

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

In the Matter of the Accusation Against:

LAURA ANN MUDGE, Respondent.

Agency Case No. 1-991564350

OAH No. 2022030338

PROPOSED DECISION

Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on October 12, 13, 14, and 18, 2022. The record closed and the matter was submitted for decision at the conclusion of the hearing.

Stephanie J. Lee, Deputy Attorney General, represented complainant.

Richard J. Schwab, Attorney, represented Laura Mudge (respondent).

SUMMARY

Complainant seeks to discipline respondent's teaching credentials based on allegations that in 2017 she changed her daughter's grade in a charter high school Chemistry class from an Incomplete to an A-, without the consent or knowledge of the Chemistry teacher. Respondent was employed as the charter school's executive

director at the time. While respondent agrees her daughter's grade was so changed, and that the change was unauthorized and improper, she has consistently denied any involvement in the grade change.

However, complainant clearly and convincingly established that respondent made the unauthorized grade change. That misconduct constitutes immoral and unprofessional conduct, and an act of moral turpitude, within the meaning of the Education Code, and therefore establishes cause for adverse action against respondent's credentials. Application of the *Morrison* factors indicate respondent's misconduct demonstrates her unfitness to teach. Respondent presented no evidence of rehabilitation and has never expressed any remorse for her misconduct. Revocation of respondent's credentials therefore is warranted in order to protect the public.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Complainant is Mary Vixie Sandy, Ed.D, who is the Executive Director of the California Commission on Teacher Credentialing (the Commission). (Ex. 1.)

2. On June 11, 2012, the Commission issued a Clear Multiple Subject Teaching Credential to respondent, which was active at all times relevant and will expire on February 1, 2023, unless renewed. (Ex. 3.)

3. On June 11, 2012, the Commission issued a Clear Single Subject Teaching Credential to respondent, which was active at all times relevant and will expire on July 1, 2027, unless renewed. The Single Subject Teaching Credential authorizes respondent to teach biological sciences and chemistry. (Ex. 3.)

4. On October 2, 2015, the Commission issued a Certificate of Clearance to respondent, which was active at all times relevant, but expired on November 2, 2020, and has not been renewed. (Ex. 3.) Official notice is taken that a Certificate of Clearance is a document issued by the Commission to an individual who has completed the Commission's fingerprint, character, and identification process.

5. Respondent was first authorized to teach by the Commission on September 1, 2005, when it issued to her the first of a series of Emergency 30-Day Substitute Teaching Permits, the last of which expired on October 1, 2008. From that date to when her credentials described above took effect, respondent was issued a series of preliminary multiple and single subject teaching credentials. (Ex. 3.)

6. On December 1, 2021, complainant brought the Accusation against respondent. (Ex. 2.)

7. Respondent timely filed a Notice of Defense, which contained a request for a hearing to challenge the Accusation. (Ex. 2.)

Respondent's Pertinent Background Information

8. Respondent is married and has three adult daughters. Her two oldest daughters graduated from college. Respondent's youngest daughter, J [REDACTED], is the one whose grade was changed. As explained in more detail below, she attended college for about one month before disenrolling. (Testimony [Test.] of respondent.)

9. Respondent graduated from the University of California, Los Angeles (UCLA) in 1994 with a Bachelor of Science degree in Neuroscience. She thereafter completed the teacher credential program at Chapman University. (Test. of respondent; Ex. A.)

10. In 2009, respondent was hired to teach at Olive Grove Charter School (Olive Grove). (Test. of respondent; Ex. A.) Olive Grove is a public charter school that enrolls home school or independent study students in grades pre-kindergarten through 12th grade. The education is not classroom-based. Students learn at home, either by themselves with on-line resources or with their parents as their primary educators. (Test. of respondent; Ex. A.)

11. On a date not established, but no later than early 2015, respondent became the executive director of Olive Grove. Respondent did not use her credentials in that position. (Test. of respondent.)

12. Respondent was instrumental in Olive Grove's becoming the first non-classroom based charter school authorized by the California State Board of Education, which happened in July 2015. (Test. of respondent; Exs. A, C, H.)

13. Respondent has no record of prior discipline by the Commission. (Ex. 3.)

Respondent's Daughter's Grade is Changed in 2017

J [REDACTED]'S SENIOR YEAR OF HIGH SCHOOL

14. In the 2016-2017 school year, respondent's daughter J [REDACTED] was a senior high school student at Olive Grove. (Test. of J [REDACTED], respondent.)

15. J [REDACTED] tended to procrastinate in her schoolwork, often waiting until the last moment to complete it. (Test. of respondent, Dawn Wilson, Larry Madrigal, Victor McConnell.)

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16. As a result of suffering from anxiety and “social-emotional issues,” J■■■■ received special education services, including the accommodation of extra time to complete her schoolwork. (Test. of respondent, Dawn Wilson.)

17. J■■■■’s last semester of her senior year was the 2017 Spring semester. Olive Grove faculty member Larry Madrigal oversaw J■■■■’s studies in all her classes that semester. Mr. Madrigal was well known to respondent and her family. He had previously taught respondent’s daughters, including J■■■■, at another school. In 2015, respondent recruited Mr. Madrigal to teach at Olive Grove after she became its executive director. (Test. of Madrigal.)

18. Mr. Madrigal also taught J■■■■’s Chemistry class, which was part on-line learning and part in-person lab work. The on-line learning accounted for 70 percent of a student’s grade, while the lab work accounted for 30 percent of the grade. The lab work consisted of experiments demonstrated to students by Mr. Madrigal at a physical location, known at Olive Grove as a Learning Center, after which the students were required to submit a lab report for each experiment. (Test. of Madrigal.)

