

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

**In the Matter of the Petition to Revoke Probation Against:**

**MICHAEL ANTHONY CAYTON, Respondent**

**Case No. 1-371665807**

**OAH No. 2019100007**

**PROPOSED DECISION**

Dena Coggins, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on January 29, 2020, Sacramento, California.

Seth A. Curtis, Deputy Attorney General, represented Mary Vixie Sandy, Ed.D. (complainant), Executive Director, California Commission on Teacher Credentialing (Commission).

Jonathan Turner, Attorney at Law, represented Michael Anthony Cayton (respondent), who was present at the hearing.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on January 29, 2020.

## **FACTUAL FINDINGS**

1. On August 23, 1999, the Commission issued respondent a Preliminary Multiple Subject Teaching Credential (Preliminary Multiple Subject Teaching Credential). The Preliminary Multiple Subject Teaching Credential expired on April 1, 2006.

2. On January 17, 2006, the Commission issued respondent a Clear Multiple Subject Teaching Credential (Clear Multiple Subject Teaching Credential) with authorization to teach all subjects. The Clear Multiple Subject Teaching Credential will expire on February 1, 2021, and was in full force and effect at all relevant times.

3. On July 8, 2003, the Commission issued respondent an Administrative Services Credential, Certificate of Eligibility (Administrative Credential). The Administrative Credential was in full force and effect at all relevant times.

4. On November 1, 2005, the Commission issued respondent a Preliminary Administrative Services Credential (Preliminary Administrative Credential). The Preliminary Administrative Credential expired on December 1, 2010.

5. On March 12, 2009, the Commission issued respondent an Emergency Crosscultural, Language and Academic Development Permit (Permit). The Permit expired on April 1, 2012.

6. On October 20, 2010, the Commission issued respondent a Clear Administrative Services Credential (Clear Administrative Credential). The Clear Administrative Credential expired on April 1, 2016.

7. On May 30, 2011, the Commission issued respondent a Clear Crosscultural, Language and Academic Development Certificate (Certificate). The Certificate was in full force and effect at all relevant times.<sup>1</sup>

8. On September 13, 2019, complainant, acting solely in her official capacity, signed and thereafter filed the Petition to Revoke Probation. Complainant contends grounds exist to revoke respondent's probation and impose the stayed Credentials revocation because respondent failed to comply with the terms and conditions of probation. Specifically, complainant alleges respondent violated the terms of probation by failing to begin and/or continue to participate in ongoing therapy or counseling and falsely stating under penalty of perjury that he attended therapy or counseling on two occasions in 2019.

9. Respondent timely filed a Notice of Defense pursuant to Government Code section 11506. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

### **Prior Disciplinary Action**

10. On September 4, 2018, complainant signed and filed an Accusation in Case Number 1-371665807 (Accusation), alleging respondent subjected his Credentials to disciplinary action based upon his addiction to the use of intoxicating beverages,

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<sup>1</sup> Respondent's various teaching and administrative credentials are referred to collectively as "Credentials" in this Decision.

unprofessional conduct, and evident unfitness for service. Specifically, respondent was alleged to have been convicted of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol level of .08 percent or more, a misdemeanor. The circumstances underlying the conviction were alleged to have occurred on March 5, 2017, when respondent was stopped by law enforcement and performed poorly on field sobriety tests. Respondent was alleged to have been placed under arrest, and found to have a .22 percent blood alcohol content. Respondent was further alleged to have been sentenced to 15 days in jail, ordered to complete an 18-month driving under the influence class, placed on five years' probation, and ordered to pay fines and fees.

