

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

In the Matter of the Accusation against:

LYDIA MORALES, Respondent.

Agency Case No. 2-190568142

OAH No. 2023010101

PROPOSED DECISION

Irina Tentser, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on July 18, 2023 by videoconference.

Matthew A. King, Deputy Attorney General, appeared on behalf of complainant Mary Vixie Sandy, Ed.D., Executive Director, California Commission on Teacher Credentialing (Commission).

Tamra M. Smith, Attorney, appeared on behalf of Lydia Morales (Respondent), who was present throughout hearing.

Testimonial and documentary evidence was received. At hearing, the ALJ granted complainant's unopposed motion to issue a protective order, placing Exhibit 16 under seal.

The record was closed and the matter was submitted for decision on July 18, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. Complainant filed and served an Accusation while acting in her official capacity. Respondent filed a notice of defense.
2. On June 10, 2019, the Commission issued a Preliminary Career Technical Education Teaching Credential to Respondent. The credential was in full force and effect at all relevant times and expired on July 1, 2022. On January 27, 2009, the Commission issued a Clear Multiple Subject Teaching Credential to Respondent. The credential was in full force and effect at all relevant times and will expire on February 1, 2024.
3. Respondent previously held a General Education Limited Assignment Single Subject Teaching Permit, issued on October 3, 2019, which expired on November 1, 2020; a Preliminary Multiple Subject Teaching Credential issued on May 11, 2006, which expired on June 1, 2011; and a Certificate of Clearance, issued on April 19, 2005, which expired on May 1, 2010.

Criminal Convictions

2021 DRIVING UNDER THE INFLUENCE (DUI) CONVICTION

4. On October 29, 2021, in the case of *People v. Morales* (Super. Ct. L.A. County, 2021, No. 1ES01155), Respondent pled nolo contendere to and was convicted of one count of violating Vehicle Code section 23152, subdivision (b) (driving while having a .08 percent or higher blood alcohol concentration), a misdemeanor. The court found a factual basis for and accepted Respondent's plea. The court suspended

imposition of sentence and placed Respondent on summary probation for 48 months under terms and conditions including that she pay fines, assessments and fees, enroll in and complete a nine-month licensed first-offender alcohol and other drug education and counseling program, not drive a vehicle with any measurable amount of alcohol or drugs in her blood, enroll in and complete the Hospital and Morgue (HAM) program, complete the Victim Impact Program (VIP) of Mothers Against Drunk Driving (MADD), comply with installation of an ignition interlock device, and obey all laws.

5. The facts and circumstances underlying Respondent's 2021 conviction are that on November 14, 2020 at approximately 12:44 pm, an officer on patrol in a marked black and white police car observed "a large amount of white smoke in the intersection" and saw Respondent's car in a lane of westbound Telegraph Road, east of Greenwood Avenue, revving its engine with the wheels screeching without the car moving. (Exh. 16, pp. A86-A87.) The officer observed the car appeared to be stuck on the north curb of Telegraph Road. Respondent's vehicle then slowly traveled northbound on Greenwood Avenue at approximately 10 miles per hour (MPH), and went over the concrete center island. The officer positioned his patrol vehicle behind Respondent's vehicle and activated his vehicle's forward facing red lights and siren. Respondent's vehicle subsequently collided head on with another vehicle. After Respondent's vehicle collided with the other vehicle, her vehicle continued for approximately 200 feet at approximately 10 MPH and veered into the northbound second lane of Greenwood Avenue and stopped. The officer observed that Respondent's front right wheel was gone and the vehicle, as a result, was on its rim. (*Ibid.*)

6. When the officer approached Respondent's vehicle, he saw Respondent's small child looking out of the rear passenger window. (Exh. 16 at pp A86-A87.)

According to the officer, it did not appear Respondent's child was secured in a car seat. The officer exited his vehicle and approached Respondent's vehicle; he saw two small female children also in Respondent's vehicle. As observed by the officer, both of Respondent's children, then ages 5 and 4, "were standing on the rear floorboard and were crying and looked very scared." (*Id.* at p. A87.) Respondent stated to the officer, "I just want to go home, I'm sorry I relapsed." The officer asked one of Respondent's children if she was okay and she stated she was. In response to the officer asking Respondent's child what happened, the child stated, "My mom was going fast and crashed." The officer asked Respondent's child if Respondent had been drinking and the child stated, "[S]he was drinking at home in her room." (*Ibid.*) Neither child complained about pain and the officer did not observe any visible injuries.

7. The officer then spoke to Respondent, who told him, "I just want to go home." (Exh. 16 at p. A87.) Respondent displayed objective symptoms of alcohol intoxication (i.e., red and watery eyes and slurred speech) and the officer could smell "a strong odor of an alcoholic beverage emitting from her breath and person." (*Id.*) When asked if Respondent had had anything to drink, Respondent stated, "I had wine last night." (*Id.*) In addition to telling the officer Respondent drank wine the prior evening, Respondent also told the officer she drank wine the morning of the accident. (Exh. 16 at p. A85.)