WARNINGS ABOUT J■■■■’S CHEMISTRY CLASS GRADE

19. By May 2017, as the semester’s end was approaching, J■■■■ had not done any of the lab work in her Chemistry class. Mr. Madrigal reminded her about this. (Test. of Madrigal, J■■■■.)

20. On May 18, 2017, Mr. Madrigal also sent an e-mail to respondent advising her that J■■■■ had not turned in any lab report that semester. Based on Mr. Madrigal’s weighted grading system, even if J■■■■ scored 100 percent in her on-line work, failing to turn in any lab reports would result in her receiving a C grade in the class; if her on-line score was less than 100 percent, J■■■■ could score no better than

a D. (Test. of Madrigal, respondent, Dawn Wilson.) Mr. Madrigal concluded the e-mail, "She has dug herself a deep hole to get out of again and I just wanted to make sure you are aware of her situation." (Ex. 4, p. A84.)

21. Respondent forwarded Mr. Madrigal's email to Dawn Wilson, writing in the forward simply "GRRRRRRR," expressing her frustration with J [REDACTED]. At that time, Ms. Wilson was Olive Grove's Human Resources Manager. Respondent previously taught Ms. Wilson's daughter at Olive Grove, and their daughters were friends. Respondent hired Ms. Wilson to work at Olive Grove in 2016. The two became good friends, in and out of the workplace. (Test. of respondent, Wilson.)

22. Ms. Wilson also became close to J [REDACTED], so much so that Ms. Wilson referred to J [REDACTED] as her "third daughter." Because of the hours respondent worked at Olive Grove, sometimes Ms. Wilson took J [REDACTED] to medical appointments and helped her with schoolwork. (Test. of Wilson, J [REDACTED].)

23. When Mr. Madrigal sent his e-mail to respondent, J [REDACTED] had an on-line score of 93 percent, which was an A. However, because J [REDACTED] had done none of her lab reports, her overall score in the Chemistry class was a D. (Test. of Madrigal.)

ARRANGEMENT CONCERNING J [REDACTED]'S CHEMISTRY CLASS GRADE

24. Respondent arranged for J [REDACTED] to meet Mr. Madrigal at a Learning Center, during which Mr. Madrigal demonstrated the experiments J [REDACTED] missed that semester. This meeting took place within one week of Mr. Madrigal's e-mail. Respondent also attended. (Test. of Madrigal, respondent, J [REDACTED].)

25. At respondent's request, Mr. Madrigal agreed to give J [REDACTED] additional time to submit the missing lab reports. Respondent made that request due to J [REDACTED]'s

status as a special education student with an extra time accommodation. Only two weeks remained until the last day of classes, i.e., June 8, 2017. However, because Mr. Madrigal agreed to evaluate J■■■■'s lab reports while he spent the beginning of his summer vacation in New Zealand, it is clear J■■■■ was allowed to submit lab reports after the last day of classes. (Test. of Madrigal, respondent, J■■■■.)

26. Respondent and Mr. Madrigal also agreed that Mr. Madrigal would submit an I (or Incomplete) on J■■■■'s report card as her final grade for the Chemistry class, rather than a failing grade, such as a D. Mr. Madrigal also agreed to recalculate J■■■■'s final Chemistry grade after she submitted the missing lab reports. (Test. of Madrigal, respondent, J■■■■.)

27. Respondent's status as executive director of Olive Grove no doubt had some influence on Mr. Madrigal's willingness to reach the above-described arrangement. However, respondent did not otherwise pressure or coerce Mr. Madrigal. At hearing, Mr. Madrigal, who has since retired from teaching, denied feeling any pressure or coercion from respondent, and instead testified he was happy to support a struggling student. (Test. of Madrigal, respondent.)

28. Respondent was actively involved in J■■■■'s education. J■■■■ testified respondent reminded her about schoolwork and school meetings. Respondent admitted she followed J■■■■'s grades that school year "to an extent," and that she knew of J■■■■'s weekly meetings for Chemistry labs, teacher meetings, and Robotics program meetings. Respondent also was interested in J■■■■'s going to college. Both respondent and J■■■■ testified respondent helped J■■■■ complete her college applications. Perhaps most telling, J■■■■ testified respondent was "more invested" in her schoolwork than was J■■■■. (Test. of respondent, J■■■■.)

29. Despite the above-described arrangement, J■■■■ failed to submit any lab report for her Chemistry class at any time. (Test. of Madrigal, J■■■■, Victor McConnell.)

J■■■■'S CHEMISTRY GRADE IS CHANGED

30. At this time, Olive Grove used the student information system digital platform provided by third-party vendor School Pathways (Pathways) to record, change, and access all student grades. (Ex. 13.) Access to Pathways to enter or change student grades was limited to those with administrator level credentials. Those with that level of access at Olive Grove were respondent, Ms. Wilson, Xenia Palacios, and Sherry Keinert. Ms. Keinert and Ms. Palacios served as student registrars. In addition, the teacher of a given class could enter or change his or her students' grades, but only for the class taught by that teacher, not other classes. (Test. of respondent, Wilson, Keinert, Palacios, Madrigal.)

31. Thus, with regard to J■■■■'s Chemistry class, the only people with access to Pathways to enter or change J■■■■'s grade were respondent, Ms. Wilson, Ms. Palacios, Ms. Keinert, and Mr. Madrigal. (Test. of respondent, Wilson, Keinert, Palacios, Madrigal.)