11. The Accusation further alleged the following prior disciplinary actions taken against respondent, in order to determine the degree of discipline to be imposed:

On or about May 29, 2015, in a prior disciplinary action entitled In the Matter of the Accusation Against Michael Anthoney Cayton, before the [Commission], in Case Number 1-150638239, Respondent's license was suspended for a period of twenty-one (21) days for the following convictions:

- On or about January 11, 1998,<sup>2</sup> in the San Joaquin County Municipal Court, Respondent was convicted on his plea of guilty to violating Penal Code section 647 (g), disorderly conduct, a misdemeanor.
- On or about December 13, 1998, in the Oklahoma County District Court, State of Oklahoma, Respondent was convicted on his plea of guilty to violating Title 21, Oklahoma Statutes section 1731, larceny, a felony.
- On or about February 18, 1998, in the San Joaquin County Superior Court, Respondent was convicted on his plea of nolo contendere to violating Penal Code section 242, battery, a misdemeanor.
- On or about September 22, 2000, in the San Joaquin County Superior Court, Respondent was convicted on his plea of nolo contendere to violating Vehicle Code section 23152 (b), driving with a blood alcohol level of .08 percent or more, with a prior conviction, a misdemeanor.

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<sup>2</sup> Respondent testified at the hearing in this matter that the convictions listed in the Accusation as occurring on January 11, 1998 and December 13, 1998, were actually received in 1988.

- On or about December 26, 2000, in the San Joaquin County Superior Court, Respondent was convicted on his plea of nolo contendere to violating Vehicle Code section 23152 (b), driving with a blood alcohol level of .08 percent or more, with a prior conviction, a misdemeanor.
- On or about April 9, 2001, in the San Joaquin County Superior Court, Respondent was convicted on his plea of nolo contendere to violating Penal Code section 602.5, unauthorized entry of a dwelling or house, a misdemeanor.
- On or about March 4, 2014, in the San Joaquin County Superior Court, Respondent was convicted on his plea of nolo contendere to violating Vehicle Code section 23103/23103.5, alcohol related reckless driving, a misdemeanor.

[¶] . . . [¶]

[O]n or about September 20, 2003, in a prior disciplinary action before the [Commission], respondent's license was suspended for a period of ten (10) days for the following:

- On or about April 9, 2001, Respondent was convicted in San Joaquin Superior Court on his plea [of] nolo contendere to violating Penal Code section 602.5, entering a non commercial [sic]

dwelling on or about September 3, 2000.

Respondent failed to disclose the offense on his March 1, 2001, application with the Commission.

[O]n or about October 12, 2002, Respondent was publicly reproved by the [Commission] due to the following:

- On or about September 22, 2000, Respondent was convicted in San Joaquin Superior Court on his plea [of] nolo contendere to violating Vehicle Code section 23152 (b), driving with a blood alcohol content of .08 percent or higher, a misdemeanor.
- On or about December 26, 2000, Respondent was convicted on his plea of nolo contendere in San Joaquin Superior Court to violating Vehicle Code section 23152 (b), driving with a blood alcohol content of .08 percent or higher with a prior alcohol related driving conviction, a misdemeanor.
- Respondent failed to disclose on his March 1, 2001, application with the Commission, that he was convicted on December 13, 1988, in District Court County of Oklahoma to violating Section 1731, Title 21 of the Oklahoma Statutes, Felonious Larceny.

- Respondent failed to disclose on his March 1, 2001, application with the Commission, that he was convicted by his plea of guilty on January 11, 1988, in the Stockton Judicial District Court, County of San Joaquin, to a violation of Penal Code section 647 (g), prowling, a misdemeanor.
- Respondent failed to disclose on his March 1, 2001, application with the Commission, that he was convicted by his plea of no contest in Stockton Municipal Court, County of San Joaquin, to violating Penal Code section 242, battery, a misdemeanor.

12. On January 8, 2019, pursuant to a Proposed Consent Determination and Order entered into by respondent and the Commission, respondent understood and admitted the truth of each and every allegation in the Accusation. The Commission adopted the Proposed Consent Determination and Order as its Decision and Order in the matter, and the Decision and Order became effective April 19, 2019.

13. Pursuant to the Commission's April 19, 2019 Decision and Order, respondent Credentials were revoked, the revocation was stayed, and respondent was placed on probation for seven years, subject to certain terms and conditions. His Credentials were suspended for 90 days, commencing on the effective date of the Decision and Order. The relevant terms and conditions are as follows:

[¶] . . . [¶]



[Condition] 3. **Submit Written Reports.** Respondent shall report to the Commission quarterly, 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 he has complied with all the terms and conditions of probation. Failure to submit timely reports as directed shall be considered a probation violation.