8. Respondent did not successfully complete the field sobriety test and was arrested by the officer for driving under the influence of a controlled substance under Vehicle Code section 23152, subdivision (a). Two chemical tests were administered at the Montebello Police jail, each measuring Respondent's blood-alcohol content as .27 percent. After the tests' results, police also charged Respondent with violation of Vehicle Code sections 23152, subdivision (b) (DUI with BAC over .08

percent), 2002, subdivision (a) (Hit and Run), and Penal Code section 273, subdivision (a) (Child Endangerment).

9. Based on Respondent's compliance with all terms and conditions, the court terminated Respondent's probation on March 13, 2023. (Exh. B, p. B12.)

2005 DUI CONVICTION

10. On June 30, 2005, in the case of *People v. Morales* (Super. Ct. L.A. County, 2021, No. 5MT05360), Respondent pled guilty and was convicted of one count of violating Vehicle Code section 23152, subdivision (b) (driving while having a .08 percent or higher blood alcohol concentration), a misdemeanor. The court advised Respondent and Respondent understood that being under the influence of alcohol impairs her ability to safely operate a motor vehicle, and it is extremely dangerous to human life to drive while under the influence of alcohol. Respondent was further advised by the court that if she continues to drive while under the influence of alcohol, and as a result of her driving, someone is killed, Respondent can be charged with murder. (Exh. 18, p. A104.) The court suspended imposition of sentence and placed Respondent on summary probation for 36 months under terms and conditions including that she pay fines, assessments and fees, enroll in and complete a three-month licensed first-offender alcohol and other drug education and counseling program, not drive a vehicle with any measurable amount of alcohol or drugs in her blood, and obey all laws.

11. The facts and circumstances underlying Respondent's 2005 DUI conviction were based on Respondent operating a vehicle on April 18, 2005 with a blood alcohol concentration level of .19 percent.

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12. Respondent complied with the terms of her 2005 DUI conviction probation.

Mitigation and Rehabilitation

13. Respondent took full responsibility for the crimes that led to her convictions. For most of her adulthood, Respondent was a social drinker who was not addicted to the use of intoxicating beverages. She attributed her 2005 DUI conviction to an error in judgment in drinking to excess to celebrate St. Patrick's Day. However, Respondent's social drinking eventually turned into the disease of alcoholism in the years prior to her 2021 DUI conviction. She explained her excessive drinking as a dysfunctional coping mechanism for the domestic abuse she suffered by her now ex-husband and her then-undiagnosed and unmedicated major depressive disorder and anxiety.

14. Since her 2021 DUI conviction, Respondent has dedicated herself to improving the quality of her life and that of her daughters by seeking proper treatment and support to overcome her past challenges. Throughout her struggles, Respondent has maintained her dedication to her teaching career and maintains she was an excellent teacher. Respondent's claims of teaching excellence were credibly corroborated at hearing by the testimony of her current and former teaching co-workers. Respondent maintains her past issues with alcohol never affected the quality of her teaching or negatively impacted her students. In corroboration of Respondent's claims, no evidence of any prior discipline related to Respondent's approximately 15-year teaching career was submitted at hearing.

15. Respondent was subjected to physical and emotional abuse throughout her marriage. Based on his violent conduct towards Respondent, the court issued two

separate protective orders for domestic violence against Respondent's ex-husband in 2018 and June 2020. (Exh. L.) Respondent separated with her ex-husband in June 2020 four months prior to Respondent driving under the influence of alcohol on November 14, 2020. During the 2020 time period, Respondent was teaching school online due to the COVID-19 Pandemic from the home she then shared with her ex-husband, who was also at home and not working due to a then pending workers' compensation claim. In addition, Respondent's young children were at home and attending school online. The realities of the COVID-19 Pandemic home environment negatively impacted the family and caused additional conflict between Respondent and her husband. Respondent's mental health suffered from the ongoing domestic abuse she was suffering at the hands of her ex-husband. Consequently, Respondent turned increasingly to alcohol to cope with her abusive husband and the pressure of balancing her work and parenting demands. In 2020, Respondent took a medical leave of absence to obtain treatment for her issues. (Exh. S.)

16. At hearing, Respondent testified that she is a recovering alcoholic who understood the severity of the factual allegations against her. Respondent deeply regrets relapsing and repeating her 2005 actions in driving while under the influence by again driving while under the influence with her young daughters in the car in November 2020, putting her children in extreme danger. While Respondent admits to driving while under the influence and that she was addicted to the use of intoxicating beverages to excess at the time of the 2020 accident, Respondent disputes she failed to secure her daughter in car seats prior to the accident and attempted to flee from the accident site. On the morning of the accident, Respondent testified she was driving to take one of her daughters to a doctor's appointment. Respondent testified it was her habit and custom to always secure her daughters prior to operating a vehicle. Respondent points to the fact that her daughters sustained no injuries during the

accident as corroborating her testimony. Respondent also disputed she was attempting to leave the accident scene, testifying she was trying to find a safe place to pull her car over after the accident. Respondent's self-serving testimony regarding her intent and actions on the day of the accident is well-meaning, but unreliable, because her ability to recall events was clearly negatively impacted by her alcoholic impairment on the day of the accident. Nevertheless, Respondent is clearly a dedicated mother and educator who is passionate about instilling a sense of achievement and perseverance in her students and believes that teaching is her duty to her community.