32. According to Olive Grove's Pathways records, on June 8, 2017 (the last day of classes), at 3:40 p.m., Mr. Madrigal logged in to Pathways and recorded J■■■■'s grade for her Chemistry class as an I (Incomplete). (Test. of Madrigal; Exs. 13, 14.)

33. Olive Grove's academic school year ends on June 30th. Transcripts must be sent to colleges and universities by or before June 30th. J■■■■ had been accepted for admission to the University of California, Santa Cruz (UC Santa Cruz). That

admission, however, was contingent upon her passing all core classes required for admission to the University of California (including chemistry) and receipt of her final transcript. Thus, Olive Grove was to send a final transcript for J [REDACTED] to UC Santa Cruz by or before June 30, 2017. (Test. of Keinert, Palacios.)

34. Ms. Keinert was responsible for completing and sending J [REDACTED]'s final transcript to UC Santa Cruz. On a date not established, but sometime after the last day of classes on June 8, 2017, Ms. Keinert noticed J [REDACTED] had an Incomplete grade in her Chemistry class. At the time, Ms. Keinert was preparing various students' transcripts for later completion and transmittal. The Incomplete made an impression on Ms. Keinert because, first, an incomplete grade did not reflect well on Olive Grove, and second, a non-passing grade could prevent a student from graduating and/or being accepted to a college or university. Ms. Keinert took no further action on J [REDACTED]'s transcript at the time. (Test. of Keinert; Exs. 8, 9, 14.)

35. The fact that an Incomplete or non-passing grade on a final transcript can prevent a student from graduating and/or being accepted to a college or university also was well known to Ms. Palacios, respondent, and Ms. Wilson. (Test. of respondent, Keinert, Wilson.)

36. Olive Grove's Pathways records show that on June 26, 2017, at 8:42 a.m., respondent's user credentials ("lmudge") overrode the existing Incomplete grade, and recorded and saved J [REDACTED]'s final grade for her Chemistry class as an "A-." (Exs. 13, 14.)

37. Olive Grove records show that on June 26, 2017, at 11:51 a.m., Ms. Keinert completed and transmitted J [REDACTED]'s final transcript to UC Santa Cruz. (Ex. 4, p. A92.) Before she finalized the transcript, Ms. Keinert noticed J [REDACTED]'s Chemistry grade

had been changed from an Incomplete to an A-. That prompted Ms. Keinert to ask Ms. Palacios, who was in the office that day, whether she changed the grade. Ms. Palacios noticed the same thing on her own, though the record does not explain why she was looking at J ■■■■■'s transcript before and after the grade change. Ms. Palacios and Ms. Keinert denied making the grade change to each other. Ms. Keinert did not know who changed J ■■■■■'s grade, but she assumed Mr. Madrigal had done it. Ms. Keinert finalized the transcript and sent it to UC Santa Cruz. (Test. of Keinert; Exs. 4, 8, 9, 14.)

38. J ■■■■■ subsequently was admitted to UC Santa Cruz. (Test. of Keinert, respondent, J ■■■■■.)

39. Mr. Madrigal discovered the grade change when he returned to Olive Grove in August 2018 to teach the next school year. He was surprised, as he had received no lab report from J ■■■■■, he had not changed the grade, and he had not authorized anyone else to do so. (Test. of Madrigal; Exs. 5, 6, 7.)

40. Mr. Madrigal reported the unauthorized grade change to Michelle Winters, the principal of Olive Grove's Santa Maria Learning Center. (Test. of Madrigal; Ex. 5.) Nothing in the record shows Principal Winters, or anyone else, took any action on Mr. Madrigal's report at that time.

41. J ■■■■■ attended UC Santa Cruz for one month or less during the Fall 2017 Quarter. She suffered from anxiety and found it hard to leave her dormitory room. She left UC Santa Cruz and never returned. (Test. of J ■■■■■, Victor McConnell, respondent; Exs. A, D.)

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The Grade Change is Made Public in 2018

COMPLAINT TO A BOARD MEMBER

42. In July 2018, Mr. Madrigal complained to Victor McConnell that he was upset over J■■■■■■'s Chemistry grade change the prior year. Mr. Madrigal had previously worked closely with Mr. McConnell in Olive Grove's Robotics program. At this time, Mr. McConnell was on Olive Grove's Board of Directors (or Board). Mr. Madrigal told Mr. McConnell the unauthorized grade change caused him to lose his passion for teaching. (Test. of Madrigal, McConnell.)

43. Mr. McConnell had been a student at Olive Grove. He later became a teacher in its Robotics program. Mr. McConnell met J■■■■■■ in 2015, when she participated in the Robotics program as a student and he as a teacher. The two thereafter became friends. In October 2016, Mr. McConnell became a Board member. (Test. of McConnell.)

44. Mr. McConnell told Olive Grove's Board President, Bill Anaya, about Mr. Madrigal's complaint soon after he heard it. Mr. McConnell felt Mr. Madrigal's complaint was serious and should be investigated. (Test. of McConnell; Exs. 5, 8, 11, J.)

INVESTIGATION OF THE COMPLAINT

45. On July 11, 2018, Mr. Anaya told Ms. Wilson about Mr. Madrigal's complaint. The two discussed Mr. Madrigal's complaint the following day as well. The record does not establish whether Mr. Anaya asked Ms. Wilson to investigate Mr. Madrigal's complaint. However, Ms. Wilson undertook an investigation at or about this time. Ms. Wilson began reviewing files and spoke to Ms. Keinert. However, at the

beginning stage of her investigation, Ms. Wilson was unable to determine who changed J [REDACTED]'s Chemistry grade. (Test. of Wilson; Exs. 4, J.)

