

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

**In the Matter of the Accusation Against:**

**CASANDRA LYNN EVERITT, Respondent**

**Case No. 2-253168084**

**OAH No. 2022080489**

**PROPOSED DECISION**

Jessica Wall, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference and telephone on January 23, 2023, from Sacramento, California.

Patricia Webber Heim, Deputy Attorney General, represented Mary Vixie Sandy, Ed.D (complainant), Executive Director, California Commission on Teacher Credentialing (Commission).

CaSandra Lynn Everitt (respondent) represented herself.

Evidence was received, the record closed, and the matter submitted for decision on January 23, 2023.

## **FACTUAL FINDINGS**

### **Procedural Background**

1. On March 4, 2010, the Commission issued respondent a Clear Multiple Subject Teaching Credential (teaching credential). Respondent's teaching credential will expire on April 1, 2025, unless renewed.

On February 11, 2005, the Commission issued respondent a Preliminary Multiple Subject Teaching Credential, which expired on March 1, 2010. On July 1, 2002, the Commission issued respondent a Child Development Site Supervisor Permit, which expired on August 1, 2007. On August 3, 1999, the Commission issued respondent a Child Development Teacher Permit, which expired on September 1, 2004.

Collectively, these credentials and permits are referred to as respondent's "credentials." There was no evidence presented regarding prior discipline of respondent's credentials.

2. On June 27, 2022, a representative of complainant acting solely in her official capacity signed and thereafter filed an accusation seeking to revoke respondent's credentials based on five causes for discipline (Accusation). Specifically, the Accusation alleged that respondent had engaged in multiple acts of theft on school district property between May and December 2019,<sup>1</sup> then communicated

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<sup>1</sup> In the Accusation, complainant alleged that respondent engaged in three separate instances of theft on school grounds. At hearing, no evidence was provided as to two of the instances: the theft of a \$50 gift card and a candy bar from a teacher at Waterloo Middle School in late May 2019, and the theft of \$113 in cash from the

inappropriately with a student while on paid administrative leave in February 2020. Respondent timely filed a Notice of Defense and this hearing followed.

## **Background**

3. During the relevant period, respondent worked as a teacher at Waterloo Middle School (Waterloo), in the Linden Unified School District (District), near Stockton, California. The school instructs students in fifth through eighth grades. Respondent taught math and history to seventh grade students, as well as Advancement Via Individual Determination (AVID)<sup>2</sup> to eighth grade students. She also shadowed principals in District schools as part of her efforts to attain an administrative credential.

4. Shannon Roberson, Waterloo's principal, testified at hearing. Ms. Roberson first met respondent while coaching at Glenwood Elementary School. Respondent was having problems with other staff at that school and Ms. Roberson hoped that respondent's transfer to Waterloo would offer a fresh start. Ms. Roberson supported respondent as a teacher and thought that respondent cared about her students' success.

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principal's office at Waverly Elementary School on November 12, 2019. The ALJ inquired and counsel confirmed that complainant did not intend to offer evidence about these allegations. Accordingly, the allegations related to these two incidents are considered to be withdrawn and do not form a basis for discipline.

<sup>2</sup> AVID was described as a class that helps prepare students for college.

5. Brianna Baumgarten, an eighth-grade teacher at Waterloo, testified at hearing. Ms. Baumgarten was a colleague of respondent's during the relevant period. She did not have a negative impression of respondent because she thought they were alike. Both were loud, strong-willed teachers and passionate about the profession.

### **The December 20, 2019 Incident**

6. Friday, December 20, 2019, was the last day of school at the District before students and staff went on winter break. After students had been dismissed at 2:35 p.m., Ms. Baumgarten was in the teacher work room, making copies of a language arts packet that her students would use when they returned from winter break. Although sometimes students assisted her in making copies, that day she made them alone.<sup>3</sup>

7. From her location at the copier in the teacher work room, Ms. Baumgarten could see inside part of the school psychologist office. Typically, when the school psychologist was not in her office, the doors were closed to protect confidential student files stored inside the office. At that moment, however, the doors were propped open even though the school psychologist was not present. Through the open door, Ms. Baumgarten saw respondent enter the office and linger by the desk inside.

