

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

**In the Matter of the Accusation against:**

**GEORGE JOSEPH MARIA, Respondent**

**Agency Case No. 2-13545868**

**OAH No. 2020100122**

**PROPOSED DECISION**

Tiffany L. King, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on March 23 and 24, 2021, from Sacramento, California.

Stephanie Alamo-Latif, Deputy Attorney General, represented complainant Mary Vixie Sandy, Ed.D., Executive Director of the Commission on Teacher Credentialing (Commission).

Ernest Tuttle IV, Attorney at Law, represented respondent George Joseph Maria, who was present.

Oral and documentary evidence was received, the record closed, and the matter submitted for decision on March 24, 2021.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. The Commission is responsible for the credentialing of public school teachers. On December 10, 2007, the Commission issued a Clear Single Subject Teaching Credential (credential) to respondent. The credential will expire on February 1, 2023, unless renewed or revoked.

2. At all relevant times, respondent was employed by the Stockton Unified School District (District) at its Cesar Chavez High School campus. Respondent resigned from his position, effective June 30, 2019. The student population at Cesar Chavez High School is predominately Hispanic and African-American, and/or from a low socioeconomic background. Many of its students are first-generation high school students, and a significant number are homeless.

3. On August 13, 2020, complainant made and filed the Accusation, seeking to revoke respondent's credential based on allegations he had sex with another teacher when he was scheduled to be teaching class, and that the encounter was witnessed and videoed by a student. Respondent timely filed a Notice of Defense. This hearing followed.

### **Conduct at Issue**

4. In the fall of 2017, respondent taught four periods a day. First through third periods were World History; fourth period was for Cyber High, an online curriculum program for students who were behind in credits. His lunch "hour" was the 40-minute period following second period. After school, he supervised the independent study program.

5. On September 12, 2017, during second period, respondent left his classroom, while it was still in-session. He went to the career center, located on the second story of the administrative building, an approximate two-minute walk from respondent's classroom. At the career center, he met with Ms. Ernest,<sup>1</sup> the head counselor, for less than one minute regarding a new independent study student. After leaving the career center, respondent ran into a female teacher, MC,<sup>2</sup> in the stairwell. MC asked respondent if he would help her find speakers for her classroom. The two teachers went to the third floor and entered a storage room to look for speakers. Unbeknownst to the teachers, a ninth-grade student, CT,<sup>3</sup> was already in the storage room. When the teachers entered, Student CT hid behind some storage boxes.

6. Shortly after entering the storage room, the teachers began kissing. Student CT recorded the teachers with his cellular telephone; the video was offered and admitted at hearing. In the video, respondent remained standing, pulled down his pants and underwear. MC, who was sitting, began to perform oral sex on him. After one to two minutes, MC stopped, stood up and walked out of frame. Respondent remained standing in the same place, with his hands in his groin area.<sup>4</sup> Less than a

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<sup>1</sup> Ms. Ernest's first name was not in the record.

<sup>2</sup> MC's initials are used to protect her privacy.

<sup>3</sup> Student CT's initials are used to protect his privacy.

<sup>4</sup> The Accusation alleges that, after MC stopped performing oral sex respondent masturbated to ejaculation. He then cleaned himself with a piece of binder paper, which he crumpled and discarded in a waste bin in the room. Respondent denies these allegations. Other than respondent's testimony, there is no direct evidence to establish

minute later, MC returned and sat down in front of respondent. Respondent bent down and kissed MC on the mouth, after which both teachers laughed.

7. The storage room is an “off-limits” area to students without supervision, although students were known to access it without permission. Student CT told school administrators he had entered the storage room to retrieve a sweater he had left behind a day earlier.

## **District Investigation**

8. Craig Wells was the Assistant Superintendent of Human Resources for the District from 2011 until his retirement in 2019. On September 12, 2017, he was contacted by Cesar Chavez High School Assistant Principal Roberts and advised of Student CT’s allegations against respondent and MC. Mr. Wells prepared the necessary paperwork to place both teachers on paid administrative leave pending an investigation. He then contacted the teachers’ union representatives and asked them to meet at campus that afternoon.