17. Respondent sobriety date is November 14, 2020. Since November 11, 2020, Respondent has participated in Sober Mom's AA meetings two to three times per week. (Exh. C.) During December 2020, she also attended morning and evening AA meetings. (*Id.*) Respondent was admitted to Hazelden Betty Ford Foundation for alcohol and/or drug addiction for intensive outpatient treatment on October 20, 2020 and stepped down to outpatient level of treatment on December 29, 2021. (Exh. F.) She completed the program in good standing and was discharged on June 30, 2021. Respondent continues to voluntarily attend AA classes weekly online.

18. Respondent suffered severe consequences for her reckless actions, temporarily losing custody of her daughters for over a year due to the circumstances underlying her 2021 DUI conviction. On April 27, 2021, during the disposition hearing, the court ordered Respondent to participate in individual counseling, parenting classes, a substance abuse program with aftercare, Alcohol Anonymous (AA) meetings, weekly random or on demand drug/alcohol testing, and unmonitored visits. (Exh. K, p. B171.) Respondent complied with all Department of Child and Family Services (DCFS) requirements. In compliance with the DCFS' referral, Respondent received services at

Familias Unidas, enrolling and completing a 14-week parenting class between November 30, 2020 and March 1, 2021. (Exh. D, p. B145.)

19. Between April 12, 2021 and April 8, 2022, Respondent completed 48 individual therapy session at Familias Unidas focused on substance abuse, domestic violence, anger management/triggers, and child endangerment. (Exh D., pp. B141-B143.) On October 27, 2021, Respondent's two daughters were released back into her care by DCFS.

20. In her April 25, 2022 Social Worker Report, Respondent's dedication to her recovery was recognized and the social worker praised Respondent's cooperation with DCFS and providing her daughters with "a loving and stable home environment, as well as ensuring their medical, dental, and emotional needs are met." (Exh. D, pp. B170-B171.) On May 3, 2022, the juvenile dependency/adoption division of the Los Angeles Superior Court held a joint custody hearing, lifting its stay and terminating its jurisdiction, awarding sole physical and primary residence custody to Respondent for her younger daughter. (Exh. T.)

21. In 2022, Respondent took a second leave of absence from work to address her issues and ensure her health. Between April 11, 2022 and May 23, 2022, Respondent's treating physician certified that Respondent was suffering from post-traumatic stress disorder (PTSD), major depressive disorder, and alcohol use disorder as part of Respondent's Disability Statement for Income Loss Authorization filed with the California Victim Compensation Board (CalVCB). (Exh. U.) CalVCB may compensate a victim, like Respondent, for income due to a qualifying crime-related injury. In Respondent's case, the injury was based on Respondent's domestic crime related mental health disorder. (*Id.*)

22. Through treatment Respondent was able to successfully address her alcohol and mental health issues. On December 13, 2022, Respondent was issued a Certificate of Completion for successfully completing Breakthrough Parenting Comprehensive 52-week advanced parenting class at Second Chance Recovery, a ministry of Calvary Chapel Downey. (Exh. I.) In May 2022 Respondent completed the court ordered 12-hour coroner and hospital HAM programs. (Exhs. G and J.) On August 18, 2022, Respondent completed the court ordered nine-month first offender, ABC Traffic Safety Program. (Exh. W.) In August 2022, Respondent's driving privileges were reinstated by the DMV after she completed the court mandated traffic safety program.

23. Respondent has been a credentialed teacher since 2006, teaching math and science, educational technology, and computer science to sixth and seventh-graders for much of her career. Respondent believes her purpose is to help students from lower income communities to excel. According to Respondent, her background, growing up in East Los Angeles, without a mother, who died when Respondent was a young girl, provides her with the ability to empathize and relate to students from challenging backgrounds. In 2022, Respondent voluntarily resigned from her teaching position at Robert Louis Stevenson College and Career Preparatory, seeking another opportunity to work with high-risk youth. As of the date of hearing, Respondent was employed as a long-term substitute for the Los Angeles County of Education, teaching incarcerated youth in ninth and tenth grade.

