

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

In the Matter of the Accusation Against:

MICHAEL JAMES COGGI, Respondent

Case No. 2-248844351

OAH No. 2022070131

PROPOSED DECISION

Jami A. Teagle-Burgos, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by telephone/videoconference on June 13, 14, and 15, and July 6, 2023.

Craig S. Menchin, Deputy Attorney General, Department of Justice, State of California, represented complainant, Mary Vixie Sandy, Ed.D., Executive Director, California Commission on Teacher Credentialing (CTC).

Michael James Coggi, respondent, represented himself.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on July 6, 2023.

PROTECTIVE AND SEALING ORDER

The following are subject to a protective order: the names of minors and/or students referred to in this matter; Exhibit 3; Exhibit 5; Exhibit 38; Exhibit 39; Exhibit 42; and Exhibit 43; page numbers B12 to B15, B40 to B41, B48 to B49, B55 to B70, B99, and B164 to B178 of Exhibit A; and Exhibit D. Any document received as evidence in this matter that contains the name of a minor and/or student, shall, before any disclosure to the public, be redacted and replaced by the minor's and/or student's designated initials. No court reporter or transcription service shall transcribe the contents of these records or the names of the minors and/or students, but shall instead refer to the minor and/or student by their designated initials. To protect privacy and confidential personal information from inappropriate disclosure, these records and the names of minors and/or students are ordered sealed. A reviewing court, parties to this matter, their attorneys, and a government agency decision maker or designee under Government Code section 11517, may review the documents subject to this order, provided that such documents are protected from release to the public.

FACTUAL FINDINGS

Background

1. The CTC is responsible for the credentialing of public school teachers, including issuing credentials and taking adverse action¹ against applicants and credential holders. The CTC's Committee of Credentials (Committee) is responsible for investigating alleged acts or omissions that may be cause for the CTC to take adverse action.

2. On September 7, 1999, the CTC issued respondent an Emergency Long Term Single Subject Teaching Permit, which expired² on October 1, 2001. On August 7, 2006, the CTC issued respondent a clear Crosscultural, Language, and Academic Development Certificate, which does not expire. On May 28, 2015, the CTC issued respondent a Certificate of Eligibility Administrative Services Credential, which does not expire. On June 15, 2001, the CTC issued respondent a clear Single Subject Teaching Credential that will expire on July 1, 2026, unless renewed. There is no history of any discipline imposed against the above, collectively referred to as "credentials."

¹ An "adverse action" means the denial of an application for a credential, a private admonition, or public reproof of a credential holder, or the suspension or revocation of a credential. (Ed. Code, § 44000.5.)

² The expiration of any credential does not deprive the CTC from taking disciplinary action against the credential. (Ed. Code, § 44440, subd. (a).)

3. At its October 20 through 22, 2021, meeting, the Committee found probable cause to recommend the revocation of respondent's credentials. The findings were based on allegations relating to respondent's conduct while employed as a high school teacher by the Pomona Unified School District (district) during the period between 2016 and 2020. Respondent timely requested an administrative hearing.

4. On May 2, 2022, complainant signed the accusation alleging the following as grounds for discipline against respondent: unprofessional conduct, immoral conduct, persistent defiance of and refusal to obey laws regulating the duties of persons serving in the public school system, evident unfitness for service, and acts of moral turpitude. Complainant alleged the following aggravating factors: multiple acts of wrongdoing demonstrating a pattern of misconduct over many years, significant harm to children trusted to his care, and harm to the public or educational system, prior notice or warnings/reprimands for similar conduct, and indifference toward the consequences of his misconduct.