9. Mr. Wells briefly interviewed respondent on the afternoon of September 12, 2017. Respondent admitted to engaging in sexual acts with MC, but was not specific. Respondent’s union representative asked for more time to retain counsel. Respondent was then placed on paid administrative leave and sent home. Mr. Wells also interviewed MC, who admitted she was the woman depicted in the video.

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precisely what he was doing to himself after MC had stopped or where he disposed of the binder paper. The video is grainy and blurry. Student CT did not testify at hearing, and his statements to the administration on these points are inadmissible hearsay.

10. Mr. Wells interviewed respondent a second time on October 5, 2017. During the interview, respondent was represented by his attorney, Mr. Tuttle. Mr. Wells showed respondent photo stills extracted from the video; respondent admitted he and MC were the two individuals depicted in the photos. He admitted he left his in-session class during second period and went to the career center to meet with Ms. Ernest about a new independent study student. Respondent explained he left his in-session classroom "fairly regularly," one to two times a week; usually, he left to meet with Ms. Ernest at the career center. He always asked a campus security monitor (CSM) or another teacher to supervise his classroom in his absence.

11. Respondent stated he ran into MC after leaving the career center and they went to the third floor to look for some speakers. Once there, he admitted to pulling down his pants and allowing MC to orally copulate him. Respondent stated he had a "very close friendship" with MC for the past year, but asserted this was the first time they had been physically intimate.

12. By letter dated May 22, 2018, the District issued respondent a Notice of Intent for Dismissal based on the September 12, 2017 incident. Following a Skelly hearing, a Statement of Charges was filed against respondent. In November 2018, respondent resigned from his position at Cesar Chavez High School pursuant to a stipulated settlement agreement with the District. His resignation was effective June 30, 2019.

13. The District did not receive any formal complaints or inquiries from students, parents, or the public regarding respondent and MC's behavior. There was no known media coverage or other publicity concerning the incident. However, there were rumors and gossip, and respondent's separation was discussed amongst the teaching staff as well as students for some time.

## **Respondent's Evidence**

### **RESPONDENT'S TESTIMONY**

14. Respondent is 45 years old. He is married to his high school sweetheart, with whom he has twin sons, age 16. He was born and raised in Stockton and had a difficult upbringing. This experience helps him understand the "pitfalls and traps" that often befall inner city youth, and caused him to pursue a career in education.

15. In 2004, respondent received an emergency credential. He began working as a substitute teacher with the District during the 2004/2005 school year. He was later offered a permanent position at Fremont Middle School, where he taught for two years. He received his preliminary credential in 2005, and a single subject credential in social sciences in December 2007.

16. Respondent began teaching at Cesar Chavez High School during the 2006/2007 school year. From 2006 until 2018, he taught social science, geography, humanities, history, and economics. He also supervised the independent study program, and the Credit Recovery program, also known as Cyber High.

17. Outside of his usual teaching duties, respondent served as athletic coach, department chair, afterschool program coordinator, student club advisor, and summer school instructor. From 2007 to 2017, he also facilitated the Career Technical Education (CTE) Pathway program, which helped students find job-shadowing and internship opportunities in public service.

18. Respondent was well-respected by colleagues and students alike. Because of his background, he was able to communicate and relate well with students, especially students who struggled with school, home, and other life challenges. Other

than the subject incident, his performance evaluations and feedback were always very positive.

### **September 12, 2017**

19. Respondent was teaching his honors class during second period. Toward the middle of class, while the students were studying on their own, the assistant principal entered the classroom with a new student for independent study. The assistant principal handed respondent the new student's paperwork, so that it would be completed by the time independent study began after school. Respondent accepted the paperwork. He then requested CSM Melai to watch his classroom so he could run the paperwork over to the career center.