8. Claudia Trenchuck, school psychologist for the District, also testified at hearing. At about 2:37 p.m. that day, she arrived at her office and was surprised to find the doors open. Ms. Trenchuck saw respondent standing next to her desk. Finding it

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<sup>3</sup> The student assistance Ms. Baumgarten received that afternoon was limited to when a student, J.M., assisted her by carrying presents out to her vehicle.

odd that respondent would be in her office unattended, Ms. Trenchuck asked respondent if she needed something. Respondent began acting strange, exhibiting what Ms. Trenchuck found to be "not-normal-adult-teacher behavior."

9. As respondent walked backwards out of the office towards the teacher work room, Ms. Trenchuck deduced that respondent was hiding an object behind her. Respondent then placed an object on top of a wheeled cart and hid it under a green jacket. Ms. Trenchuck reached out to lift the jacket and identify the hidden object. Respondent tried to push her hand away, but Ms. Trenchuck discovered that the object was a black wallet, identical to her own. She told respondent that the wallet looked like hers, and respondent said that maybe they had the same type of wallet. When Ms. Trenchuck looked inside the wallet, she immediately noticed her own Costco membership and insurance cards. She told respondent that the wallet was hers and held on to it. Respondent replied, "I know, I know," gave Ms. Trenchuck a hug, and quickly left the office.

10. As respondent walked to the campus parking lot, she passed Ms. Roberson who commented that respondent was taking "homework" home over winter break. Respondent looked at her but did not respond, which Ms. Roberson found odd.

11. Back inside the building, Ms. Trenchuck was shocked by what had happened. Ms. Baumgarten checked on her to see if Ms. Trenchuck was okay. She had seen Ms. Trenchuck arrive and overheard some of the conversation with respondent, which she described as strange and "not a normal, happy conversation." Ms. Trenchuck told her that she just caught respondent with her wallet. Ms. Baumgarten suggested she notify Ms. Roberson, which Ms. Trenchuck did by radio.

12. At about 2:40 p.m., Ms. Roberson had arrived at the school psychologist office to take Ms. Trenchuck's and Ms. Baumgarten's statements. These statements were consistent in all relevant respects to the testimony that Ms. Trenchuck and Ms. Baumgarten offered at hearing.

## **Subsequent Events**

13. Later that afternoon, after notifying the District about the incident, Ms. Roberson called respondent. In a voicemail message, Ms. Roberson told respondent that the incident would be considered unprofessional conduct, and respondent should contact the union president, Teresa Coyle. She also provided respondent with Ms. Coyle's phone number.

14. After Ms. Roberson called respondent, respondent texted a response, which Ms. Roberson interpreted as an admission of guilt. The text message read:

I have FUCKED up and I know it ... teresas [s/c] number cut  
out on your message ... can you tell me what it is ... I cant  
[s/c] even explain because I am just stupid [loudly crying  
face emoji] [hot face emoji] [face vomiting emoji]

15. When Ms. Roberson called respondent back to give her Ms. Coyle's phone number, respondent repeatedly told her, "I can't lose my job." Ms. Roberson responded that she could not protect respondent because this was "above her paygrade." Ms. Roberson was previously the union president, and she knew that respondent needed the union's support.

16. On December 24, 2019, the District placed respondent on paid administrative leave as it investigated the allegations against her. The District sent

respondent a letter that directed her to return all her District keys; abstain from accessing District electronic information; and refrain from engaging in any retaliatory conduct towards witnesses or potential witnesses.

### **CRIMINAL COMPLAINT, DIVERSION PROGRAM, AND VICTIM IMPACT**

17. After the incident, Ms. Trenchuck discovered that \$20 cash was missing from her wallet, and two \$20 gift cards were missing from her purse, which she kept on the floor under her office desk. Her total economic loss from the incident was \$60.

18. Ms. Trenchuck reported the incident to the San Joaquin County Sheriff's Office the afternoon it occurred. Shortly thereafter, Deputy Jeremy Riley contacted her by phone and arranged to interview her outside of the restaurant where Waterloo staff were having a holiday party. Both Ms. Trenchuck and Ms. Baumgarten provided statements to law enforcement that day, and their statements were consistent with what they had reported in their interviews with Ms. Roberson. Deputy Riley attempted to interview respondent, who declined to make a statement.

19. On January 27, 2020, the San Joaquin County District Attorney's Office filed a criminal complaint against respondent, charging her with violating Penal Code section 484, subdivision (a) (petty theft), a misdemeanor. Respondent was offered a diversion agreement,<sup>4</sup> which required her to complete eight hours of community service, take a theft prevention class, and pay \$60 in restitution to Ms. Trenchuck.