46. On July 20, 2018, Ms. Wilson was put on paid administrative leave. On July 30, 2018, Ms. Wilson was terminated for reasons not established by the record. However, Ms. Wilson has contended in the past she was terminated, in part, because she was investigating the grade change. Ms. Wilson filed a civil lawsuit against Olive Grove; her complaint contained allegations about the grade change. (Test. of Wilson, McConnell; Ex. 4.)

47. Mr. McConnell wanted the Board to be more proactive investigating the grade change. He reminded the Board of his information technology (IT) expertise and offered to audit Pathways logs and determine who made the grade change. The Board was receptive to his offer. (Test. of McConnell; Ex. 11.)

48. The Board discussed J [REDACTED]'s grade change throughout the summer of 2018. During one or more Board meetings, respondent's stated position on what happened changed as Mr. McConnell elaborated on what an audit of Pathways could determine. For example, respondent initially stated she did not know who made the grade change. When Mr. McConnell noted an audit of Pathways could show whose credentials were used to access the system, respondent stated Ms. Wilson must have done it using respondent's credentials. When Mr. McConnell noted an audit of Pathways may show whose device was used to make the change, respondent stated Ms. Wilson must have done it using respondent's computer and credentials. (Test. of McConnell; Ex. 11.)

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49. In September 2018, Mr. McConnell and J [REDACTED] began dating. The two had lost social contact after 2016, but reconnected when J [REDACTED] went to UC Santa Cruz in 2017. (Test. of McConnell.)

50. In October 2018, Mr. Anaya asked Mr. McConnell to resign from the Board, telling Mr. McConnell he was too close to the Board's investigation of the grade change now that he was dating J [REDACTED]. Mr. McConnell resigned before he investigated the grade change. (Test. of McConnell; Ex. 11.)

51. The Board hired Oracle Investigations Group (Oracle) to investigate the grade change. The result of Oracle's work is not established by the record. However, the Board has consistently maintained it could not ascertain with certainty who made the grade change. Olive Grove took no action against any employee for the grade change. (Ex. A, p. B3; Ex. I). One problem noted by the Board in being unable to make such a determination was that some employees would leave their computer login usernames and passwords on nearby post-it notes. (Test. of McConnell; Ex. I.)

52. After Mr. McConnell resigned from the Board, he discussed the situation with J [REDACTED]. She told him she did not submit any lab report and did not deserve an A- in Chemistry. (Test. of J [REDACTED], McConnell; Ex. 11.)

53. By the time the grade change became public knowledge, it was clear to all involved, including respondent, that J [REDACTED] should not have received an A- in her Chemistry class. Respondent admits she made no attempt to correct J [REDACTED]'s transcript or submit a corrected transcript to UC Santa Cruz. When questioned why she took no such action, respondent testified she learned about the grade change one year after it happened, intimating it was too late for her to do anything about it. (Test. of respondent.)

PUBLICITY ABOUT THE GRADE CHANGE

54. During a Board meeting in August 2018, a friend of Ms. Wilson addressed the Board in open session complaining about Ms. Wilson's termination. The friend mentioned the grade change during her address. Principal Winters also discussed the grade change during public comment in that Board meeting. (Test. of respondent; Ex. A.)

55. By August 2018, there were "a lot of rumors flying around" the Santa Maria community about the grade change. (Test. of respondent; Ex. A, p. B3.)

56. At or about this time, a local newspaper published an article about Ms. Wilson's lawsuit. The article mentioned the grade change controversy, and named J [REDACTED], one of her sisters, and respondent. (Test. of J [REDACTED].)

Subsequent Events

57. On or about October 2, 2018, the Commission received an affidavit from Ms. Wilson, accusing respondent of involvement in J [REDACTED]'s grade change. The complaint prompted the Commission's investigation of this matter. (Test. of Sarah Mistler; Exs. 4, 8.)

58. In 2020, respondent's contract was not renewed by Olive Grove. Respondent now teaches junior high science classes for the Guadalupe Union School District. (Test. of respondent.)

59. J [REDACTED] never returned to college. She now works as an administrative assistant for a small business. She lives with Mr. McConnell. J [REDACTED] and respondent have been estranged for several years. One of the reasons is her intimate relationship with Mr. McConnell. (Test. of J [REDACTED], respondent.)

Who Made the Unauthorized Grade Change

THE STRONGEST EVIDENCE POINTS TO RESPONDENT

60. The strongest evidence in the record shows the unauthorized grade change was made with respondent's Pathways credentials. It is hard to conjure a stronger type of evidence, other than eyewitness testimony that respondent was actually observed making the grade change or admitted to someone that she did. Such evidence typically would not be expected in a case like this.

61. Respondent was in the best position to produce controverting evidence but failed to do so. For example, respondent continued working at Olive Grove through 2020 and thus had access to her work computer long after the grade change was made public. Yet the record is bereft of evidence showing the grade change was not made on her work or home computers. Respondent has known of the exact time and date of the unauthorized grade change, but she provided no evidence of an alibi nature tending to show she was not able to make the grade change at the time in question.