20. After meeting with Ms. Ernest, respondent entered the stairwell and ran into MC. She asked respondent about computer speakers for her classroom. MC had previously asked respondent to help her find some speakers, but he had not been able to locate any. Respondent told MC there was "one last place" he had not yet checked: the storage room, Room A302 on the third floor.

21. MC followed respondent to the third floor. At the time, respondent believed he had been away from his classroom "one to two minutes"; he did not think it would take more than "three or four minutes" to look for the speakers. Once on the third floor, he tried to open the entry door to Room A302, but it was locked and barricaded. He unlocked and entered Room A301, and unlocked the connecting door to Room A302. Respondent quickly scanned Room A302 for the speakers, but found none. Respondent and MC then entered the room and began looking through boxes for speakers. Respondent turned around and "bumped into" MC, who was standing in close proximity to him. MC leaned in toward respondent. Respondent kissed her and

MC kissed him back. MC placed her hands on respondent and things “escalated.” MC said something to respondent,<sup>5</sup> respondent agreed, then MC began to perform oral sex on him. After 90 seconds to two minutes, respondent realized what they were doing was “not ok,” and he told MC, “no, no, no --- stop!”

22. Respondent denied that he then masturbated or ejaculated in front of MC asserting, “that is disgusting behavior, it absolutely did not happen whatsoever.” While he conceded his actions were wrong, he found the allegation he masturbated particularly offensive and it likened him to a “callous brazen animal.” Rather, respondent claimed that after MC stopped performing oral sex, he attempted to clean her saliva from his groin area using a piece of binder paper he found. After wiping his hands and groin, he crumpled up the paper and placed it in his pants pocket. Although respondent can be seen laughing on the video, he described himself as being in a “state of shock.” After he and MC left Room A302, respondent threw away the crumpled up paper in the men’s restroom waste bin and washed his hands. He sent a text message to his wife that they needed to talk. He then returned to his classroom.

23. At the time, respondent had “no idea” that Student CT was present in Room A302 and witnessed the sexual encounter. He did not expect any student to be present in a dark storage room, which had a barricaded entry door, and required unlocking two other doors to gain access.

24. After second period finished, respondent went to lunch and tried to compose himself. At the end of the lunch period, Student CT approached respondent,

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<sup>5</sup> Respondent did not recall what MC had said.



pulled up a chair, and sat down. Respondent was familiar with the student; he had provided him food on previous occasions. Student CT asked respondent "how's your day going," then informed him of the video of the sexual encounter with MC. Student CT demanded respondent pay him \$250 to erase the video or he would show the video to the administration. Respondent was "in shock." He walked out of the classroom and informed a CSM that Student CT had a video he needed to show to the administration. Respondent returned to his classroom to teach third period, and waited to get called to the office.

### **Post-Resignation**

25. After resigning in November 2018, respondent did not seek another teacher position immediately. He was in a "bad state of mind," and did not believe he was mentally ready to carry out his teacher duties successfully. The following year was "extremely difficult." He lost his house and all of his savings. He had to rebuild his relationship with his wife and sons.

26. By 2019, with the encouragement and support of his family and friends, respondent decided to return to teaching. His passion and desire were still there; teaching made him happy and gave him a daily purpose. He began applying for positions for the 2019/2020 school year.

27. In November 2019, respondent authored a letter to the committee members for the Commission's Division of Professional Practices, who were scheduled to review respondent's matter at the February 2020 meeting. In his letter, respondent wrote:

As much as I think about that moment and decision, I  
cannot go back and make it right. I can only move forward

promising my wife, children, friends and community that the man I was in that moment is not the man that I truly am. I am a family man, educator, caring and giving man of faith. I have never at any point in the school district's investigation denied my involvement or denied responsibility. I have admitted my lapse in judgment had emotional decision [*sic*] to my wife, my school administration and my community.