5. The factual allegations in the accusation relate to the following conduct while respondent was a math teacher at Garey High School (Garey) during the period between 2016 and 2020: inappropriate conduct with students when he, among other things, used profanity in class; made jokes about other teachers; made homophobic comments regarding the LGBTQ community; made offensive racial jokes; failed to address students who used profanity in class such as the "n-word"; commented on the physical appearance of women and female students; failed to follow school rules regarding attendance; failed to make concerted effort to educate his students; wasted instructional time with students; allowed students to spend class time as they freely pleased; did not help students when they asked for help; refused to contact parents when required to do so; improperly circumvented responsibility to establish and

maintain a learning environment that is physically, intellectually, and emotionally safe, by telling students who criticized his lack of teaching or inappropriate behavior that he could not be fired because he was a "permanent teacher"; engaged in a confrontation with a student outside his classroom door and kicked a trashcan; failed to follow classroom routines; allowed two students to leave class with a pass within the first 10 minutes of class; failed to address disruptive student behavior in his classroom; offered extra credit for activities unrelated to academic performance such as picking up trash; sold candy to students and offered it in exchange for picking up trash; asked students to pretend they were working on assignments if a staff member came into the classroom; attempted to avoid student complaints about his vulgar and inappropriate conduct by providing disclaimers; revealed students' confidential information when he permitted students to peruse records of other students on his district account; embarrassed two students by revealing their confidential information to the class such as revealing their grades and calling a student "dumb"; used inappropriate wording while drafting a notice to parents with a colleague; used inappropriate comments regarding active shooters to a colleague in a school-employee group chat; had a formal evaluation resulting in "needs improvement" in several categories; engaged in inappropriate behavior with students and colleagues during an incident in the library during a comic book event when he, among other things, discussed Japanese pornography, inquired about buying a "black-Jesus" figurine, and referenced one-dollar bills as used in a strip club; engaged in an incident where he physically grabbed a student to prevent the student from taking a candy bar; and engaged in an incident where he attempted to and forcibly searched students to determine if they had stolen candy bars from his classroom, grabbed a student by the backpack, and got into a verbal altercation with the same student.

6. Respondent had meetings with administrators about his conduct in 2019 and 2020, and he received a Letter of Warning in 2019 and Letters of Reprimand in 2019 and 2020. He was placed on administrative leave on February 20, 2020, during which time, he called his classroom and asked the students to tell him what was being said about him. Respondent was served a Notice of Immediate Suspension Without Pay and Intent to Dismiss on November 19, 2020. He resigned from the district, effective March 15, 2021, pursuant to a settlement agreement.

7. Complainant seeks the revocation of respondent's credentials.

8. Respondent timely filed a Notice of Defense. This hearing ensued.

Allegations Related To The School Years Of 2016-2017, 2017-2018, 2018-2019, and 2019-2020 at Garey High School

TESTIMONY OF GSR - STUDENT

9. The following is a summary of the testimony of GSR. She was a student in respondent's math class when she was a ninth grader in 2020. She recalled an incident regarding searching backpacks. There was chaos in the class and everyone was speaking loudly and arguing. Respondent accused someone of stealing chocolate from his classroom. Respondent started accusing the students that "don't behave well." He wanted to "search the new kid's backpack." The new student was in the bathroom and respondent went to get his backpack. Other students got upset and told respondent he could not touch the new student's backpack. Respondent replied that he could "access it" and students started cussing at respondent. It was "very chaotic." Respondent tried looking at a backpack of another student who was wearing his backpack, and after respondent "tugged" on it, that student started to cuss. It only ended when respondent called a "proctor" to "cool things down."

10. GSR testified that students made inappropriate drawings of private male parts in respondent's class. She testified that respondent "just laughed at it and told them to not leave it on the board for that long." The drawing stayed on the board for less than five minutes. The students erased it, not respondent.

11. GSR stated that respondent asked students inappropriate questions regarding a "rumor about another teacher's leaked nudes." He asked students if they had seen the photos. GSR overheard respondent asking about the "nudes." It was an "awkward conversation" and the students were "weirded out."