24. Respondent presented corroborating evidence of her good character and excellent teaching skills at hearing from testifying witnesses.

a. Francisco Rincon, a teacher, and former co-worker of Respondent during the 2016 and 2017 academic year at Los Angeles Academy Middle School,

testified in support of Respondent's continued credentialing at hearing. While co-workers, Mr. Rincon taught in a classroom across the hall from Respondent's classroom. During the time they worked together, Mr. Rincon observed Respondent teaching her students math, science, and computer. He described Respondent as "helpful," a "really good teacher," and "nurturing." Mr. Rincon observed Respondent teaching a "structured class" and used Respondent's teaching as a "model" for his own teaching. According to Mr. Rincon, Respondent implemented technology to her classroom and inspired her students to seek her help and not be afraid to ask questions. Mr. Rincon asserted Respondent was an excellent collaborative teacher who exemplified the "best practices" of teaching. Mr. Rincon reported Respondent's reputation was that of a very professional and ordered teacher who was helpful to her students. Mr. Rincon never observed Respondent to be under the influence of alcohol at work. He was aware of Respondent's most recent DUI conviction based on Respondent's report to Mr. Rincon. He has kept in touch with Respondent since she left the school. Mr. Rincon testified Respondent was "devastated and embarrassed" by her 2021 conviction, but opined Respondent's conviction had no impact on her role as an educator. He did not know whether any parent or student was aware of Respondent's DUI convictions.

b. Ramiro Palomo, a teacher, and Respondent's co-worker at the Central Juvenile Hall where Respondent currently teaches, testified in enthusiastic support of Respondent's continued teacher credentialing. Mr. Palomo has taught in juvenile hall for the past 20 years. Since Respondent began substitute teaching at the juvenile hall in late January/early February 2023, Mr. Palomo has observed Respondent to be a dedicated and professional teacher. According to Mr. Palomo, the juvenile hall teaching substitute teaching position is challenging, leading to "burn out" and high weekly substitute turn over because a teacher is required to educate a difficult student

population who have been convicted for various misdemeanors and felonies. In addition, multiple aged students, and grade levels, varying in educational skill and with behavioral challenges are combined in one classroom. As a result, Mr. Palomo described it takes a "special teacher to be there." Mr. Palomo asserted Respondent has lasted for more than six months as a substitute teacher, thereby demonstrating she is up to the challenge and is a special kind of teacher with the requisite educator skills and commitment to teach incarcerated juvenile students. Mr. Palomo further testified he was aware of Respondent's past convictions and believes it has no impact on her skills as an educator. He has never observed Respondent to be under the influence at work and described how Respondent refused his invitation to join himself and other co-workers when they were going out to socially drink at happy hour, stating she does not drink.

c. Gloria Amaya, Respondent's sister, testified at hearing in support of Respondent. Ms. Amaya described Respondent as a "wonderful mom" who "loved teaching." Ms. Amaya observed Respondent to be passionate about a teaching career from a young age, and committed to being a teacher, often staying up until midnight to grade reports. Ms. Amaya supported Respondent during her abusive marriage, describing their extended family as a "tight" unit. According to Ms. Amaya, Respondent is now "physically and mentally okay," having dedicated herself to her recovery by engaging in both court mandated and voluntary treatment to be the best parent she could be for her girls. For example, Ms. Amaya asserted Respondent had successfully engaged in self-examination and treatment to address the past issues, such as her domestic violence related PTSD, depression, anxiety, which had led her to abuse alcohol in the past, thereby eliminating the triggers that had previously caused Respondent to turn to alcohol to deal with her problems. After her the November 2020 drunk driving incident, Respondent does not drink. Ms. Amaya testified she

wholeheartedly believes Respondent will never drink again because of the price Respondent paid for making such an egregious past error in judgment which resulted in Respondent temporarily losing custody of her daughters.

25. Respondent submitted six-character reference letters into evidence at hearing. The letters pre-date the October 2022 filing of the Accusation in this matter and were previously submitted on February 7, 2022 to the Commission's "Division Of Professional Practices." Three of the letters indicate the authors were aware Respondent temporarily lost custody of her daughters and describe Respondent's efforts and commitment to treat her alcoholism. (Exhs. M-0.) Three of the letters' authors extoll Respondent's qualities as an educator. (Exhs. P-R.) The letters do not specifically address whether the authors were aware of Respondent's 2005 and 2021 DUI convictions.

a. Joaquin E., Respondent's former AA sponsor, wrote an undated letter in support of Respondent. Joaquin wrote he met Respondent in November 2020 at an online AA meeting and is Respondent's former AA sponsor. According to Joaquin, he took Respondent through the 12 steps of the AA program and met with her five to seven days a week to "thoroughly and rigorously examine the book Alcoholics Anonymous." (Exh. M.) He continues to meet with Respondent three to four times a week at their home group meeting and at a 9:30 p.m. night AA meeting online. Joaquin described Respondent's progress at AA, writing Respondent had "grown strong in our program of action by obtaining positions in AA groups as secretary, co-secretary, and several other commitments at both online meetings and in person meetings." (*Id.*) Joaquin praised Respondent's commitment to her recovery and asserted "[Respondent] helps keep [Joaquin] sober one day at a time as well." (*Id.*)