[¶] . . . [¶]

I hope that the Committee of Credentials can view the totality of my career and the person who I am rather than only see me in this momentary lapse of judgment. I can be trusted as a professional and with students. If given the opportunity to continue this profession, I will not disappoint the Committee, my wife, my family or my students. I am a genuine, loving, honest, empathetic, selfless person that loves his family, friends, and career deeply. I am constantly helping others whether a friend or a stranger. I have made mistakes but learn from my mistakes so that I never make the same mistake twice. This is who I truly am as a person.

28. Respondent was hired by the Lodi Unified School District, teaching at Delta Sierra Middle School for the 2019-2020 and 2020-2021 school years. He teaches seventh grade world history, serves as the department chair for social sciences, and also coordinates the after-school tutoring program. He is well-liked by staff and

students alike. A few days prior to hearing, he was offered a contract for the 2021-2022 school year.

29. Respondent believes he is an “effective teacher today,” even more so than in 2017. He explained that, in the fall of 2017, he was “caught up on” himself, was behind in his master’s program, had personal turmoil including the death of three friends, and was not communicating with his wife. He has since learned that communication and seeking help when needed is paramount. This entire experience has made him a better educator. He has become more cognizant of his duties, expectations and role. He is “hyper-vigilant” with professionalism and does not socialize with colleagues outside of school. At the end of the day, he goes home, grades papers, and plans his lessons. While in-session, he does not leave his classroom for any reason, even for school-related matters.

30. At hearing, respondent described his experience teaching middle school as “amazing but bittersweet,” given the possibility his credential will be revoked preventing his return. He enjoys teaching “every single day” and finds it “extremely rewarding” to help middle schoolers develop the confidence and academic skills they will need to be ready for high school. He knows he serves as a role model for his current students. He is a moral and good person, and one moment of poor judgment does not define him. Regardless of the outcome, respondent is determined to continue to find a way to help young people succeed – as a teacher or in some other capacity.

### **CHARACTER EVIDENCE**

31. Respondent called seven character witnesses to testify on his behalf. The witnesses are current and former colleagues, friends, and his current school’s principal.

32. Thomas "Mike" Areida has worked at Cesar Chavez High School since the 2008/2009 school year. From 2008/2009 to 2013/2014, he taught in the History Department. Presently, he serves full-time as the Student Activities Director, coordinating student leadership and student government. He has known respondent since 2008/2009, and has observed him in the classroom several times. Mr. Areida lauded respondent as an "excellent teacher" who cares about his students and "belongs in the classroom." Mr. Areida is also a minister and runs a non-profit ministry. He has remained in touch with respondent over the last three years. Although respondent is not involved in the ministry, his sons participate. Mr. Areida learned about respondent's behavior from another teacher and has talked about it with respondent. He noted that respondent was devastated by his actions, and how it affected him, his family, and his friends. Mr. Areida does not disregard respondent's mistake, but believes he should be allowed to continue teaching and continue to make a positive impact on young people's lives.

33. Patricia Rivera, Lisa Reese, and Shane Gruno are all teachers at Cesar Chavez High School and worked with respondent during his tenure there. These colleagues generally praised respondent's ability to reach and connect with students, his dynamic teaching style, and his advocacy for students. These teachers are aware of some of the conduct leading to respondent's resignation. However, some were unaware the incident occurred while respondent was supposed to be in-session, or that a student had witnessed the encounter. Nonetheless, those facts did not change their opinion of respondent.

34. James Binder is a CSM at Cesar Chavez High School and worked alongside respondent. He sometimes supervised respondent's classroom when respondent needed to step away momentarily. Mr. Binder described respondent as a

“stand-up guy” who served as a mentor for his students. He learned of the details leading to respondent’s resignation through rumors on campus, and later discussed it with respondent. None of it changed his opinion of respondent.