12. GSR remarked that respondent "did not teach math." The students usually just did their "own thing" and "it was a kind of free period." She would usually talk to her peers or be on her phone the entire class. She also watched movies on her phone. She failed the first semester of Math 1 when she was in respondent's class. She had to take Math 1 during the summer after ninth grade. Her summer math teacher and tenth grade Math 2 teacher helped her and taught her math.

13. GSR testified that respondent offered extra credit to students if they cleaned his classroom.

TESTIMONY OF LMM - STUDENT

14. The following is a summary of the testimony of LMM. She was a student in respondent's math class when she was in ninth grade during the 2019-2020 school year. The class was "supposed to be a math class," but they "didn't get taught anything." It was a "free class" where students just sat at their desks and did whatever they wanted to do. She felt that respondent "didn't stand his ground" and "kind of lost it." Students "saw him more as a friend than a teacher," so they would brush him off. When asked if she learned anything in respondent's class, she replied, "No! No, I did

not." Respondent started to "stand up and do a lesson" when the administration "was catching on to what he had not been doing." Respondent would have students keep their computers on and pretend to do classwork in case staff came in or walked by.

15. LMM testified that she is a member of the LGBTQ community and respondent asked her, "How do girls have sex?" She tried to process what he was asking and felt uncomfortable because no teacher had ever asked her something like that before.

16. LMM recalled that respondent made jokes about teachers, including a male teacher who respondent said, "has a big penis." The male students would joke about respondent being in the restroom with the other male teacher. Respondent would "go along with it" and "add stuff." He made jokes about having sex with the other male teacher. LMM recalled that respondent also made jokes about other teachers' appearances and how they looked.

17. LMM stated that respondent talked about females and their bodies. He talked to her about "big breasts" and pointed to a female student and said, "Oh like her." She was shocked because he was "checking out other students."

18. LMM testified that respondent's classroom had a pass for the restroom that was made out of a "female pad." She described the pad as "rude, mean . . . disturbing." She is not sure if respondent or a student made the "pad." It was made from a Swiffer pad – a cleaning pad for floors – but it was made to look like a "female pad" because it was "colored red." Respondent commented to the class, "Oh, this is probably the pad that [S] wears." LMM described "S" as being a "bigger girl" and she thought what respondent said was "pretty messed up."

19. When respondent asked LMM on cross-examination if respondent's class was "fun," LMM replied, "We didn't do anything. It wasn't a class."

TESTIMONY OF JG - STUDENT

20. The following is a summary of the testimony of JG. She was a student in respondent's math class when she was in ninth grade. She testified that respondent "did not actively teach math . . . most of the time, kids would just sit there and basically do nothing." She sat at her table and talked to her friends. Respondent did not assign any work except during the beginning of the school year. She did not recall respondent giving any assignments from BigIdeas.com. The only time she recalled the students being told to take out their Chrome Books was when the principal walked in. She had "no impression that [respondent] wanted to teach his class."

21. JG testified about an incident when she and respondent got into a verbal argument and "exchanged some words." He called out her "bad grades" and called her a "dumbass" in front of the class and started using profanity. They then exchanged profanity. This had never happened with any of her other teachers. She became very upset that he brought up her grades in front of the class because they were not good at the time. This really bothered her.

22. JG testified that respondent "wanted his students to clean his room for grades." This happened a lot. He offered the students to clean something in the room in order to raise their grades from a "D" to "C-." She has never had a teacher offer extra credit for cleaning. Her other teachers would have students do homework or some other "paperwork to bump their grade."

23. In addition, JG recalled that respondent would "basically insult his girlfriend in front of us" by saying things like, "She's frickin' ugly, so stupid." He also

talked with the male students about females, which would lead to him talking loudly about his girlfriend.