[¶] . . . [¶]

[Condition] 8. **Therapy or Counseling Program.**

Respondent, at his own expense, shall begin, or continue to participate in, on-going therapy or counseling with his current counselor, W.S., or another licensed therapist or counselor approved by the Commission at least once a month until such time as the Commission releases him from this requirement and only upon the recommendation of the therapist or counselor. Respondent shall submit quarterly reports to the Commission indicating that he is continuing with the aforementioned therapy.

[¶] . . . [¶]

[Condition] 14. **Compliance with All Terms of Probation.**

Respondent shall fully comply with all the terms and conditions of this Order and cooperate with the

Commission and his assigned probation compliance monitor (monitor) in the monitoring and investigation of Respondent's compliance with probation terms. . . .

[Condition] 15. **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.

## **QUARTERLY COMPLIANCE REPORTS**

14. Berenice Osguera, a probation monitor at the Commission, testified at the hearing. In 2019, she was respondent's probation monitor. On May 9, 2019, Ms. Osguera sent respondent a letter reiterating that pursuant to the Decision and Order, respondent was subject to probationary terms and conditions for seven years. Ms. Osguera noted that the probation period was from April 19, 2019, through April 18, 2026. In the letter, Ms. Oseguera summarized some of the probation conditions, including that respondent was required to "submit quarterly compliance reports, certifying and documenting compliance with all terms and conditions of probation"

and "undergo and continue mental health counseling until such time as the Commission releases [respondent] from the requirement." She also instructed respondent to contact her to set up a probation orientation.

15. On May 14, 2019, Ms. Oseguera conducted respondent's probation orientation by telephone. During the probation orientation, Ms. Oseguera reviewed the probation terms and conditions with respondent, and respondent indicated he understood them.

16. On July 29, 2019, respondent signed and subsequently submitted to the Commission his Quarterly Compliance Report for the reporting period of April 19, 2019, to July 19, 2019 (Quarterly Compliance Report). The report asked respondent the following, in pertinent part:

**ANSWER "YES" OR "NO" TO THE FOLLOWING QUESTIONS**

For explanations, attach a separate sheet. . . .

9. During this quarter, did you attend mental health counseling? If no, please explain. If yes, please list the dates that you attended counseling during the previous three months.

17. In response to Question 9, respondent did not mark either checkbox next to "Yes" or "No." Instead, he wrote "5/15 and 6/16 \*My counselor retired I in [sic] the progress [sic] of getting another one threw [sic] my [i]nsurance."

18. Respondent signed the quarterly report under the following statement:

I hereby submit this Probation Questionnaire as required by the California Commission on Teacher Credentialing in the Consent Determination and Order. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and understand that false statements or omissions of fact may be cause for revocation of probation.

19. Ms. Oseguera received respondent's Quarterly Compliance Report on July 30, 2019. On August 1, 2019, Ms. Oseguera contacted respondent by email to request his counselor's contact information. Ms. Oseguera planned to verify with respondent's counselor that respondent attended the counseling sessions listed in his Quarterly Compliance Report. Respondent responded to the email on the same day. He provided his counselor's (William Smith's) contact information, but stated:

[t]hose dates were mistakes that were listed I didn't [s/c] meet with Mr. Smith[,] as my insurance was canceled after [I] was placed on administrative leave from the district sense [s/c] I was re instated [s/c] back into the district on July 18[,] my insurance became available today 8/1 and listed [above] is the psychologist['s] info. I'm deeply disappointed in myself about those incorrect dates. Please advise.

20. On August 1, 2019, respondent signed and submitted an amended Quarterly Compliance Report (Amended Quarterly Compliance Report). Respondent submitted the Amended Quarterly Compliance Report after Ms. Oseguera contacted him to request his counselor's contact information. In the Amended Quarterly

Compliance Report, respondent marked the checkbox next to “No” in response to Question 9, indicating that he did not attend mental health counseling during the reporting period. Along with the Amended Quarterly Compliance Report, respondent submitted a letter, dated August 1, 2019. In the letter, respondent explained:

This is my updated response to Question 9 on my Quarterly Compliance Report,

I didn't receive any counseling during that quarter due to the fact that I didn't have any Insurance at the time. I was completely unaware that once an employee is placed on Administrative leave that the employee[r] suspends their insurance. So during the months of my suspension[,] I did not have insurance. Once my suspension ended[,] I had to start the process over of applying for insurance[,] which my insurance became valid on 8/1/2019. . . . Plus, I couldn't afford to pay for a doctor because I was [sic] my credentials was [sic] suspended.