35. Jason Velo is the Assistant Director of Curriculum and Instruction at ABLE Charter School (ABLE) in Stockton. He was previously a department head and sat on many hiring panels for teachers. He first met respondent when respondent interviewed for a position with the school for the 2018/2019 school year. During the interview, respondent disclosed the incident which led to his resignation from Stockton USD. Respondent was also required to conduct an in-person demonstrative lesson. He performed very well, exhibiting strong competencies. ABLE would have offered respondent a teaching position but for the uncertainty surrounding his future credential status. If respondent is allowed to maintain his credential, Mr. Velo noted ABLE would still be interested in hiring him. Since the interview, Mr. Velo has stayed in contact with respondent, and forwarded him job postings from time to time.

36. Brad Watson is the principal at Delta Sierra Middle School, and sat on the hiring panel that interviewed respondent. Mr. Watson noted that during the interview respondent “came across well,” discussed his ability to connect with students, and offered specific details about how he could help students. Mr. Watson observed respondent in the classroom several times during the 2019/2020 school year, and described him as a “dynamic teacher” who is “very patient” and connects well with students. When the pandemic hit and the school transitioned to distance learning, respondent did not “miss a beat from the online format to what he did in person.”

Respondent did not disclose the reason for his resignation from Stockton USD at the interview or before he was hired by Lodi USD. However, he later told Mr. Watson that there was an incident at his old school involving misconduct with another

employee on campus which resulted in his resignation. Respondent appeared very remorseful and did not want his past to tarnish his reputation at the middle school. Mr. Watson did not seek further details and his impression of respondent as an educator did not change.

At hearing, Mr. Watson learned the specific details of respondent's conduct for the first time including: respondent engaged in sexual acts on campus during school hours; at the same time, respondent's class was in-session; and, a student had witnessed the encounter and recorded it with his cellular phone. Mr. Watson expressed surprise and appeared visibly disturbed by the information. He agreed it is never appropriate to engage in oral sex at school, and that doing so on campus during school hours did not reflect good moral values.

## **Analysis**

37. It is undisputed that respondent engaged in sexual acts with another teacher on campus while he was scheduled to be teaching an in-session class. It is also undisputed that the encounter was witnessed and recorded by Student CT. There was insufficient evidence to establish the additional allegations that respondent masturbated or ejaculated in front of MC, or that he disposed of a piece of soiled binder paper in the storage room's waste bin. However, the lack of evidence establishing the latter allegations does not lessen or detract from the seriousness of the undisputed misconduct.

38. Equally serious is respondent's decision to engage in such conduct while his class was still in-session. While teachers are generally permitted to step away from their classrooms briefly, with appropriate coverage, to use the restroom or perform discrete administrative tasks, respondent exercised extremely poor judgment after

leaving his class for an extended period of time. Even if it was appropriate and necessary to see Ms. Ernest, at that time, to discuss a new independent study student, respondent could not explain why it was more important to help MC look for speakers than returning to his classroom.

39. Respondent repeatedly made poor decisions on September 12, 2017. First, he decided it was acceptable to leave his in-session class for an extended period. He testified it took him less than "one minute" to walk to the second floor of the administration building and talk to Ms. Ernest, and that he had estimated it would take another "two or three" minutes to help MC look for speakers, meaning he would have been away from class for no more than "three or four minutes." Assuming this estimate was reliable at the time, respondent was delayed when the door to Room A302 was locked and he had to unlock Room A301 to access A302. He was further delayed when a quick visual scan of the room did not reveal the presence of any speakers. He then decided to enter the storage room and look through boxes to find them. At this point, his absence from the classroom was far greater than five minutes. While it is unknown how long that entire encounter lasted, the video recording was three minutes long and did not include respondent cleaning himself, leaving the room, going to the men's restroom to wash up, and walking back to his classroom. Second, respondent decided to engage in a non-critical, non-time sensitive hunt for speakers, when he should have gone back to his classroom. Third, respondent decided to engage in a sex act on campus during schooltime.

40. In mitigation, the evidence clearly established that, prior to the incident, and at his current position, respondent has enjoyed a reputation of being an excellent educator with a passion for teaching and the ability to connect and relate to students, making him a role model and mentor. At hearing, respondent expressed sincere

remorse for his misconduct, as well as the negative effects it has had on his career, family and friends.