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b. Francisca Marquez, Respondent's AA sponsor after Joaquin, wrote a letter dated April 2021, in support of Respondent. Mr. Marquez is a school counselor who has been sober since April 4, 2002. She met Respondent via a 6:45 a.m. meeting she regularly attends via Zoom. Ms. Marquez described Respondent "very openly" sharing with the group "her drinking history and the adverse consequences it had on [Respondent] and [Respondent's] family, especially [Respondent's] children." (Exh. N.) Ms. Marquez praised Respondent's "commitment and conviction" to her "AA recovery" to "rebuild [Respondent's] life and [Respondent's] family." (*Ibid.*) Ms. Marquez wrote that the pandemic was a challenging time for people suffering from the disease of alcoholism to get and stay sober because the pandemic created an environment where many people, like Respondent, felt isolated and depressed. Ms. Marquez extolled Respondent's "commitment" to her recovery, "dedication to AA," and "to [Respondent's] girls." (*Id.*) She expressed her confidence in Respondent's commitment to her sobriety, recovery, and wrote Respondent "will do what it takes to reestablish her life." (*Ibid.*)

c. Kristin Kimmel, a fellow member of Respondent's AA New York City/Los Angeles Moms' Zoom meeting, wrote a letter dated March 21, 2021, in support of Respondent. Mr. Kimmel has been a member of AA since 2015 and was also an attorney in Manhattan Family Court for children placed in foster care based on neglect and substance abuse cases. (Exh. O.) According to Ms. Kimmel, she has "rarely seen anyone work as hard as [Respondent] to become and stay sober, not only for her children but for herself." (*Ibid.*) Based on her observations, Ms. Kimmel described Respondent as "open," "honest," greatly remorseful of her past actions, and accepting of consequences. (*Ibid.*) She asserted "[Respondent's] girls are very lucky to have her for a mother, and I remind [Respondent] that, one day, despite this brief time they had to spend apart, they will know that their mom went to the mat for them." (*Id.*)

d. Magdalenal Lepro, Magnet Coordinator, Family Engagement Parent Lead, School2Home Parent Lead, of Robert Louis Stevenson College and Career Preparatory, wrote a letter dated January 10, 2022, in support of Respondent. (Exh. P.) Ms. Lepro described Respondent as an "outstanding educator," with whom she collaborated as a colleague and parent, since Ms. Lepro's daughter was enrolled in Respondent's Elective course. (*Ibid.*) Ms. Lepro praised Respondent's dedication to excelling at teaching, her innovation and hands-on approach to teaching Coding, which Ms. Lepro observed, thereby keeping students interested and "on task." (*Ibid.*) Ms. Lepro endorsed Respondent as a "dedicated teacher who is an asset" and expressed "high regard for [Respondent's] dedication to our students, school and community." (*Ibid.*)

e. Sylvia Macias, Bridge Coordinator, Los Angeles Unified School District (LAUSD), wrote a letter dated January 11, 2022, in support of Respondent. (Exh. Q.) Ms. Macias and Respondent were school colleagues for three years. According to Ms. Macias, Respondent is a responsible, innovative, passionate, inspiring, kind, empathetic, and compassionate educator. Respondent is described as "well-respected and admired by her friends and colleagues." (*Ibid.*)

f. William Olmedo, Los Angeles Academy Middle School's Instructional Math Coach, wrote a recommendation letter dated May 20, 2019, in support of Respondent. (Exh. R.) Mr. Olmedo, a former co-worker of Respondent, extolled Respondent's skills as a teacher and recommended her for "a position which will provide [Respondent] the opportunity to grow in her educational career." (*Id.*)

26. Respondent is a single mother of two daughters who is dedicated to teaching. She credibly testified that the revocation of her teaching credential will affect her family significantly. Respondent's hearing testimony concerning her commitment

to her recovery and the unlikelihood of any future criminal action was sincere and convincing.

LEGAL CONCLUSIONS

1. The Commission is responsible for credentialing teachers in public schools in California, including issuing credentials and taking adverse action against applicants and credential holders. (Ed. Code, § 44000 et seq.; California Code of Regulations, tit. 5, § 80000 et seq.) "Adverse action" includes the suspension or revocation of a credential or the private admonition or public reproof of a credential holder. (Ed. Code, § 44000.5; Cal. Code Regs., tit. 5, § 80300, subd. (a).)

2. The Commission shall take adverse action against an individual's teaching credentials for immoral or unprofessional conduct, or for evident unfitness for service, or for any cause which would have warranted the denial of an application for a credential or renewal of a credential. (Ed. Code, § 44421.)

3. Causes that may warrant the denial of an application is if the applicant, "[i]s addicted to the use of intoxicating beverages to excess" and/or "[h]as committed any act involving moral turpitude." (Ed. Code, § 44345, subds. (c) and (e).)