TESTIMONY OF OGR - STUDENT

24. The following is a summary of the testimony and statement of OGR. He was a student in respondent's math class when he was in ninth grade during the 2019-2020 school year. He "didn't really learn anything in that class – we didn't do anything besides show up for attendance." There was nothing to do, so the students "usually slacked off." He recalled asking respondent for help in math because respondent did not offer any help. Respondent told the students to have their Chrome Books open with a tab open, so if a principal entered the class, it would look like they were doing work.

25. OGR testified that respondent made comments about being a "permanent teacher" and he was able to do "anything," and "can't get fired" or be affected by the consequences. OGR was shocked about these comments "considering that [respondent] didn't really care" about the students' education.

26. OGR recalled he was confused because at the end of the semester respondent input his grade as "F," so he asked respondent why he had an "F" when respondent did not give him any assignments. After their conversation, respondent changed his grade to a "B."

27. OGR testified about an incident when respondent made a sexual connotation while using the projector when he "stroked the projector." He felt uncomfortable and did not quite understand the joke because he was 14 or 15 years old. His friend explained it, and he was even more uncomfortable because he was a child and respondent was an adult doing this.

28. In addition, OGR recalled that respondent offered extra credit to students for cleaning the class. He remembers thinking and stated, "Why? I don't think it should be our jobs as students to clean the classroom."

29. On cross-examination, respondent told OGR that he must not have been affected too much by respondent since he recently graduated from high school. OGR replied, "It was kind of a lot since I didn't learn anything in ninth grade, considering I went to tenth grade and didn't know anything." His tenth grade math teacher, Mr. Lew, told him that he should have learned the math he did not know in ninth grade.

TESTIMONY OF YE - STUDENT

30. The following is a summary of the testimony and statement of YE. She was a student in respondent's math class three years ago. She recalled an incident in respondent's class involving chocolates that went missing. Respondent suspected the students who sat near the chocolates. He accused a particular student and searched that student's backpack. He tried to search other students' backpacks, but they would not let him. Respondent did not have control of the situation because he had been "really friendly in class," so everyone "just took him as a joke." When respondent accused another student, "M," of taking the chocolates, "M" left the classroom. Respondent called "M" a "dumbass" to the class.

31. YE testified that respondent joked about "sexual stuff." He joked about having sexual intercourse with a male math teacher in the bathroom and at his house.

32. YE stated that she did not learn math when she was in respondent's class. She recalled that respondent created some assignments in BigIdeasMath.com, but he did not teach the content. She was really confused because she did not understand what was going on because she was not taught the material. This affected her the

following school year. She stated, "I didn't really understand the math, and I had to repeat it."

TESTIMONY OF JLV - STUDENT

33. The following is a summary of the testimony of JLV. She was a student in respondent's math class when she was in ninth grade during the 2019-2020 school year. Respondent "did not typically give lessons in math." At the beginning of the school year, respondent gave a few assignments/worksheets, but that was it. He only graded those worksheets. Respondent would assign a math problem, maybe two or three times a week, but he would not teach anything. When she asked respondent for help, he would say, "If I help you with this problem, would you leave me alone?" This happened all the time. She did not learn anything the whole school year and it affected her because she struggled the rest of high school in math.

34. JLV testified that respondent's class was not under control. Students were not in their seats, and they were rude and used inappropriate language. Respondent made inappropriate comments to students. When students asked for a pencil, he would say that he did not have one, but his "boyfriend," another male teacher, did. He stroked the projector like it was a penis. Students would "side-eye" him because they were surprised a teacher would say and do such things. She never had a class like respondent's where the teacher was not teaching and inappropriate stuff happened.

35. JLV testified that respondent offered extra credit to students who cleaned his classroom. There was an incident that she recalled where respondent told her to clean up jelly beans that had been thrown in the class. She told him that she did not do it. Respondent told her that if she did not clean up the jelly beans, he would "drop" her grade. She got mad and left the classroom. She then checked and

respondent dropped her grade from a "B" to "D." She told her friends and cried. She stated, "I honestly didn't think it was right. We should be getting an education and not have to clean a classroom. I felt bad for myself and the students because we weren't being taught."

