." She was not present on August 26, 2022, but has never seen respondent behave inappropriately or handle children roughly.

25. Charity Guptill has worked for the District since 2003. Since 2015, she has been a site supervisor. She splits her shifts between Wilcox and another District school. She described respondent as "kind of a grandma" who is "super loving and accommodating." She was not present the morning of August 26, 2022, but has never seen respondent behave inappropriately or aggressively towards students.

## **Analysis**

26. The Commission must resolve two issues in this case. First, it must determine whether respondent engaged in the conduct alleged in the Statement of Charges. If so, it must then determine whether that conduct indicates that respondent is unfit to teach.

### **RESPONDENT'S CONDUCT**

27. The District alleged respondent engaged in multiple acts of misconduct. Regarding the allegation that in August 2022, respondent slapped a student, the District's evidence was more persuasive than respondent's. Specifically, Ms. Duggins and Ms. Butcher testified that respondent told them, during separate conversations the day of the event, "I slapped a child." A month later, on September 30, 2022, Superintendent Andoe-Nolind interviewed respondent. At that time, respondent said she "tapped" the child. Superintendent Andoe-Nolind clarified that she heard correctly, and respondent repeated the word "tapped."

28. At hearing, respondent again said she "tapped" the child, explaining, "the whole side of my hand didn't make contact with her face." Instead, as respondent described it, her fingertips tapped the child's face "slightly on the lower cheek." That version of events lacked credibility because it was inconsistent with both respondent's contemporaneous statements as well as her characterization of her response and the child's response. When asked what happened after she "tapped" the child, respondent said, "my whole world stopped." She also explained that the child ran to another area of the classroom, where she cried and whimpered. Both respondent's and the child's reaction are consistent with a slap, but inconsistent with a "slight tap." When

considering all the evidence, the Commission finds that it is more likely than not that respondent slapped the child in August 2022.

29. Regarding the allegation that in June 2020, respondent used her District-issued iPad to take and store nude photos of her grandchildren, the District's evidence was more persuasive than respondent's. Specifically, Director Butcher and Superintendent Andoe-Nolind testified credibly that they viewed the photos and that the children were not clothed. In contrast, when respondent testified, she did not contradict the allegation. On that basis, the Commission finds that it is more likely than not that respondent used her District-issued iPad to take and maintain nude photos of her grandchildren.

30. Finally, regarding the allegation that in October 2019, respondent raised her voice and put her hands on a student's face during a behavioral intervention, the District's evidence was more persuasive than respondent's. Specifically, Ms. Peterson testified that she saw and heard respondent scream at the child, get close to his face, squeeze his face "intensely" with her thumb and fingers, shake him by the forearms, and "toss him" toward the line of students. Ms. Peterson's testimony was credible for several reasons. She was in the playground where the events happened and was close enough to see and hear respondent's behavior. (Evid. Code, § 780, subd. (d).) She testified calmly about her employment history and background but became emotional when she discussed respondent's conduct. Her demeanor was consistent with recalling what she described as "shocking" and "disgusting" behavior. (*Id.* at subd. (a).) Finally, she reported the incident to her supervisor immediately after she witnessed it.

31. In contrast, although respondent generally denied the alleged misconduct, she did not have a specific recollection of the events in question. She said she "would never put her hands on a student's face," but that is untrue, as evidenced

by the August 2022 incident. Additionally, her testimony was biased by her own self-interest. (Evid. Code, § 780, subd. (f).) Furthermore, as discussed above, respondent's testimony regarding the August 2022 incident was inconsistent with what she said the day of that event. Respondent's equivocation about that incident made her testimony less credible in general. (*Id.* at subd. (b).) When considering all the evidence, the Commission finds that it is more likely than not that respondent raised her voice and put her hands on a student's face during a behavioral intervention in October 2019.

### **FITNESS TO TEACH – *MORRISON* FACTORS**

32. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 235 (*Morrison*), the California Supreme Court held that "an individual can be removed from the teaching profession only upon a showing that [her] 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 court listed the following factors as relevant when determining whether a teacher's conduct indicates that she is fit to teach:

[1] the likelihood that the conduct may have adversely affected students or fellow teachers, [2] the degree of such adversity anticipated, [3] the proximity or remoteness in time of the conduct, [4] the type of teaching certificate held by the party involved, [5] the extenuating or aggravating circumstances, if any, surrounding the conduct, [6] the praiseworthiness or blameworthiness of the motives resulting in the conduct, [7] the likelihood of the recurrence of the questioned conduct, and [8] 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.” (*Id.* at pp. 229-230.)