21. Ms. Oseguera received another letter from respondent on August 5, 2019. In that letter, respondent wrote:

[I] want you to be aware that I made a mistake on my previous Quarterly Compliance Report that I sent to you referring to Question 9. As stated on the new updated attachment[,] I did not receive any counseling for this quarter and I have made arrangements for [sic] to receive counseling as stated in the email providing you ok the

psychologist I have set up for September 3, 2019. Please accept this as true and complete as there was an error on question 9 and I want[sic] to be completely honest. . . .

Respondent subsequently emailed Ms. Oseguera in August 2019 to inform her of his upcoming counseling appointments and to provide his new counselor's name.

## **Respondent's Evidence**

22. Respondent is 52 years old. He has a bachelor's degree in elementary education and minor in corrections. He has a master's degree in educational administration and supervision. He began working for the Stockton Unified School District (District) in 1998, as a middle school teacher. Since that time, he has held several positions in the District, including administrator, assistant principal, and principal. In his most recent performance evaluations from the District, from 2013 through 2015, respondent received "satisfactory" and "commendable" rankings in all areas of evaluation.

23. According to respondent, he wrote the false mental health counseling dates on his Quarterly Compliance Report because he feared he would "lose everything he worked so hard for." He testified he was concerned because he was the "sole provider" for his family; although, he later admitted that his wife has been employed as a medical assistant for 24 years. He testified that listing the false dates was the "biggest mistake of [his] life" and he was "sorry it happened." He further testified he is remorseful and "deeply regrets" his actions. While respondent was suspended for 90 days, he lost his health insurance, so he would have been required to pay for counseling sessions out-of-pocket until August 2019, when his health

insurance was reinstated. According to respondent, he has been in compliance with all other terms and conditions of probation.

24. Respondent identified himself as a “recovering social alcoholic,” which means he drinks at “social events.” His sobriety date is March 5, 2017. He currently attends Alcoholics Anonymous (AA) two times per week, since May 2019. He previously attended AA in 2017, per court order. In addition, respondent attends Dual Recovery Anonymous (DRA) once per week. He began attending DRA meetings in August 2019.

25. Respondent has been receiving weekly individual mental health counseling from Sybil Stafford, a licensed marriage and family therapist, since August 2019. In addition, Ms. Stafford began providing respondent and his family with family therapy beginning in December 2018. During his counseling sessions, respondent works on his issues with decision making and anxiety, and his triggers for drinking alcohol. Respondent submitted a letter from his AA sponsor, dated November 20, 2019. In the letter, respondent’s AA sponsor described respondent as “honest and trustworthy.” Respondent also submitted a letter dated November 19, 2019, from a fellow attendee at DRA meetings. The fellow attendee confirmed respondent’s attendance at DRA meetings. Respondent agreed to participate in a clinical trial through the American Psychological Association in order to help him to understand his triggers relating to alcohol and decision making.

26. Respondent is passionate about his work with students of the District and his community. He is involved in community outreach to prepare students for applying to Historically Black Colleges and Universities. He submitted numerous certificates of appreciation and recognition, dated between 2004 to 2008, commending him on his work in the community and with students.

27. Respondent submitted numerous support letters from colleagues, friends, family and clergy. The letter writers described respondent as "dedicated," "an inspiring educator," "honest," "truthful," and a "leader."