41. Notwithstanding the above, respondent failed to demonstrate he had fully accepted responsibility for his actions. (*Seide v. Committee of Bar Examiners of the State of California* (1989) 49 Cal.3d 933, 940 [“Fully acknowledging the wrongfulness of his actions is an essential step towards rehabilitation”].) Rather, he attempted to lessen the severity of his wrongdoing by maligning Student CT’s reputation and the fact Student CT was not supposed to be in the room at that time. Respondent was also hyper-focused on the unproven allegations that he had masturbated and ejaculated in the room, claiming the District had portrayed him as an “callous brazen animal.” The existence or nonexistence of these facts does not lessen the seriousness or severity of the undisputed misconduct or establish that respondent as more or less moral.

In addition, respondent’s testimony lacked perspective, insight, and credibility. Respondent seemed concerned primarily about what impact the incident had on him personally – losing his job, having to face his wife and children, losing his home and other financial burdens, and the possibility of losing his credential. He demonstrated little concern for how his actions affected the school, which had to scramble to replace two teachers six weeks into a new school year; his students whose curriculum and semester were disrupted, and for whom he previously served as a role model; or for Student CT who, regardless of whether or not he should have been present, ultimately witnessed the encounter. Toward the end of his testimony, respondent stated his regret that he could not apologize to Student CT. But given his earlier testimony and repeated attempts to malign Student CT’s character, respondent’s apologies came across as insincere and self-serving.



Finally, respondent was not forthcoming with his current employer about his past misconduct. While respondent disclosed generally that he had engaged in wrongdoing with another teacher on campus, he did not disclose all of the relevant details. The fact Mr. Watson did not request or want to hear the specific details is irrelevant. Accepting responsibility requires one to be honest and forthright. Respondent did not even disclose the full details to Mr. Watson prior to calling him as a witness and allowed Mr. Watson to learn the salient facts for the first time on cross-examination.

42. Given the above, and when the evidence is considered as a whole, complainant established that respondent engaged in unprofessional conduct, demonstrated evident unfitness for service, and engaged in acts involving moral turpitude. For the reasons set forth in the Legal Conclusions, his credential must be revoked.

## **LEGAL CONCLUSIONS**

1. In an administrative proceeding in which a licensing agency seeks the suspension or revocation of an existing, professional license, the standard of proof is clear and convincing proof to a reasonable certainty. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 583.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Brooks* (2008) 169 Cal.App.4th 176, 190.)

2. The burden of proving the charges rests upon the party making the charges. (*Lopez v. Imperial County Sheriff's Office* (2008) 165 Cal.App.4th 1, 4.)

Therefore, complainant has the burden of establishing by clear and convincing evidence that grounds exist to impose administrative discipline against respondent's teaching credential.

## **Causes of Action**

3. Pursuant to the Education Code,<sup>6</sup> commencing with section 44000, and California Code of Regulations, title 5, commencing with section 80000 (Regulation), the Commission is responsible for credentialing teachers in public schools in California, including issuing credentials and taking adverse action against applicants and credential holders.

4. Section 44421 authorizes the Commission to take adverse action against a credential or certificate of one who has engaged in immoral or unprofessional conduct, persistently defied or refused to obey the laws regulating the duties of persons serving in the public school system, demonstrated evident unfitness for service or for any cause which would have warranted the denial of an application for, or a renewal of, a credential.

5. Section 44345, subdivision (e), provides that the Commission may deny any application for the issuance of a credential made by any applicant who falls under specified categories including one who has "committed any act involving moral turpitude."

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<sup>6</sup> Unless noted, all further statutory references are to the Education Code.