RESPONDENT'S SUBSEQUENT ACTIONS WERE CONSISTENT WITH HER MAKING THE GRADE CHANGE

62. Respondent did not push for an investigation once the unauthorized grade change was made public. She simply offered tepid denials of making the change. Perhaps most damning was respondent's failure to take corrective action after the grade change was discovered. While respondent intimated in her testimony she learned of the grade change too late to do anything about it, she failed to inquire of anyone if that was the case. At the very least, respondent offered no explanation why

J■■■■'s transcript was not corrected to reflect she earned either a D or an Incomplete in her Chemistry class.

63. As explained below, respondent has accused or suggested Ms. Wilson or Mr. McConnell could have made the grade change. However, those two people behaved much differently than respondent. Upon being advised of the grade change, both Ms. Wilson and Mr. McConnell immediately requested an investigation. Ms. Wilson began investigating before she was terminated. Mr. McConnell outlined for the Board the ways an audit of Pathways could identify the culprit before he was asked to resign from the Board. It is unlikely either person would have pushed for an investigation if he or she had made the grade change.

RESPONDENT IS THE ONLY PERSON WITH MOTIVE, KNOWLEDGE, AND OPPORTUNITY

64. Only six people could have made the grade change. Of those six, respondent is the only one who had motive, knowledge, and opportunity to make the grade change.

65. Mr. McConnell had no motive to change J■■■■'s grade. When the grade was changed in 2017, Mr. McConnell had not been in social contact with J■■■■. The two did not reconnect until J■■■■ went to UC Santa Cruz a few months after the grade was changed. No evidence shows Mr. McConnell had contemporaneous knowledge of J■■■■'s struggle in her Chemistry class or that she had been given a non-passing grade on the last day of classes. While Mr. McConnell has IT expertise, the record does not show he had any access to Pathways in June 2017, let alone knowledge of respondent's Pathways credentials.

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66. The two registrars, Ms. Keinert and Ms. Palacios, had the opportunity to change J■■■■'s grade. However, neither had any motive to do so, nor does the record establish either had knowledge of J■■■■'s problems in Mr. Madrigal's Chemistry class.

67. While Mr. Madrigal had access to Pathways, and he knew best J■■■■'s plight in his Chemistry class, he had no motive to change her grade. His lack of motive is demonstrated by his becoming upset to learn of the grade change when he returned to Olive Grove for the following school year. In fact, Mr. Madrigal told Mr. McConnell he lost his passion for teaching because of the grade change.

68. Ms. Wilson had a faint motive to change J■■■■'s grade, as she was a friend to respondent and a mentor to J■■■■. However, Ms. Wilson persuasively testified she would have not risked her career to help a student, especially one (J■■■■) who she did not think was "college material." Ms. Wilson also testified she was very strict with her own children, which was corroborated by respondent's husband in his letter of support for respondent. (Ex. D.) Thus, it is unlikely Ms. Wilson would cheat for a student when she would not do so for her own children. Moreover, it is unlikely Ms. Wilson would have begun investigating the affair, and publicly accused respondent of making the grade change, if in fact Ms. Wilson had done it.

69. It was not established Ms. Wilson had knowledge of the situation. While she had been forwarded a copy of Mr. Madrigal's e-mail advising respondent of J■■■■'s struggle in his class, no evidence shows Ms. Wilson thereafter knew J■■■■ failed to turn in a single lab report, had earned a D in the class, or was given an Incomplete.

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70. While Ms. Wilson had access to Pathways, she credibly testified she was not involved with inputting grades in her position as Human Resources Manager. Moreover, no evidence shows Ms. Wilson knew respondent's Pathways credentials, other than respondent's unsupported conjecture she did. Thus, it was not established Ms. Wilson had access to make the grade change using respondent's credentials.

71. On the other hand, respondent had a strong motive to change J [REDACTED]'s grade. Respondent knew a non-passing grade in Chemistry would prevent J [REDACTED] from going to college, and possibly from graduating. Respondent's other daughters went to college, and it is clear from respondent's involvement in J [REDACTED]'s education that respondent wanted her to go to college as well. In addition, it would have been embarrassing for respondent, as the executive director of Olive Grove, if J [REDACTED] did not graduate from high school.

72. Respondent had knowledge of the situation. She made the arrangement with Mr. Madrigal to spare her daughter a D in his Chemistry class, and respondent knew J [REDACTED] stood to get an Incomplete if she did not submit her lab reports. As explained in more detail below, respondent's testimony that she was unaware J [REDACTED] did not submit any lab report was not credible.

73. Respondent also had access to Pathways for all students' grades. The program was accessible remotely, so respondent could have made the grade change either at work or at home.

RESPONDENT'S DEFENSES ARE NOT CONVINCING

74. Respondent testified she did not make the grade change and did not ask anyone to make the change for her. Respondent testified she did not check on J [REDACTED]'s grades at the end of the semester. In a statement she sent to the

Commission, which supplements and explains her testimony, respondent wrote she was very busy with her work that semester and therefore had not the time to check on J■■■■'s progress in her class or the final grade she received. (Ex. A, p. B3.)

75. The premise of respondent's testimony is that she had no understanding of what work J■■■■ did in the Chemistry class after the arrangement with Mr. Madrigal, and no knowledge of the grade J■■■■ ultimately received in the class. Yet, as a career educator, leader of Olive Grove, and J■■■■'s parent actively involved in her education, it is highly probable that respondent followed up on J■■■■'s status in her Chemistry class after the arrangement was made. For example, if respondent had enough free time to schedule and attend the meeting with Mr. Madrigal in which the arrangement was made, she had enough free time to at least ask J■■■■ or Mr. Madrigal what was happening after the arrangement was made. Respondent failed to account for the fact the grade change was made at the end of the academic year, well after report cards would have been sent out, which she would have received. Respondent knew J■■■■ had graduated and would attend UC Santa Cruz; she would have tried to ascertain what happened in the Chemistry class to make those events happen.