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<sup>4</sup> Respondent's participation in a pretrial diversion program cannot be construed as an admission of guilt. Pretrial diversion occurs before adjudication, and the determination of a defendant's guilt does not take place until adjudication. (*People v. Graham* (2021) 64 Cal.App.5th 827, 833.)

Respondent completed the terms of the diversion agreement, and the charge was dismissed on February 19, 2021.

20. At hearing, Ms. Trenchuck detailed the psychological toll of the incident. She remains deeply impacted by the theft and worries constantly that something will be stolen from her.

### **Inappropriate Communications with a Student**

21. Dianah Willis is the mother of two daughters in the District. During the 2019–2020 school year, her 13-year-old daughter, D.P., attended Waterloo and was in respondent's eighth-grade AVID class. Ms. Willis's younger daughter attended Glenwood Elementary School with one of respondent's sons.

22. On or about February 27, 2020, Ms. Willis was sitting next to D.P. and learned that respondent had individually messaged D.P. on the "Remind app," a digital platform that teachers and students used to communicate about missing school days or receiving assignments. The first message, initiated by respondent, stated:

[D.P.] - the "rumor" you have heard about me is not true.  
Please do not spread it, I will be back and that is my  
classroom, with my stuff. Thank you. Ms. Everitt.

D.P. messaged respondent that she had not said anything and had been defending respondent to other people. Respondent messaged again, stating:

Your sister said something to my son. Please tell her also.  
I appreciate it. The thing I need most right now is for all of  
you to stay focused on your academics and not worry about



me. I will be okay and back as soon as I can be, I miss you all very much.

The truth will come out ... It just takes time.

23. D.P. liked respondent "better than half [her] teachers" and felt comfortable talking to her. While she was curious about why respondent had been suspended, D.P. did not want to spread rumors and had not spoken to her sister about respondent or the reason for her suspension. She does not recall being upset or emotional about respondent's messages. According to her, it was a normal way for respondent to speak to her and "some teachers at that school were weird like that."

24. Ms. Willis did not think the messages were appropriate for a teacher to send to a student. She felt respondent was trying to go through D.P. to communicate with D.P.'s younger sister, rather than speaking directly with the girls' parents. Based on her belief that the messages were inappropriate, Ms. Willis found Ms. Roberson's email address and sent her screenshots of the messages on February 28, 2020. Ms. Roberson contacted the superintendent about the messages and had respondent's school email access disabled. There were no additional messages.

## **The District's Internal Misconduct Investigation**

25. The District retained Georgelle Cuevas, an attorney investigator at an independent law firm, to perform an internal misconduct investigation. While the investigation initially pertained only to three theft allegations against respondent, it later widened to address whether the Remind app messages to D.P. were a violation of the directives given to respondent in the December 24, 2019 letter. Over several months, Ms. Cuevas interviewed respondent, Ms. Trenchuck, Ms. Roberson, and other witnesses, and reviewed relevant District policies.

26. Respondent's interview took place on May 15, 2020, in the presence of her attorney. In that interview, respondent recalled that on December 20, 2019, she entered the teacher work room and saw a student, J.M., making copies for Ms. Baumgarten. She walked through the school psychologist office to get to her next destination. Later, she returned to the teacher work room for a second time, where she found a wallet and attempted to take it to the office. Ms. Trenchuck came in and identified the wallet as her own.

27. Ms. Cuevas also questioned respondent about her text exchange with Ms. Roberson on the afternoon of the incident. Respondent explained that she meant that she had "FUCKED up" because she should have left the wallet on the table, rather than pick it up. Respondent also admitted to messaging D.P. on the Remind app. She described the messaging as an extension of her teaching, by which she instructed her students to communicate directly with a person rather than spreading rumors.

28. Based on Ms. Cuevas's investigation, the District found that there was evidence to substantiate multiple causes for discipline and filed an action against respondent to dismiss her from her position. Under the terms of a March 31, 2021 settlement agreement, respondent resigned from her position with the District.

## **The Commission's Investigation**

29. Based on the allegations surrounding respondent's resignation, the Commission sent respondent a letter that it was required to investigate her fitness to hold a credential. The Commission requested a written response from respondent.

30. On July 5, 2021, respondent provided her written response. She explained that she chose to resign from the District because the ALJ who conducted

the settlement conference "said he was told that '[she] would face severe retaliation from the principal, Shannon Roberson, if [she] returned'" to Waterloo.