## **Discussion**

28. Effective April 2019, respondent's Credentials were placed on probation for seven years subject to certain terms and conditions. One of those probationary conditions required respondent to report quarterly to the Commission, under penalty of perjury, whether he was complying with all the terms and conditions of probation. Another probation condition required respondent to participate in ongoing therapy or counseling at least once a month until he was released from the requirement by the Commission. Respondent was aware and understood both probation conditions by at least the time of his probation orientation on May 14, 2019. However, on his first Quarterly Compliance Report, submitted on July 30, 2019, for the period of April 19, 2019 to July 19, 2019, respondent intentionally and falsely represented that he attended mental health counseling on May 15, 2019, and June 19, 2019. Respondent's conduct violated the terms of his probation.

29. Respondent provided support letters, certificates, accolades, and other evidence showing he is passionate about his career as a teacher and administrator at the District. He has had a long successful history in his role as an educator and community leader. As a credentialed teacher and educator, it is imperative that respondent act in a manner that is consistent with his position as a role model in the community and in the District. Respondent must be honest and possess good judgment. Respondent's violation of the terms of his probation only three months after his Credentials were placed on probation is concerning and troubling. His misconduct shows he is not truthful and has impaired judgment. As an explanation for



his misconduct, respondent testified that he was on administrative leave, was not receiving pay, and did not have health insurance, so he would have been required to pay out-of-pocket for the counseling sessions. He was fearful of losing “everything,” so he falsely represented that he attended counseling sessions. However, at no time did respondent communicate his circumstances to his probation monitor. Instead, he provided false statements under penalty of perjury to the Commission, and did not admit to his dishonesty until his probation monitor requested his counselor’s contact information. Although respondent has made commendable efforts to maintain his sobriety and to comply with the terms of his probation, respondent has not addressed his underlying issues of being untruthful, as evidenced by his misconduct and his testimony regarding being a sole provider for his family.

30. The Commission cannot be assured that respondent will comply with the terms of his probation in the future. Based on all of the evidence, complainant has met her burden of establishing cause to revoke the probation that was granted by the Commission, and to impose the disciplinary order that was stayed, thereby revoking all credentials, certificates and authorizations issued to respondent.

## **LEGAL CONCLUSIONS**

1. Complainant has the burden of proving each of the causes to revoke probation alleged in the Petition to Revoke Probation, and must do so by a preponderance of the evidence. (*Loan Star Security & Video, Inc., v. Bur. of Security and Investigative Services* (2012) 209 Cal.App.4th 445, 454 [“While the board is required to prove the allegations in an accusation by clear and convincing evidence, it is only required to prove the allegations in a petition to revoke probation by a preponderance of the evidence’ [citation]”]; quoting *Sandarg v. Dental Bd. of Cal.*

(2010) 184 Cal.App.4th 1434, 1441.) Evidence that is deemed to preponderate must amount to "substantial evidence." (*Weiser v. Bd. of Retirement* (1984) 152 Cal.App.3d 775, 783.) And to be "substantial," evidence must be reasonable in nature, credible, and of solid value. (*In re Teed's Estate* (1952) 112 Cal.App.2d 638, 644.).

2. As set forth in Factual Findings 16 through 21, 23, and 28, the evidence established respondent violated Condition 8 by failing to begin and/or continue in ongoing therapy or counseling. Therefore, cause exists to set aside the stay order and impose the stayed discipline of revocation of respondent's Credentials, pursuant to Condition 15 of the April 19, 2019 Decision and Order.

3. As set forth in the Factual Findings 16 through 21, 23, and 28, the evidence established respondent violated Condition 3 by falsely stating under penalty of perjury that he attended therapy or counseling sessions on May 15 and June 19, 2019, when he knew he had not. Therefore, cause exists to set aside the stay order and impose the stayed discipline of revocation of respondent's Credentials, pursuant to Condition 15 of the April 19, 2019 Decision and Order.


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## ORDER

The Petition to Revoke Probation against Michael Anthony Cayton is GRANTED. The Preliminary Multiple Subject Teaching Credential, Clear Multiple Subject Teaching Credential, Administrative Credential, Preliminary Administrative Credential, Clear Administrative Credential, Permit, and Certificate issued to respondent are REVOKED.

DATE: February 25, 2020

DocuSigned by:  
  
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DENA COGGINS

Administrative Law Judge

Office of Administrative Hearing