76. Respondent has accused Ms. Wilson of making the grade change. In support of her accusation, respondent contends Ms. Wilson knew respondent's Pathways credentials and thus could have made the grade change disguised as respondent. Her testimony was not persuasive. During cross-examination, respondent admitted she could only say she "may have" loaned Ms. Wilson her Pathways credentials. Respondent also admitted on cross-examination she had never seen Ms. Wilson access Pathways using respondent's credentials, and she could not name a

program or application, other than Priceline, for which Ms. Wilson knew respondent's credentials.

77. During closing argument, respondent's counsel argued Mr. McConnell could have made the grade change. However, respondent testified she has no evidence showing Mr. McConnell knew her Pathways credentials. In fact, no evidence in the record suggests Mr. McConnell even had access to Pathways in June 2017.

CONCLUSION

78. Based on the above, it was clearly and convincingly established that respondent made the unauthorized change to J [REDACTED]'s Chemistry class grade.

Other Relevant Findings

79. Respondent had no record of negative personnel action while employed by Olive Grove. (Test. of respondent.) She received only favorable performance evaluations as Olive Grove's executive director. (Test. of respondent; Exs. I, J, K, L.)

80. Respondent presented a number of favorable character reference letters from past and present Olive Grove Board members, Olive Grove employees, a neighbor, and her husband, each admitted as administrative hearsay. (Exs. C-F & H-J.) In that limited capacity, these letters explained and supplemented other evidence in the record pertaining to respondent's dedication to and passion for Olive Grove. Some of the authors wrote about respondent's honesty, professionalism, and integrity, which explained or supplemented respondent's testimony that she would not cheat or break a law to benefit her daughter. However, the excerpts in question were so vague as to be of little probative value. As explained above, respondent's testimony that she did not make the grade change was not persuasive.

81. Respondent has consistently denied changing her daughter's Chemistry grade. When the unauthorized change was first discovered, respondent not only denied doing it, but also blamed Ms. Wilson. When the Commission investigated the situation, respondent again denied making the grade change. At hearing, respondent not only denied making the grade change but also deflected responsibility by accusing Ms. Wilson and Mr. McConnell. Thus, respondent has had multiple opportunities to accept responsibility for her misconduct, but has steadfastly refused to do so. Respondent has shown no remorse for her actions. In fact, respondent denied during her cross-examination exhibiting any failure of judgment relative to the events this case.

LEGAL CONCLUSIONS

Jurisdiction

1. Pursuant to Education Code section 44000 et seq., and California Code of Regulations, title 5, commencing with section (Regulation) 80001, the Commission is responsible for credentialing teachers in public schools in California, including issuing credentials, and taking adverse action against applicants and credential holders. (Undesignated statutory references are to the Education Code.)

2. Section 44421 authorizes the Commission to take adverse action against an individual's teaching credential for, among many specified causes, immoral or unprofessional conduct, evident unfitness for service, or for any cause that would warrant denial of an application for a credential. Section 44345, subdivision (e), allows the Commission to deny an application of one who has committed an act involving moral turpitude. These are the causes for adverse action alleged against respondent.

Burden and Standard of Proof

3. Complainant has the burden of establishing by clear and convincing evidence to a reasonable certainty cause for adverse action against respondent's credentials because they are considered professional licenses. (See *Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1038-1039; *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.)

4. The clear and convincing standard of proof demands a degree of certainty greater than that involved with the preponderance standard, but less than what is required by the standard of proof used in criminal cases, i.e., beyond a reasonable doubt. This intermediate standard "requires a finding of high probability." (*Rubio v. CIA Wheel Group* (2021) 63 Cal.App.5th 82, 104.) This standard also has been described as requiring proof that is "clear, explicit, and unequivocal," "so clear as to leave no substantial doubt," and "sufficiently strong to demand the unhesitating assent of every reasonable mind." (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487.)

5. Respondent argues the clear and convincing standard is so high that it cannot be met by the evidence presented in this case. Respondent primarily points to the fact that no witness admitted to changing J [REDACTED]'s grade, and every witness testified they did not know who did. Respondent also argues the evidence concerning Ms. Wilson's and Mr. McConnell's involvement in the case creates substantial doubt as to respondent's culpability.

6. While the clear and convincing standard is higher than the preponderance standard used in vocational license disciplinary cases, it still requires only evidence with a high probability of the truth. In this case, Pathways records clearly

show respondent's credentials were used to change J■■■■'s grade. Respondent failed to present a satisfactory explanation for that. Her subsequent actions were consistent with her changing J■■■■'s grade, and respondent is the only one of the six people who could have made the grade change that had motive, knowledge, and opportunity. This evidence is clear, explicit, and unequivocal.

7. Some lingering doubt may remain given nobody saw respondent make the change, and she has never admitted doing it. But the absence of such facts does not create a substantial doubt as to respondent's culpability. As complainant correctly argues, the process of elimination rules out the only other people who could have made the grade change. Moreover, respondent presented weak evidence, bordering on conjecture, supporting her argument that Ms. Wilson or Mr. McConnell changed J■■■■'s grade.