TESTIMONY OF MARIA COBO – MATH TUTOR

36. The following is a summary of the testimony of Maria Cobo. She is employed at Garey as a math tutor. She is from Colombia where she was a math teacher. She began volunteering at Garey in 2012. She accepted a position as a math tutor in 2014. She works with Spanish-speaking students who recently arrived in the United States. She goes to the different math classes every day and helps students. She has been a math tutor in respondent's class since 2014, and she spent about two hours each week in his class. Her observations of respondent's class included his lack of discipline during the entire class period. She recalled that respondent allowed a student to smoke marijuana in the class, and she had to call security. Respondent permitted students to go the bathroom without any guidelines. The students would file out of the class and "come back all drugged up." She could observe the students' behavior after they returned and she could see they had been using drugs. There was no objection from respondent, and he allowed this to happen.

37. Ms. Cobo also observed that respondent did not teach during the entire class period. He would tell the students to look at a book. When the female students asked respondent questions, he would totally ignore them. Respondent would "sit at his teacher's chair and just look at a book – but he never ever gave class." It was not just her who observed respondent's lack of teaching and discipline in his class. She asked other teachers about respondent's behavior, and they told her that they have been "dealing with that torture for years." The other teachers expressed that the

students would come to their classes the following year, and they would “have to deal with it.” She knows that respondent had to turn in grades for his students, but she does not know how he came up with their grades. She would end up instructing the students that she was assigned to tutor. She has never observed other teachers with the same behavior as respondent. When asked if respondent was fit to teach children, she replied, “No he is not fit to teach children. He lacks motivation in class . . . he does know the subject matter because one time I asked him because I wanted to see, but he doesn’t teach it.”

TESTIMONY OF ALICIA PEREZ – TEACHER AND CHAIR OF MATH DEPARTMENT

38. The following is a summary of the testimony of Alicia Perez. She has been a teacher at Garey for 11 years. She started working there in 2012. She is a math teacher and chair of the math department. She interacted with respondent during his years teaching at Garey. She testified about the following incidents involving respondent:

39. Ms. Perez saw respondent looking into the car windows of faculty members at Garey. She told him that he should not be looking inside the cars of faculty members, and she asked him to not look in her car. Respondent “laughed it off” and told her that a long-term substitute let him look in their car. She addressed this issue with other members of their department. Respondent would make sexual innuendos during department meetings and he said inappropriate things about the LGBTQ community. There was a department member who belonged to the LGBTQ community, and she had to warn that person about things respondent would say. A student reported to her that respondent told the student that she only won the Bill Gates Scholarship because the student was Asian. She was shocked and asked the student if she was sure that respondent said that, and the student said, “Yes.” The

math tutors “constantly came to her” about behavior issues in respondent’s class. A math tutor once saw a student “take a puff of smoke and blow it out of their mouth” in respondent’s class. She reported the incident to the assistant principal.

40. Ms. Perez testified about a joke that respondent made regarding “active shooters.” The teachers have a system called “Remind,” which allows them to message without having to disclose their phone numbers. A teacher sent a group reminder about an active shooter training and respondent responded by writing, “Oh wow . . . what about an inactive shooter training? Like he’s really tired or something?” She responded by writing, “Stop asking pointless questions Coggi. Stop wasting our time.” She worked in the same wing as respondent and she wanted him to take the training seriously for the sake of the faculty and students. Respondent replied in the group reminder and wrote, “Yikes! Meow! Someone woke up on the wrong side of the bed!” On a scale from 1 to 10 for offensiveness, she found respondent’s conduct to be a 10.

41. Ms. Perez stated that students told her that respondent gave them “points for sweeping.” When she addressed respondent, he responded, “Why not give students points for cleaning?” She stated that it is inappropriate to give students credit for cleaning because “school is for learning and it’s our job to teach our students . . . not to give them points for sweeping and not learning the content which is math.”