31. Respondent also wrote about her recollection of the incident. She detailed three different visits to the teacher work room on the afternoon of December 20, 2019. The first time, she spoke with Ms. Baumgarten before walking through the school psychologist office, pausing briefly while inside to allow her eyes to acclimate to the dark room. The second time, she saw Ms. Baumgarten's student, J.M., making copies alone while she retrieved a book. The third time, she was alone in the teacher work room, found the wallet, and gave it to Ms. Trenchuck, who identified it as her own.

32. Respondent's written statement also addressed her subsequent communications. She explained that her "FUCKED up" text meant "to acknowledge that [she] knew [she] shouldn't have left campus until this was dealt with or at least talked to [Ms. Roberson]." Respondent explained that she messaged with D.P. on the Remind app when she was "in extreme duress" because her son was crying. While respondent could understand how D.P.'s parents may have been upset about the messages, she justified her actions because other "teachers have dealt with rumors and drama involving [D.P.] in the past." She said that she had learned a lesson and would not message students or parents about non-academic issues in the future.

33. In an October 2021 meeting, the Committee of Credentials (Committee) found probable cause to recommend the Commission revoke respondent's credentials. Respondent sought reconsideration and provided additional emails and a recent performance review, which rated her performance as a temporary teacher in the Jefferson School District as "Satisfactory." At its December 2021 meeting, the

Committee reconsidered the matter and sustained its recommendation that the Commission revoke respondent's credentials.

## **Respondent's Evidence**

34. Respondent is currently in her 18th year of teaching. She worked at the District for seven of those years. She is passionate about her job and treats her students as though they are her own children. Before these allegations, respondent had no prior instances of discipline.

35. Respondent also testified about her recollection of December 20, 2019. Her testimony at hearing differed in some ways from her interview statements and written explanation to the Commission. At hearing, she mentioned only visiting the teacher work room once, and did not recall seeing anyone inside. She attempted to use the restroom and found the door was locked. She saw that the school psychologist office doors were open, but the lights were off. She did not recall walking through that office and stated she had not left the teacher work room. She found a wallet on a desk and picked it up to take it to the office. Ms. Trenchuck entered, took the wallet, identified it as her own, and then went into her office and shut the door.

36. Immediately after, respondent left the teacher work room in a hurry. She explained that her rush was not because she had done something wrong, but instead because it was the start of winter break and her kids were waiting. Even though she was in a hurry, she waited 15 minutes in her car to see if Ms. Roberson would contact her.

37. Respondent also testified about her communications after the incident. She explained that her "FUCKED up" text was in reference to the fact that she left campus that day instead of staying to document what happened. She went on to

detail how she set up the Remind app independently and did not think that the District could access it. Initially, respondent thought her messages to D.P. on the app were school-related because rumors were impacting her sons' education. Upon further questioning about the distinction between professional and personal communications, respondent began to understand that her messages were inappropriate.

38. When working at the District, respondent struggled to maintain good relationships with her coworkers. She thinks her coworkers did not like her because she is "loud and honest." Her honesty, she said, could offend people. Respondent adamantly denies ever taking anything that did not belong to her. Rather, she thinks the allegations arose because Ms. Roberson thought respondent was going to take her job.

39. Since respondent resigned from the District, she found another job teaching at a different district. She described her recent performance reviews as "stellar" and "outstanding." Respondent feels more supported by her new employer than she felt at the District.

40. Respondent believes that credential discipline is unwarranted. She has suffered enough because she spent "two years in isolation." She feels like she was not given an opportunity to tell her side of the story, which she stated was corroborated by her contemporaneous journal entries. Additionally, respondent is a single mother and discipline could impact her income, which she relies upon to support her two sons. She believes it is "not right" for someone to take away her "astounding career."

## **Analysis**

### **CREDIBILITY DETERMINATION**

41. The version of events offered by complainant's witnesses and respondent are largely incompatible with one another. Most of the evidence offered was in the form of witness testimony, only some of which is substantiated by contemporaneous documentation. As a result, witness credibility is central to the result. For the reasons explained below, complainant's witnesses were more credible than respondent.