Cause for Adverse Action

UNPROFESSIONAL CONDUCT

8. Unprofessional conduct in the teaching profession has been defined as that which violates the rules or ethical code of the profession or is unbecoming of a member of the profession in good standing. (*Board of Educ. of City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 553, overruled on other grounds by *Bekiaris v. Board of Education* (1972) 6 Cal.3d 575.)

9. A teacher's final grade of a student's work shall not be changed by another, unless the grading teacher engaged in fraud, bad faith, or was incompetent; the grading teacher is entitled to explain the final grade before any change is made by another person or entity. (§ 49066.)

10. In this case, cause exists for adverse action against respondent's credentials pursuant to section 44421, in that it was established by clear and convincing evidence that respondent engaged in unprofessional conduct. Respondent changed her daughter's grade without the knowledge or consent of the grading teacher. Respondent's action violated section 49066, enacted to protect the sanctity of a teacher's final grades for his or her students. It is axiomatic that committing grade fraud is unbecoming of a teacher in good standing. (Factual Findings 14-78.)

ACTS OF MORAL TURPITUDE AND IMMORAL CONDUCT

11. "Moral turpitude" has been defined as "everything done contrary to justice, honesty, modesty or good morals." (*Rice Alcoholic Beverage etc. Appeals Bd.* (1979) 89 Cal.App.3d 30, 36.)

12. "Immoral conduct" has been defined generally as "that which is hostile to the welfare of the general public and contrary to good morals. . . . [It] includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable members of the community, and as an inconsiderate attitude toward good order and the public welfare." (*Board of Ed. of San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811.)

13. In this case, cause exists for adverse action against respondent's credentials pursuant to sections 44421 and 44345, subdivision (e), in that it was established by clear and convincing evidence that respondent engaged in immoral conduct and an act involving moral turpitude. By changing her daughter's grade without the consent or knowledge of the grading teacher, respondent engaged in grade fraud. Such activity is contrary to justice, honesty, or good morals, and therefore

constitutes moral turpitude. Such conduct also is indicative of corruption and moral indifference to the opinions of respectable members of society, and therefore constitutes immoral conduct. (Factual Findings 14-78.)

EVIDENT UNFITNESS

14. Cause for adverse action against a teacher's credential under section 44421 for evident unfitness for service is premised on the notion that a teacher's misconduct occurred by reason of temperamental defects or inadequacies. (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) " '[E]vident unfitness for service' 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.*)

15. In this case, it was not clearly and convincingly established that cause for adverse action exists against respondent for evident unfitness within the meaning of section 44421. Respondent engaged in one monumental act of gross misconduct, grade fraud, in favor of her daughter. That isolated act does not show respondent has a fixed character trait which cannot be remedied. (Factual Findings 14-78.)

Fitness to Teach

16. The cause for adverse action established against respondent in this case, i.e., immoral conduct, moral turpitude, and unprofessional conduct, are so general that they must be given meaning in relation to the particular profession involved. (*Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 227-228 (*Morrison*).) In *Morrison*, the California Supreme Court held that adverse action may not be imposed against a teacher in the absence of evidence showing his or her unfitness to teach. The *Morrison*

court articulated a number of factors to be considered in determining whether the misconduct in question relates to a teacher's fitness to teach.

17. For purposes of determining the relationship between the misconduct proven and a credential holder's fitness, competence, or ability to effectively perform the duties authorized by the credential, the various factors enumerated in *Morrison* have been codified in Regulation 80302. The criteria are specified and applied to respondent as follows.

THE LIKELIHOOD THAT THE CONDUCT MAY HAVE ADVERSELY AFFECTED STUDENTS, FELLOW TEACHERS, OR THE EDUCATIONAL COMMUNITY, AND THE DEGREE OF SUCH ADVERSITY ANTICIPATED

18. Respondent's misconduct adversely affected the Olive Grove community and caused real harm to many people. Public knowledge of the grade fraud scandal cast Olive Grove in a bad light. J. [REDACTED] did not earn her admission to UC Santa Cruz and suffered as a result of enrolling there. Her name has been tarnished in the Santa Maria community, and her high school career put under unwanted public scrutiny, including by this case. The grade fraud caused Mr. Madrigal to lose his passion for teaching. The investigations of the controversy done by Ms. Wilson, the Board, Oracle, and the Commission have subjected various Olive Grove Board members and employees to recounting the same events over again. (Factual Findings 14-78.)

THE PROXIMITY OR REMOTENESS IN TIME OF THE CONDUCT

19. The misconduct supporting adverse action occurred in 2017, five years ago. A period of five years or less is not remote for purposes of this *Morrison* factor. (*Broney v. California Com. on Teacher Credentialing* (2010) 184 Cal.App.4th 462, 477.)

In this case, five years is more than enough time for respondent to have reflected on her misconduct, and its repercussions, and engage in meaningful reform. Her refusal to accept responsibility after all these years demonstrates she maintains the same attitude about her misconduct as when she committed it. (Factual Findings 14-78.)

THE TYPE OF CREDENTIAL HELD BY THE PERSON INVOLVED

20. Complainant does not contend this factor applies to respondent. In fact, she did not use her credentials when serving as Olive Grove's executive director. (Factual Finding 11.)