42. Ms. Perez testified that about nine years ago students began to complain to the staff that they did not learn anything in respondent’s class. Then in about 2017 or 2018, she began getting reports from the math tutors about problems with respondent’s instruction and classroom discipline. The rest of the staff in the math department would have to “help the students a lot . . . to catch up and learn.”

43. Throughout respondent's cross-examination of Ms. Perez, respondent repeatedly asked inappropriate questions and made inappropriate comments such as: asking whether she had read specific case law, asking which city she resides in, commenting that he knew she has a yellow car, commenting that she drives fast because he has seen her on the freeway, and stating he knows what city she lives in because he lives in the same city. Ms. Perez became alarmed and asked the undersigned if she should be worried for her safety because of respondent.³

TESTIMONY OF KARA MONTGOMERY-ROA – LIBRARIAN

44. The following is a summary of the testimony of Kara Montgomery-Roa. She works at Garey as a teacher specialist/librarian. She has encountered problems with respondent. A particular incident that was concerning had occurred at the school's Comic Con event on December 13, 2019. The event was to promote literacy among the students. Respondent brought his students to the event and purchased comic books for his students, which was great. However, towards the end of the event respondent made inappropriate comments. Another teacher had overheard

³ During the cross-examination of Ms. Perez, respondent called the undersigned, "Miss Know It All," in response to the undersigned's ruling of an objection relating to him interrupting the witness to offer his own untimely and inappropriate testimony. The undersigned asked respondent what he said, and he did not repeat it. Upon request, the court reporter read the transcript into the record, which indicated respondent did address the undersigned as, "Miss Know It All." Respondent was reminded by the undersigned to be mindful of preserving the decorum of the hearing and to have respect for all those present, including the administrative law judge.

respondent engaging in a conversation with his students about “titties” in a comic book. The vendor, Glynnis Pruett, had brought the comic books to the event and she packed certain comic books that were appropriate for students and affordable. Unfortunately, a particular comic book with an inappropriate photo of a woman on the cover who was scantily clad “made it in the pile” and was discovered by a male student. The male student, who discovered the inappropriate comic book, yelled to respondent something about “titties.” Respondent joined the male students, and could be overheard by another teacher having a conversation with the male student and other male students about the photo on the cover. The other teacher came to her and was concerned, so she approached respondent and told him that “a teacher needs to correct that language, not be a part of it.” Respondent replied to her and said something about “learning the female body.”⁴ Ms. Montgomery-Roa had taught at an all-boys high school and she had never heard this type of language or inappropriate behavior by students or a teacher. She was trying to correct respondent’s behavior and emphasize that teachers should not discuss sexually explicit content with minors. However, respondent instead engaged in an uncomfortable conversation with her and Ms. Pruett in front of his students and the other students and teachers who were in the library. He argued with her and stated something like, “How else is [the male student] going to learn about the female body and that’s just how guys talk when they are by themselves.” Then respondent went on and on about being able to use force on students and being able to physically restrain them, as he interpreted the Education Code. He proceeded to mock another female teacher by using a high-pitch voice and insinuating the other female teacher let students do what they want, by stating, “Oh

⁴ At this point in the hearing, respondent interrupted and asked the witness, “You think [Ms. Pruett] got my students kind of horny?”

children, please don't fight." He continued to "go on and on" and said something about her not getting "whatever hurt," which she interpreted as him insinuating she would get "butt hurt." When respondent went to pay for his students' comic books, he stated loudly that someone – maybe Ms. Pruett – only had "1s," in a reference to a stripper having one-dollar bills, which again she felt was inappropriate. As respondent left the library, he yelled, "Let no good deed go unpunished."

45. After the library incident, Ms. Pruett informed her that she felt uncomfortable with respondent and informed her that she was also shocked because respondent had asked Ms. Pruett if she brought "hentai" – Japanese pornography – to the event.