42. First, none of complainant's witnesses have any personal stake in the outcome of this case. There was no evidence that Ms. Trenchuck or Ms. Baumgarten had a motive to be untruthful or even disliked respondent before the incident. Indeed, Ms. Baumgarten spoke about how she accepted respondent as a teacher and thought they shared many similarities. Respondent's argument that Ms. Roberson was biased against her was premised entirely on respondent's unsupported speculation. The facts show that Ms. Roberson tried to assist respondent and quickly passed on the contact information for respondent's union representative after learning about the incident. In contrast, respondent is biased by her own self-interest and desire to retain her credentials to continue her professional career. (Evid. Code, § 780, subd. (f).)

43. Second, each of complainant's witnesses testified in a straightforward and forthright manner, and clearly recalled details about the incident. (Evid. Code, § 780, subds. (a) & (c).) In particular, Ms. Trenchuck remembered details of that afternoon with precise clarity, down to the color of respondent's jacket atop the cart. Ms. Baumgarten recalled the type of document she was copying when she saw respondent enter and linger within Ms. Trenchuck's office. She was candid about what

she saw and could not see from her vantage point at the copier. (Evid. Code, § 780, subd. (d).) Respondent's testimony lacked the same level of detail and clarity.

44. In addition, complainant's witnesses testified consistently with their prior statements. (Evid. Code, § 780, subd. (g).) The testimony offered by Ms. Trenchuck and Ms. Baumgarten was consistent, in all meaningful respects, to the report taken by Ms. Roberson immediately after the incident and the interview with law enforcement later that afternoon.

45. On the other hand, respondent's testimony had some inconsistencies with her prior statements. (Evid. Code, § 780, subd. (h).) In her interview with Ms. Cuevas, respondent said that her "FUCKED up" text was in reference to picking up the wallet. In her written statement and at hearing, respondent stated that this text related to her choice to leave the campus after the incident. Additionally, her interview, written statement, and hearing testimony all offer differing accounts of who was in the teacher work room when respondent entered.

46. Complainant's witnesses' testimony was corroborated by interviews and reports made the day of the incident. Respondent provided no documentary evidence to corroborate her testimony, such as copies of her journal entries made at the time of the incident, her most recent performance reviews, or any character letters. (See Evid. Code, § 412 ["If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust."].) No witnesses testified on her behalf.

### **CAUSE FOR DISCIPLINE**

47. Based on the above, the testimony of complainant's witnesses was found to be more credible than respondent's testimony. As a result of this credibility

determination, the disputed facts regarding whether respondent stole Ms. Trenchuck's wallet have been established by clear and convincing evidence to a reasonable certainty. This misconduct establishes multiple bases upon which the Commission could discipline respondent's credentials, as detailed below.

48. Additionally, the allegations concerning respondent's messages to D.P. on the Remind app are undisputed. The evidence established that the Remind app was a communications platform that respondent had access to because of her position as a teacher with the District. That app was to be used for teachers to communicate with students about academic issues. Instead, respondent used it to pressure a 13-year-old student, who she believed was spreading rumors about her, and then directed the student to relay respondent's message to her younger sister, circumventing the girls' parents and school administrators.

In the context of the teacher-student relationship, respondent's messages could reasonably be construed as threatening an individual she thought was making allegations against her. Thus, respondent's inappropriate communications with D.P. also constitute cause for the Commission to discipline her credentials.

### **APPROPRIATE DISCIPLINE**

49. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214 (*Morrison*), the California Supreme Court concluded that a teaching credential cannot be disciplined for immoral conduct, unprofessional conduct, or conduct involving moral turpitude "unless that conduct indicates that the [educator] is unfit to teach." (*Id.* at p. 229.) The Court outlined factors for consideration when determining whether an educator's conduct demonstrates unfitness to teach, and the Commission adopted those factors by enacting California Code of Regulations, title 5, section 80302.



## **Likelihood of Adverse Effect**

50. Respondent's conduct directly harmed her coworker and the primary victim, Ms. Trenchuck, who still struggles with feelings of anxiety associated with the incident. Additionally, while D.P. was not upset by respondent's messages, her mother was concerned enough that she sought to report the inappropriate communications to Ms. Roberson. In sum, respondent's actions had an adverse effect on members of her educational community.

## **Type of Credentials Held**

51. Respondent's credentials authorize her to instruct students in a variety of school settings. Specifically, in her AVID class, respondent taught eighth grade students about communication skills to aid them in pursuing higher education. Thus, it is imperative that she model appropriate communication skills and integrity. Her conduct raises concerns over whether she is an appropriate role model for the students in her care.