4. "Moral turpitude is a concept that 'defies exact description' [citation] and 'cannot be defined with precision' [citation]." (*In re Grant* (2014) 58 Cal.4th 469, 475-476.) Moral turpitude has been described as the "'general readiness to do evil.' [Citation.]" (*Donley v. Davi* (2009) 180 Cal.App.4th 447, 458.) "Our Supreme Court has defined moral turpitude as 'an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man.' [Citation.]

Moral turpitude has also been described as any crime or misconduct committed without excuse, or any 'dishonest or immoral' act not necessarily a crime. [Citation.] The definition depends on the state of public morals and may vary according to the community or the times, as well as on the degree of public harm produced by the act in question. [Citation.]" (*Clerici v. Department of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1027; see also *Ricasa v. Office of Administrative Hearings* (2018) 31 Cal.App.5th 262, 281; *Golde v. Fox* (1979) 98 Cal.App.3d 167, 185.)

5. "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 includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as wilful, 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. [Citation.]" (*Orloff v. Los Angeles Turf Club* (1951) 36 Cal.2d 734, 740; see also *Board of Education of San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811 (*Weiland*).)

6. "Unprofessional conduct" has been described as "'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.'" (*Board of Education of the City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 553, quoting 66 Corpus Juris 55, overruled in part on another ground in *Bekiaris v. Board of Education* (1972) 6 Cal.3d 575, 587, fn. 7.) "[T]he definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, upon whom are imposed 'responsibilities and limitations on freedom of action which do not exist in regard to other callings.' [Citation.]" (*San Diego Unified School Dist. v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1466 (*San Diego Unified*).)

7. For purposes of teacher discipline, conduct cannot be characterized as immoral, unprofessional, or involving moral turpitude unless it indicates a teacher is unfit to teach. (*Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 229 (*Morrison*)). In making this determination, the Commission may consider such matters as: "(1) The likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity anticipated; [¶] (2) The proximity or remoteness in time of the conduct; [¶] (3) The type of credential held or applied for by the person involved; [¶] (4) The extenuating or aggravating circumstances surrounding the conduct; [¶] (5) The praiseworthiness or blameworthiness of the motives resulting in the conduct; [¶] (6) The likelihood of the recurrence of the questioned conduct; [¶] (7) The extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the person involved, or other certified persons; [¶] (8) The publicity or notoriety given to the conduct." (Cal. Code Regs., tit. 5, § 80302, subd. (a); *see Morrison*, *supra*, 1 Cal.3d at p. 229.) Not all *Morrison* factors need be examined, only the pertinent ones. (*West Valley – Mission Community College Dist. v. Concepcion* (1993) 16 Cal.App.4th 1766, 1777.)

8. Complainant also alleges evident unfitness for service. Evident unfitness for service properly means "clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies. [Fn. omitted.]" (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444 (*Woodland*)). This cause for discipline connotes a "fixed character trait, presumably not remediable merely on receipt of notice that one's conduct fails to meet the expectations of the employing school district." (*Ibid.*) On this cause for discipline, the criteria for unfitness in *Morrison* "must be analyzed to determine, as a threshold matter, whether the cited conduct indicates unfitness for

service. [Citation.] If the *Morrison* criteria indicate unfitness to teach, the next step is to determine whether the 'unfitness' is 'evident'; i.e., whether the offensive conduct is caused by a defect in temperament. (*Woodland*, supra, 2 Cal.App.4th at p. 1445.) For instance, a teacher's removal of school property (a public address system speaker) from the classroom wall may be considered evidence of evident unfitness for service. (*Palo Verde Unified School Dist. of Riverside County v. Hensey* (1970) 9 Cal.App.3d 967, 973.)

Burden of Proof

9. Complainant requests that the Commission revoke Respondent's previously-issued credentials. With respect to revocation, Complainant bears the burden of proving the alleged grounds for revocation by clear and convincing evidence to a reasonable certainty. (See *Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1039-1040; *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence "requires a finding of high probability," and has been described as "requiring that the evidence be "'so clear as to leave no substantial doubt"; "sufficiently strong to command the unhesitating assent of every reasonable mind.'" [Citation.]" (*In re Angelia P.* (1981) 28 Cal.3d 908, 919.) "Evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. [Citations.] The evidence need not establish the fact beyond a reasonable doubt." (*Broadman v. Commission on Judicial Performance* (1998) 18 Cal.4th 1079, 1090.)

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Causes for Discipline

10. Complainant requests disciplinary action against Respondent's credentials based on her alleged addiction to intoxicating beverages, unprofessional conduct, evident unfitness for service, immoral conduct, and acts of moral turpitude.

ADDICTION TO INTOXICATING BEVERAGES

11. Cause exists to take adverse action against Respondent's credentials under Education Code sections 44421 and 44345, subdivision (c), in that her 2005 and 2021 convictions are alcohol related and indicate an addiction to the use of intoxicating beverages to excess. (Factual Findings 4-12.) (The Accusation references a singular "conviction," but refers to "paragraphs 14 through 17" of the Accusation, which plead both the 2005 and 2021 DUI convictions as a basis of discipline. (Exh. 1, pp. A4-A5.) Accordingly, it is found Complainant intended to reference both the 2005 and 2021 convictions as a basis for discipline and that the reference to "conviction," indicating a single conviction, rather than the two convictions alleged in paragraphs 14 through 17, is a clerical typo.)