## **IMMORAL AND UNPROFESSIONAL CONDUCT**

6. Terms such as “immoral conduct” and “unprofessional conduct” are so general that they must be given meaning in relation to the particular profession involved. Although a teacher may have committed an immoral act, unless it indicates his unfitness to teach, it is not an appropriate basis for his discharge. (*Morrison v. State Bd. of Education* (1969) 1 Cal.3d 214, 220.) The determinative test of a charge of immoral or unprofessional conduct is fitness to teach, which is a question of ultimate fact. (*Bd. of Education v. Jack M.* (1977) 10 Cal.3d 691.)

7. There is broad discretion in determining what constitutes unfitness to teach and immoral conduct, and in deciding whether the teacher should be sanctioned. (*California Teachers Assoc. v. State of California* (1999) 20 Cal.4th 327.) The proven conduct should be looked at in the aggregate. It is not necessary to determine if each and every act demonstrates unfitness; it is proper to examine the totality of the offensive conduct. “When the camel’s back is broken we need not weigh each straw in its load to see which one could have done the deed.” (*Woodland Joint Unified School Dist. v. Com. on Prof. Competence* (1992) 2 Cal.App.4th 1429, 1457.)

8. The term “immoral” has been defined generally as that which is 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. (*Orloff v. Los Angeles Turf Club* (1951) 36 Cal.2d 734, 740.) The phrase “unprofessional conduct” is conduct such as to indicate unfitness to teach. (*Perez v. Com. on Prof. Competence* (1983) 149 Cal.App.3d 1167, 1174.)

## UNFITNESS TO TEACH

9. The criteria set forth in *Morrison, supra*, are embodied in California Code of Regulations, title 5, section 80302 and itemize the factors to consider when evaluating the fitness of a teacher. These factors include the extent to which the conduct has adversely affected students, fellow teachers, or the educational community and the degree of impact; the proximity or remoteness in time of the conduct; the type of certificate held; the extenuating or aggravating circumstances surrounding the conduct; the praiseworthiness or blameworthiness of the motives resulting in the conduct; the likelihood that the questioned conduct will recur; the extent to which adverse action may have a chilling effect upon the constitutional rights of the person involved or on other certificated persons; and the publicity or notoriety given to the conduct. These factors are relevant to the extent that they assist in determining the teacher's fitness to teach, i.e., in determining whether the teacher's future classroom performance and overall impact on his students are likely to meet professional standards. (*Broney v. California Com. on Teacher Credentialing* (2010) 184 Cal.App.4th 462, 473-474.)

10. Applying the *Morrison* factors here, respondent's conduct adversely affected and impacted the school, its staff and students, and in particular, Student CT. Rumors and gossip swirled around campus for some time following respondent's departure. His failure to accept full responsibility for his poor judgement and inappropriate behavior indicates a likelihood that such poor judgment would recur. The incident occurred more than three and a half years ago. There was no evidence of extenuating circumstances which would excuse respondent's behavior, nor was there any evidence that respondent had a praiseworthy motive for his actions. Finally, taking disciplinary action against respondent would not inflict a chilling effect upon the

constitutional rights of respondent or other teachers. For all of these reasons, cause exists to discipline respondent's teaching credential for immoral and unprofessional conduct pursuant to section 44421.

### **EVIDENT UNFITNESS FOR SERVICE**

11. "Evident unfitness for service" means clearly not fit, not adapted to, or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies. Unlike "unprofessional conduct," "evident unfitness for service" connotes a fixed character trait, presumably not remediable merely on receipt of notice that one's conduct fails to meet professional standards. (*Woodland Joint Unified School Dist. v. Com. on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) As discussed in Factual Findings 37 through 41, respondent's conduct evidenced he lacks the good judgment and fitness expected of a teacher. The fact he has yet to accept full responsibility for his actions indicates that notice of his failure to meet professional standards is insufficient. Accordingly, cause exists to discipline respondent's teaching credential for evident unfitness for service pursuant to section 44421.

### **ORDER**

Respondent George Joseph Maria's Clear Single Subject Teaching Credential is hereby REVOKED.

DATE: May 3, 2021



TIFFANY L. KING

Administrative Law Judge

Office of Administrative Hearings