## **Extenuating or Aggravating Circumstances**

52. Neither the Education Code nor the regulations adopted by the Commission specify what constitutes "extenuating circumstances." However, the California Code of Regulations defines "mitigating factor" as "an event or circumstance which demonstrates that the public, schoolchildren and the profession would be adequately protected by a more lenient degree of adverse action or no adverse action whatsoever." (Cal. Code Regs., tit. 5, § 80300, subd. (m).) The Commission's regulations also define "aggravating factor" as "an event or circumstance which demonstrates that a greater degree of adverse action for an act of professional misconduct is needed to

adequately protect the public, schoolchildren or the profession.” (*Id.*, at § 80300, subd. (b).)

53. Here, there is an absence of mitigating factors to substantiate any extenuating circumstances. Theft is a crime of dishonesty. Respondent’s decision to communicate inappropriately with D.P. after the theft demonstrates a pattern of poor choices. In sum, respondent’s actions demonstrate the need for a greater degree of adverse action to ensure public protection.

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

54. Respondent bears the sole blame for her conduct. She denies all wrongdoing, and thus offered no praiseworthy motives. Respondent’s motive for messaging D.P. was to pressure her student to remain silent about the theft allegations. Respondent’s self-serving motives weigh in favor of discipline.

### **Likelihood of Recurrence**

55. Respondent lacks insight into her conduct. Even while acknowledging that her messages to D.P. were inappropriate, she continued to justify them. Without understanding and addressing the causes underlying her misconduct, respondent cannot demonstrate she is unlikely to engage in similar misconduct in the future.

### **Publicity or Notoriety of Misconduct**

56. Neither party presented evidence about whether respondent’s misconduct was publicized. Nevertheless, her actions involved her coworkers and a student at Waterloo and the theft led to a police investigation.

## **CONCLUSION**

57. As discussed above, the evidence established that respondent engaged in two acts of misconduct alleged in the Accusation: the December 2019 theft of Ms. Trenchuck's wallet and the February 2020 inappropriate communications with a student. Complainant therefore established by clear and convincing evidence that respondent engaged in unprofessional conduct, evident unfitness for service, immoral conduct, and moral turpitude.

58. Nevertheless, at hearing, complainant only presented evidence regarding one of the Accusation's three theft allegations. Similarly, the allegations regarding inappropriate communication occurred with a single student and did not resume after the District disabled her school email. Accordingly, complainant has not shown by clear and convincing evidence that respondent engaged in persistent defiance of and refusal to obey the laws regulating the duties of persons serving in the public school system.

59. When considering the relevant *Morrison* factors, respondent's conduct demonstrated her unfitness to teach. Therefore, cause exists to discipline her credentials. Considering the seriousness of respondent's misconduct and her lack of rehabilitation, respondent's credentials should be revoked.

## **LEGAL CONCLUSIONS**

### **Burden and Standard of Proof**

1. Complainant bears the burden of proving the existence of grounds for disciplining respondent's credentials and must do so by clear and convincing evidence

to a reasonable certainty. (*Daniels v. Dept. of Motor Vehicles* (1983) 33 Cal.3d 532, 536 ["When an administrative agency initiates an action to suspend or revoke a license, the burden of proving the facts necessary to support the action rests with the agency making the allegation"]; *Gardener v. Com. on Prof. Competence* (1985) 164 Cal.App.3d 1036, 1039–1040 [applying the clear and convincing evidence standard to proceedings to discipline a teacher's credential].) "The courts have defined clear and convincing evidence as evidence which is so clear as to leave no substantial doubt and as sufficiently strong to command the unhesitating assent of every reasonable mind. It has been said that a preponderance calls for probability, while clear and convincing proof demands a high probability." (*In re Terry D.* (1978) 83 Cal.App.3d 890, 899; italics and citations omitted.)

## **Relevant Statutes and Precedent**

2. Education Code section 44421 provides that:

The Commission on Teacher Credentialing shall privately admonish, publicly reprove, revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

3. The California Supreme Court has recognized that the terms "immoral conduct," "unprofessional conduct," and "moral turpitude" substantially overlap one another and that conduct which constitutes one often includes the others. (See

*Morrison, supra*, 1 Cal.3d at p. 221, fn. 9.) “Unprofessional conduct” includes “that which violates the rules or ethical code of a profession or such conduct which is unbecoming a member of a profession in good standing.” (*Bd. of Education v. Swan* (1953) 41 Cal.2d 546, 553.) In describing what constitutes “immoral conduct” within the context of the Education Code, the court in *Board of Education v. Weiland* (1960) 179 Cal.App.2d 808, looked to precedent:

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 wil[l]ful, 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.