UNPROFESSIONAL CONDUCT

12. Cause exists to take adverse action against Respondent's credential under Education Code section 44421 for unprofessional conduct, because Respondent drove while under the influence of alcohol on two occasions, leading to her 2005 and 2021 DUI convictions. (Factual Findings 4-12.)

IMMORAL CONDUCT

13. Cause exists to take adverse action against Respondent's credentials under Education Code section 44421 for immoral conduct, because Respondent drove

while under the influence of alcohol on two occasions, leading to her 2005 and 2021 DUI convictions. (Factual Findings 4-12.)

MORAL TURPITUDE

14. Cause exists to take adverse action against Respondent's credential under Education Code section 44421 for acts of moral turpitude, because Respondent drove while under the influence of alcohol on two occasions, leading to her 2005 and 2021 DUI convictions. (Factual Findings 4-12.)

EVIDENT UNFITNESS FOR SERVICE

15. Cause does not exist to take adverse action against Respondent's credentials under Education Code section 44421 for evident unfitness for service, because Respondent's presented evidence of mitigation and rehabilitation which illustrate Respondent has successfully treated and addressed the underlying issues that caused her alcohol addiction; making recurrence of similar conduct unlikely. (Factual Findings 13-26.)

Aggravating Factors

16. Complainant established by clear and convincing evidence that Respondent engaged in a pattern of misconduct by suffering two DUI convictions in 2005 and 2021, that the misconduct significantly harmed Respondent's children and the public, that in 2021 Respondent demonstrated indifference toward the consequence of her misconduct by driving under the influence again after her 2005 DUI conviction, and that Respondent had, after her first arrest, prior notice or warnings for similar conduct. (Factual Findings 4 through 12.)

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17. Complainant failed to establish through clear and convincing evidence the allegation that Respondent's misconduct was surrounded by or followed by bad faith, dishonesty or other violation of the law governing educators. (Factual Findings 4-12.)

Discipline

18. All admissible evidence and applicable statutes and regulations, including the *Morrison* factors, have been considered. Clear and convincing evidence did not demonstrate a malicious motive; the driving under the influence incidents were separated by 15 years with the latter 2021 DUI conviction impacted by Respondent's then-sustained domestic abuse and untreated PTSD, depression, and anxiety, and are unlikely to be repeated based on Respondent's successful treatment and commitment to her recovery. Based on the record as a whole concerning Respondent's behavior, revocation stayed and probation is appropriate and should suffice to ensure the protection of students, teachers, and the educational community.

ORDER

The Preliminary Career Teaching Education Teaching Credential and Clear Multiple Subject Teaching Credential issued to Respondent Lydia Morales are revoked. However, the revocations are stayed and Respondent is placed on probation for five years from the effective date of this order on the following terms and conditions.

1. Severability Clause

Each condition of probation contained herein is a separate and distinct condition. If any condition of probation, or part thereof, or any application thereof, is

declared by a court of competent jurisdiction to be unenforceable in whole or in part, or to any extent, the remaining conditions of probation, and each of them, and all other applications thereof, shall not be affected. Each condition of probation herein shall be separately valid and enforceable to the fullest extent permitted by law.

2. Actual Suspension

As part of probation, Respondent's credentials are suspended for a period of 90 days beginning on the effective date of this order.

3. New Credentials Subject to Order

Any new credential issued by the Commission to Respondent during the period of probation shall be subject to this order, and Respondent shall be subject to the same terms and conditions of probation with respect to any such new credentials, as set forth herein.

4. Compliance with Probation

Respondent shall fully comply with each and every term and condition of probation. During the entire period of probation, Respondent shall submit quarterly declarations under penalty of perjury, in a format to be approved by the Commission, stating whether there has been full compliance with the terms and conditions of probation. Respondent shall submit a full and detailed description of any violation of any terms or condition of probation on the quarterly declarations.

Respondent shall submit the quarterly declarations not later than 10 days after the end of each quarter which, for purposes of this term and condition, are: March 31st, June 30th, September 30th, and December 31st.

5. Cooperation with Commission

During the entire period of probation, Respondent shall fully cooperate with the Commission in its monitoring and investigation of respondent's compliance with probation.

6. Interview with Commission

During the entire period of probation, Respondent shall be available for interview either in person or by telephone, with or without prior notice, with the Commission.

7. Notification

Within five days of the effective date of this order, Respondent shall provide a true and correct copy of this Decision, together with a true and correct copy of the Accusation, which form the basis for the Decision, to Respondent's employer as defined by the California Code of Regulations, title 5, section 80300, subdivision (j), if any, and to Respondent's immediate supervisor at that employer. Within five days of complying with this notification requirement, Respondent shall submit proof of compliance to the Commission.