46. During the Comic Con event at the library, another incident occurred when respondent asked Ms. Montgomery-Roa to purchase a black-Jesus figurine that was part of a display in the library, and was not for sale. She was confused by his inquiry, as no other teacher or person had asked her to purchase anything that was on display at the library.

47. Ms. Montgomery-Roa had reported her concerns about the library incident to the school administration. Thereafter, respondent emailed a photo of her and her nine-month old toddler to the district's human resources department and the teachers' union. Respondent had retrieved the photo from her Etsy page and it showed her toddler was wearing a onesie that said, "My mom can kick your dad's ass." She was in roller derby attire and skates, and holding her toddler. She was informed by human resources that respondent sent this photo, and she became worried for her safety. It was "quite distressing and disturbing" to her and "extremely scary to have an adult think it's okay to post pics of you and your child, and make a threatening act to your employer." She testified, "It was a random pic on the internet and [he] had to be

actively looking . . . it's sad . . . [it] violated my rights as a parent, . . . I'm not comfortable for someone doing a deep dive on my personal history to . . . attack me." She considered switching jobs after this happened.

48. Ms. Montgomery-Roa also testified that she had other uncomfortable conversations with respondent in the past that had to do with him "giving her a lesson" about a section in the Education Code that he interprets as allowing teachers to be able to physically restrain students to maintain order. During the hearing, respondent also attempted to question Ms. Montgomery-Roa, and most of the other witnesses, about this section in the Education Code.

TESTIMONY OF ION PUSCHILA – TEACHER

49. The following is a summary of the testimony of Ion Puschila. He has been a teacher at Garey for 32 years. He teaches social studies and government. He had to cover, as a period-coverage substitute, for respondent when respondent was placed on administrative leave. Period coverage occurs when there are not enough substitute teachers. He is never happy to cover classes for other teachers, but he is especially not happy to do period coverage for classes that do not have enough structure because there is no lesson plan or program the students are working with. He recalled that respondent called the classroom while he was away on administrative leave. The phone rang and respondent asked to speak with a specific student. Respondent spoke with that student who he then asked to pass the phone to another student. Mr. Puschila learned that respondent was asking the students what they heard or knew about "what was going on with [respondent's] situation." Respondent did not ask the students anything about the content of the math class or a lesson plan. When he is absent himself, he will often call his classroom and ask the substitute to put a reliable

student on the phone and explain to that student what needs to happen in class that day. This is not what happened when respondent called the classroom that day.⁵

TESTIMONY OF DIANA CEJA – FORMER ASSISTANT PRINCIPAL

50. The following is a summary of the testimony of Diana Ceja. She currently is employed as an administrator with the Riverside County Office of Education (RCOE). Prior to RCOE, she worked at the district and was assigned to Garey from 2008 until 2013, as a math teacher and an instructional coach for teachers. From 2010 to 2013, she was an assistant principal at Garey where she supervised the math department.

51. Ms. Ceja testified that she worked with respondent at Garey and he “probably should have been coached out of teaching a long time ago.” He had a “lot of irresponsibility and carelessness and laziness in [his] quality of work.” The way he interacted with students and adults was unprofessional. She observed respondent in his classroom and there was a “sense of not doing much” on his part. He did some instruction and then sat at his desk. Some kids took notes, and some kids did something else. There were also students in the classroom that were not registered to

⁵ During cross-examination, respondent asked Mr. Puschila inappropriate questions, including how many students he had married. Respondent continued to interrupt this witness, as he did with all of the other witnesses, by interjecting his own testimony. Respondent became upset and started swinging his arms up in the air, and yelling this is what happened when he “lost his cool” in the library incident. He began yelling at Deputy Attorney General Menchin and saying he did not know the exhibit page numbers in “Craig Land.” He suggested that Mr. Menchin “go away or go to the bathroom.”

his class. She observed that respondent attempted to “transfer the info to the kids,” but he made no attempt to understand if the students were engaged or if they understood the math content. There was a lot of “independent work.” Respondent’s classroom was “mostly ineffective.” She received feedback from students who said they did not do anything in respondent’s classroom. She recalled a group of pre-calculus students came to her because they heard a rumor that respondent was going to teach Advanced Placement (AP) Calculus, and they would not take the class if respondent was assigned as the teacher because they would not be prepared for the AP exam.