THE EXTENUATING OR AGGRAVATING CIRCUMSTANCES SURROUNDING THE CONDUCT

21. Regulation 80300, subdivision (b), enumerates various circumstances the Commission deems to be aggravating. Some of those circumstances apply to this case. For example, respondent's act of changing her daughter's grade was dishonest, in bad faith, and violated the law, i.e., section 49066. As discussed above, respondent harmed the Olive Grove community, as well as a student -- her own daughter. By refusing to correct the grade fraud after it was discovered, continuing to deny that she did it, and blaming others, respondent has demonstrated indifference to her misconduct. Moreover, respondent was trusted by the Olive Grove community to serve as its leader. By committing grade fraud to benefit her own daughter, respondent violated that trust. No extenuating circumstance was established. (Factual Findings 10-78.)

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**THE PRAISEWORTHINESS OR BLAMEWORTHINESS OF THE MOTIVES RESULTING
IN THE CONDUCT**

22. Respondent only deserves blame for her misconduct. In committing grade fraud, respondent acted unfairly to benefit her daughter, and to an extent, herself. (Factual Findings 14-78.)

THE LIKELIHOOD OF THE RECURRENCE OF THE QUESTIONED CONDUCT

23. This factor has mixed application. Respondent's misconduct occurred because she was in an administrative position that gave her access to all students' grades, and she changed her daughter's grade to get her into college. Respondent is no longer in such a position, and her children are no longer in school. Thus, respondent cannot duplicate her misconduct. (Factual Findings 8-81.)

24. However, the usual hallmarks suggest respondent is apt to engage in similar misconduct involving dishonesty. She has submitted no evidence of rehabilitation. She has expressed no remorse for her conduct. She has never accepted any degree of responsibility. Instead, she falsely accused others or has suggested they changed her daughter's grade. Respondent's lack of reformation shows her judgment has not changed since she committed her misconduct. (Factual Findings 8-81.)

**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**

25. The outcome of this case will have no chilling effect on credentialed teachers exercising their constitutional rights.

THE PUBLICITY OR NOTORIETY GIVEN TO THE CONDUCT

26. An important element of this factor is whether notoriety from misconduct would impair future on-campus relationships. (*San Diego Unified School Dist. v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1463.)

27. This factor also has mixed application in this case. The grade fraud scandal became public knowledge throughout the Santa Maria community due to a newspaper article and Ms. Wilson's lawsuit, and was discussed during open session at Olive Grove Board meetings. However, respondent left Olive Grove in 2020 and the record is unclear whether her relationships at Olive Grove were impaired due to the situation. (Factual Findings 8-81.)

28. On the other hand, respondent has been employed for two years at another school district and no evidence suggests anyone there knows of the events at Olive Grove. Nonetheless, it is easy to conclude that knowledge of the findings and conclusions made herein would undermine her authority and integrity with her students, colleagues, and administrators at her new school. (Factual Findings 8-81.)

OVERALL CONCLUSION

29. On balance, all but one of the *Morrison* factors apply to this case, in varying degrees, which demonstrates respondent's misconduct is related to her fitness and ability to effectively teach. Thus, adverse action is warranted. (Factual Findings 8-81; Legal Conclusions 1-13, 16-28.)

Disposition

30. Licensing disciplinary matters are not designed to punish an individual. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 165.) Rather, a licensing agency should

be primarily concerned with protecting the public. (*Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.)

31. In this regard, rehabilitation is an important consideration. (*In re Conflenti* (1981) 29 Cal.3d 120, 124–125.) Rehabilitation requires a consideration of those offenses from which one has allegedly been rehabilitated. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041.) The amount of evidence of rehabilitation varies according to the seriousness of the misconduct at issue. “Indeed, in light of the seriousness of applicant's prior misconduct, . . . ‘he had a very high hill to climb in proving his rehabilitation.’ (Citation omitted.)” (*In re Menna* (1995) 11 Cal.4th 975, 987.)

32. Rehabilitative efforts presuppose an admission of the problem; a failure to recognize the problem and its potential effect on a professional practice heighten the need for discipline. (*In re Kelley* (1990) 52 Cal.3d 487.) Thus, fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933.) Remorse is an important part of that process. (*In re Demergian* (1989) 48 Cal.3d 284, 296.)

33. Pertinent to this case, where a licensee lies during testimony, blames others, demonstrates neither an understanding of his or her own wrongdoing nor remorse, the licensee’s behavior provides solid support for the agency’s decision to revoke his or her license. (*Landau v. Superior Court* (1998) 81 Cal.App.4th 191, 223.)

34. Regulation 80300 provides that the Commission can take the following action against a teacher’s credentials: a private admonition, public reproof, suspension, or a revocation of one or more credentials. Regulation 80300, subdivision (t), specifies a suspension can be stayed and/or actual, and can last for one year or longer.

35. In this case, respondent's misconduct was intentional, fraudulent, and therefore severe. It brought harm to Olive Grove and its community. As the cases above indicate, more serious misconduct requires greater rehabilitation. Respondent presented no evidence of rehabilitation. Instead, she has refused to accept responsibility, falsely accused others of doing what she did, and has shown no remorse. While the record shows respondent acted with dishonesty, which undercut the sanctity of student grades and put in jeopardy the integrity of a pioneer charter school, the record is devoid of evidence indicating respondent has changed her attitude about her misconduct or otherwise can be trusted. Thus, revocation of respondent's credentials is warranted to protect the public. (Factual Findings 1-81; Legal Conclusions 1-34.)

ORDER

All credentials, certificates, and authorizations issued to respondent Laura Ann Mudge are revoked.

DATE: 11/15/2022



Eric C. Sawyer (Nov 15, 2022 09:59 PST)

ERIC SAWYER

Administrative Law Judge

Office of Administrative Hearings