(*Id.*, at p. 811 [citations omitted].)

Moreover, these definitions “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.’ [Citation.]” (*San Diego Unified School Dist. v. Com. on Prof. Competence* (2011) 194 Cal.App.4th 1454, 1466.)

4. Unless a teacher has been convicted of a crime that requires automatic sanctions against her credentials, “fitness to teach is a question of ultimate fact.” (*Broney v. Com. on Teacher Credentialing* (2010) 184 Cal.App.4th 462, 475.) The

*Morrison* factors, used to determine the reasonableness of discipline, are also instructive on the issue of fitness to teach. (*Id.*, at p. 476.)

5. In the context of a “persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system,” (Ed. Code, § 44421), courts have defined “persistent” as “refusing to relent; continuing, especially in the face of opposition ... stubborn; persevering ... constantly repeated” or “continuing or constant.” (*Governing Board of the Oakdale Union School Dist. v. Seaman* (1972) 28 Cal.App.3d 77, 82 [citations omitted].) The number of times a teacher disobeys a school district’s rules is not the sole question. (*San Dieguito Union High School Dist. v. Com. on Prof. Competence* (1982) 135 Cal.App.3d 278, 287–289.) Rather, the inquiry must also examine whether the teacher’s disobedience is willful. (*Ibid.*)

## **Cause for Discipline**

6. The Commission may discipline a credential based on the holder’s unprofessional conduct. (Ed. Code, § 44421.) As discussed in Factual Findings 41 through 57, complainant established by clear and convincing evidence that respondent engaged in unprofessional conduct when she attempted to steal a coworker’s wallet at school and sent threatening communications to a student. On that basis, cause exists to discipline respondent’s credentials pursuant to Education Code section 44421.

7. The Commission may discipline a credential based on the holder’s evident unfitness for service. (Ed. Code, § 44421.) As discussed in Factual Findings 41 through 57, complainant established by clear and convincing evidence that respondent’s attempted theft at school and threatening communications to a student

show her evident unfitness for service. On that basis, cause exists to discipline respondent's credentials pursuant to Education Code section 44421.

8. The Commission may discipline a credential based on the holder's immoral conduct. (Ed. Code, § 44421.) As discussed in Factual Findings 41 through 57, complainant established by clear and convincing evidence that respondent engaged in immoral conduct when she attempted to steal a coworker's wallet at school and sent threatening communications to a student. On that basis, cause exists to discipline respondent's credentials pursuant to Education Code section 44421.

9. The Commission may discipline a credential "for any cause that would have warranted the denial of an application for a credential or the renewal thereof." (Ed. Code, § 44421.) An application for a credential may be denied if the applicant "has committed any act involving moral turpitude." (Ed. Code, § 44345, subd. (e).) As discussed in Factual Findings 41 through 57, complainant established by clear and convincing evidence that respondent committed acts involving moral turpitude when she attempted to steal a coworker's wallet at school and sent threatening communications to a student. On that basis, cause exists to discipline respondent's credentials pursuant to Education Code section 44421, as that statute relates to Education Code section 44345, subdivision (e).

10. The Commission may discipline a credential based on the holder's "persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system." (Ed. Code, § 44421.) As discussed in Factual Finding 58, while complainant established by clear and convincing evidence that respondent failed to comply with the laws regulating the duties of those serving in public schools, the evidence at hearing did not show that the violation was persistent.

On that basis, complainant did not establish this cause for discipline under Education Code section 44421.


## **Conclusion**

11. Cause exists to discipline respondent's credentials for the reasons explained in Legal Conclusions 6 through 9, individually and collectively. When all the evidence is considered, respondent did not produce sufficient evidence of her continued fitness to perform the duties authorized under her credentials, even on a probationary basis. Therefore, her credentials should be revoked.

## **ORDER**

The Clear Multiple Subject Teaching Credential and all other credentials, certificates, permits, and authorizations issued to respondent CaSandra Lynn Everitt are REVOKED.

DATE: February 15, 2023

  
[Jessica Wall \(Feb 15, 2023 08:37 PST\)](#)

JESSICA WALL

Administrative Law Judge

Office of Administrative Hearings