If Respondent changes employment at any time during probation, Respondent shall again comply with this notification requirement within seven days of accepting new employment and shall again submit proof of compliance to the Commission, as required herein, within five days of complying with this notification requirement. Respondent shall comply with this notification requirement, and proof of compliance, as described herein, each and every time Respondent changes employment during the probationary period.

Within seven days of this order, Respondent shall also notify the Commission in writing of the name and address of the current employer with whom Respondent has contracted or is otherwise engaged to perform education services. Respondent shall provide this same information to the Commission within seven days of any change in employment and, in addition, shall also provide a full and complete explanation of the facts and circumstances surrounding the cessation of employment with the former employer.

8. Maintain Active, Current Credentials

During the entire period of probation, Respondent shall maintain active, current credentials with the Commission, including during any period of suspension.

9. Maintain Current Contact Information

Within seven days of the effective date of this order, Respondent shall notify the Commission of a current mailing address, current email address, and current telephone number where voicemail or text messages may be left. Within 72 hours of any change of mailing address, email address, or telephone number, Respondent shall notify the Commission of the new mailing address, email address, and telephone number.

10. Obey All Laws

Respondent shall obey all federal, state and local laws, including all laws governing the education profession in California, and shall remain in full compliance with all court orders, criminal probation or parole, and shall make all court-ordered payments.

Except for minor traffic infractions, within 72 hours of any incident resulting in Respondent's arrest, the filing of any criminal charges, or citation issued, Respondent

shall submit a full and detailed description of the incident to the Commission. For purposes of this condition, a "minor traffic infraction" includes only traffic violations which are punishable by a maximum fine of \$250, and do not subject the offender to incarceration or probation. (See Veh. Code, § 42001; Pen. Code, §§ 17, subd. (d), 19.6 and 19.8.)

Within 72 hours of receiving notice of any violation of any court order, criminal probation or parole, or failure to make any court-ordered payment, Respondent shall submit a full and detailed description of the incident to the Commission.

To permit monitoring of Respondent's compliance with this condition, Respondent shall ensure that fingerprints are on file with the Commission. Respondents residing outside of California can also comply with this fingerprint requirement by submitting, within 30 days of the effective date of this order, two fingerprint cards (FD-258) and payment of the additional applicable fingerprint fee.

11. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring, as designated by the Commission, for each year of probation. Probation monitoring costs shall be made payable to the California Commission on Teacher Credentialing. Within 30 days of the effective date of this order, respondent shall pay the Commission the prorated probation monitoring costs for the number of months remaining in the calendar year. Beginning with the second year of probation, the full year of probation monitoring costs shall be paid to the Commission on or before January 31st of each calendar year. The total probation monitoring costs for each calendar year may be adjusted by the Commission on an annual basis.

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12. Violation of Probation

Failure to fully comply with any term or condition of probation, or any part thereof, shall constitute a violation of probation. If Respondent violates any term or condition of probation, or any part thereof, in any respect, the matter will be referred to the Office of the Attorney General for preparation of a Petition to Revoke Probation. After giving Respondent notice and an opportunity to be heard, the Commission may revoke probation and impose the order that was stayed, i.e., revocation of Respondent's credentials. If a Petition to Revoke Probation is filed against Respondent during probation, or the Attorney General's Office has been asked to prepare a Petition to Revoke Probation against Respondent, the Commission shall have continuing jurisdiction until the matter is final, and the period of probation shall be automatically extended until the matter is final.

Respondent's credentials may also be subject to immediate suspension for any specified violation of probation as provided in this order. If Respondent does not comply with any part of a probation condition that includes a consequence of suspension for failure to comply, the Commission will notify Respondent in writing that Respondent's credentials are immediately suspended. Thereafter, the suspension of Respondent's credentials shall not be lifted until the effective date of a final decision of the Commission on a Petition to Revoke Probation to be filed against respondent.

If a Petition to Revoke Probation is not filed against Respondent within 30 days of issuance of the written notification from the Commission to Respondent that Respondent's credentials are immediately suspended, or Respondent is not provided with an administrative hearing within 30 days of a written request for a hearing, unless Respondent stipulates to a later hearing, the suspension shall be dissolved. The

deadlines established herein shall be computed pursuant to the provisions of sections 12 through 12c of the Code of Civil Procedure. Where an original suspension has dissolved, nothing shall prohibit issuance of another suspension for any additional or subsequent violation by Respondent as a condition of probation.

13. Completion of Probation

Respondent shall submit full payment of all remaining probation monitoring costs not later than 60 days prior to the completion of probation. Upon completion of probation, Respondent's credentials shall be fully restored, and this decision will continue to remain a matter of public record thereafter.

DATE: 08/16/2023

Irina Tentser

IRINA TENTSER

Administrative Law Judge

Office of Administrative Hearings