As set forth below, when respondent’s conduct is considered in light of the *Morrison* factors, the District established that she is unfit to teach.

### **Adverse Effect on Students or Fellow Teachers**

33. Respondent used excessive force on two students. This not only had an adverse impact on the students, but also on Ms. Peterson, who was shocked and disgusted by respondent’s behavior in October 2019. Additionally, respondent stored nude images of her grandchildren on her District-issued iPad. Director Butcher and Superintendent Andoe-Nolind were both subjected to viewing these images in the course of supervising respondent.

34. “A teacher . . . in the public school system is regarded by the public and pupils in the light of an exemplar, whose words and actions are likely to be followed by the children coming under her care and protection.” (*Bd. of Education v. Swan* (1953) 41 Cal.2d 546, 552.) Respondent violated the District’s trust in her when she used excessive force against two students and stored nude images of children on her District-owned iPad.

### **Degree of Adversity Anticipated**

35. As respondent testified, after “tapping” the child in August 2022, the child ran to another area of the classroom and cried and whimpered. As Director Butcher and Superintendent Andoe-Nolind explained, they had to view images of nude children because of respondent’s irresponsible use of the District’s iPad. As Ms. Peterson described, in October 2019, respondent screamed at a child, got close to his

face, squeezed his face “intensely” with her thumb and fingers, shook him by the forearms, and “toss[ed] him” toward the line of students. This was all done on the playground in full view of other students. In all of these events, there is a substantial likelihood that respondent’s conduct had a significant adverse effect on the students and teachers involved and those who observed her conduct.

### **Proximity or Remoteness in Time**

36. After respondent slapped a child on August 26, 2022, the District placed her on administrative leave the same day. It then promptly investigated the incident and served respondent with a Notice of Statement of Charges and Immediate Suspension Without Pay 49 days later. Although the events of October 2019 and June 2020 are more remote in time, it is reasonable to conclude that the District viewed those events in a new light after the August 2022 incident. Consequently, when the facts are considered in their entirety, the most recent event in respondent’s pattern of misconduct was not remote in time. Furthermore, the older events are not so remote that they should be excluded from consideration.

### **Type of Teaching Certificate Held**

37. Respondent teaches pre-school students in highly impressionable years. As a teacher, respondent is expected to display appropriate adult behavior. Instead, respondent used excessive force against two students and exhibited a pattern of poor judgment.

### **Extenuating or Aggravating Circumstances**

38. There is no justification or excuse for respondent’s use of excessive force against children in her care. Her explanation for “tapping” the student, namely that the

student “spit” on her, was not persuasive. To the contrary, when asked for details, respondent explained that the student “blew a raspberry” by blowing out while her tongue was between her lips. Although this may have caused spit to land on respondent, such conduct is not an extenuating circumstance. Rather, Superintendent Andoe-Nolind credibly testified that, based on her decades of experience in education, such conduct is the normal and predictable behavior of three-year-olds like the student in question. There are no aggravating circumstances beyond the misconduct alleged in the Statement of Charges.

### **Praiseworthiness or Blameworthiness of Motives**

39. Respondent alone is to blame for her multiple instances of misconduct. Both times that she used excessive force, the children were not posing any threat of harm to themselves or others. Similarly, respondent knew or should have known how to use the District’s iPad responsibly.

### **Likelihood of Recurrence**

40. “Fully acknowledging the wrongfulness of [one’s] actions is an essential step towards rehabilitation.” (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) By failing to fully acknowledge her misconduct, respondent failed to demonstrate she has engaged in sufficient rehabilitation to establish she will not engage in similar misconduct in the future. To the contrary, respondent repeatedly described her conduct in August 2022 as an involuntary reaction to being spit upon. As explained above, it is likely that a pre-school teacher will encounter similar misbehavior from children, and respondent’s insistence that she reacted involuntarily demonstrates that her conduct is likely to recur.



## **Potential Adverse Impact on Respondent's Constitutional Rights**

41. Respondent did not present evidence or argue that her dismissal will have an adverse or chilling effect on her constitutional rights or the constitutional rights of any other teachers. The Commission finds such adverse impact unlikely.

### **CONCLUSION**

42. When all the evidence is considered, the District proved it is more likely than not that respondent slapped a student in August 2022, took and stored nude photographs of her grandchildren on her District-owned iPad in June 2020, and inappropriately raised her voice and forcefully and inappropriately put her hands on a student's face in October 2019. When all the *Morrison* factors are considered, the District established that such conduct demonstrates respondent's unfitness to teach children.

## **LEGAL CONCLUSIONS**

1. A school district seeking to dismiss a permanent certificated employee from employment bears the burden of proof by a preponderance of the evidence. (*Gardner v. Comm'n on Professional Competence* (1985) 164 Cal.App.3d 1035; *Bevli v. Brisco* (1989) 211 Cal.App.3d 986.) The term preponderance of the evidence means "more likely than not." (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1388.).

2. A school district may discipline a permanent certificated employee for "immoral" conduct. (Ed. Code, § 44932, subd. (a)(1).) In *San Diego Unified School*

*District v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1466, the court explained:

A teacher may . . . be dismissed for "[i]mmoral or unprofessional conduct." (§ 44932, subd. (a)(1).) "'The term 'immoral' has been defined generally as that which is hostile to the welfare of the general public and contrary to good morals. Immorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable members of the community, and as an inconsiderate attitude toward good order and the public welfare.'" (*Board of Education v. Weiland* (1960) 179 Cal.App.2d 808, 811, 4 Cal.Rptr. 286.) Moreover, the definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, upon whom are imposed "responsibilities and limitations on freedom of action which do not exist in regard to other callings." (*Board of Trustees v. Stubblefield, supra*, 16 Cal.App.3d at p. 824, 94 Cal.Rptr. 318.)

3. As set forth in Factual Findings 27 through 31, respondent slapped a student in August 2022, took and stored nude photographs of her grandchildren on her District-owned iPad in June 2020, and inappropriately raised her voice and put her hands on a student's face in October 2019. In doing so, respondent showed a moral

indifference and an inconsiderate attitude toward good order and the public welfare. Her conduct during these three incidents, both independently and collectively, was inconsistent with the reasonable expectations society places upon teachers to model appropriate adult conduct to the students they teach, and to protect the safety of students and advance their educational welfare. Respondent's conduct therefore establishes cause to dismiss on the basis of immoral conduct pursuant to Education Code section 44932, subdivision (a)(1).

4. A school district may discipline a permanent certificated employee for "[p]ersistent 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 or by the governing board of the school district employing . . . her." (Ed. Code, § 44932, subd. (a)(8).) As set forth in Factual Findings 27 through 31, respondent engaged in a pattern of misconduct from October 2019 through August 2022, despite warnings from the District. Respondent's conduct therefore establishes cause to dismiss based on her 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 or by the governing board of the District pursuant to Education Code section 44932, subdivision (a)(8).

5. A school district may discipline a permanent certificated employee for "evident unfitness for service." (Ed. Code, § 44932, subd. (a)(6).) That term 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. Comm'n on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) The term "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.*) The court held that the *Morrison* factors "must be analyzed to determine, as a threshold matter, whether the cited conduct indicates unfitness for service." (*Id.* p. 1445.) As the court in *Woodland* explained, "[i]f the *Morrison* criteria are satisfied, the next step is to determine whether the 'unfitness' is 'evident'; i.e., whether the offensive conduct is caused by a defect in temperament." (*Ibid.*)

6. As set forth in Factual Findings 27 through 31, respondent's conduct in slapping a student in August 2022, taking and storing nude photographs of her grandchildren on her District-owned iPad in June 2020, and inappropriately raising her voice and putting her hands on a student's face in October 2019, individually and collectively, demonstrate that respondent is unsuitable for teaching due to a fixed character trait, not remediable merely on notice that her conduct fails to meet the District's expectations. Consequently, respondent's conduct establishes cause to dismiss her for evident unfitness for service under Education Code section 44932, subdivision (a)(6).

7. As set forth in Factual Findings 32 through 42, when all the *Morrison* factors are considered, the District established that respondent is unfit to teach children. Consequently, the District's dismissal of respondent under Education Code section 44932, subdivisions (a)(1), (a)(6), and (a)(8), is upheld.

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## ORDER

Respondent Tina Jamison is DISMISSED as a permanent certificated employee of the Palermo Union Elementary School District based on the Factual Findings and Legal Conclusions 1 through 7, jointly and individually.

DATE: March 24, 2023

Relena D. Ellis

Relena D. Ellis (Mar 24, 2023 18:36 EDT)

RELENA ELLIS

Member

Commission on Professional Competence

Janine Hughes

Janine Hughes (Mar 24, 2023 16:21 PDT)

JANINE HUGHES

Member

Commission on Professional Competence

Sean Gavin

Sean Gavin (Mar 24, 2023 16:21 PDT)

SEAN GAVIN

Administrative Law Judge, Chair

Commission on Professional Competence