52. Ms. Ceja observed concerning incidents that involved respondent. There was an incident when a female student reported to respondent’s class for several days and a male student was sitting in her chair. The female student repeatedly complained to respondent, but he did nothing except tell the female student that she could arm wrestle for her seat. Finally, the female student told the male student that if she returned the next day and he was sitting in her chair, she would hit him. The next day, the male student was sitting in her chair, so she hit him. It turns out that the male student was not registered to be in respondent’s classroom. Ms. Ceja also observed penises were often drawn on the board in respondent’s classroom. When she approached him about the drawings, he would not erase them and say the students would draw them again if he erased them. She also recalled that respondent divulged confidential information about other teachers. One such incident was when he shared with his students that another teacher was a lesbian. Another incident was during state testing, when respondent left math materials on the walls and he allowed students to leave their completed test booklets on their desks even though other students were still taking the test.

53. Ms. Ceja testified that she tried to coach respondent to help him improve with his teaching. She attempted to work with him through an improvement plan. Her efforts were ineffective because respondent's response was that he was not too concerned because he was tenured and could not get fired. She completed an evaluation of respondent in 2012 and most of her findings of his teaching skills were either "needs improvement" or "unsatisfactory." She also issued a disciplinary warning to respondent in 2012, and a performance improvement plan in 2012.

TESTIMONY OF MARCO SANCHEZ – FORMER PRINCIPAL

54. The following is a summary of the testimony of Marco Sanchez, who was designated as an expert witness. He has a Doctorate in Educational Leadership from the University of Southern California, and the pertinent credentials for teaching math and school administration. He is currently employed as the Director of Secondary Education at Norwalk-La Mirada Unified School District (NLMUSD). His current duties include training all secondary teachers in his district, and supporting administrators and counselors. Prior to NLMUSD, Dr. Sanchez worked at the district as a site administrator for eight years during which time he supervised about 250 teachers. He was also a math teacher in the district before becoming an administrator and he had some interaction with respondent in that capacity. He was principal at Garey during the school years of 2017-2018 and 2018-2019, during which time he was respondent's supervisor.

55. Dr. Sanchez testified he has "never seen a teacher like respondent." There were about 8 to 10 faculty members who raised issues about respondent. The faculty's concerns varied, including respondent's lack of classroom management; respondent's lack of teaching and standards; the consequences when the other teachers ultimately received the students; respondent's unprofessional conduct during staff meetings; and

comments he made towards students that other students would share with staff because the comments made them uncomfortable.

56. Dr. Sanchez remarked that several students also complained about respondent over the years. However, there may have been more students and families who were concerned, but because of the demographic of Garey being in south Pomona in Los Angeles, there was a "code of conduct of not telling anyone [about issues] because of ramifications in the community." Hence, when teachers, other staff, and security guards came to him with concerns about respondent, it was difficult to get detailed information from the students.

57. Dr. Sanchez testified about several of the concerns and incidents involving respondent at Garey. There was profanity used in respondent's classroom and accusations that respondent would "kind of join in on it" as a means to have a relationship with the students. Respondent would use inappropriate or borderline inappropriate language, and it was something that he would have to address with respondent on a regular basis. He addressed respondent's role in dealing with student behavior and to communicate with the parents to get them to assist. However, respondent "just wouldn't do it." There had been a change in the Education Code relating to suspensions, and the school was required to engage with parents and/or guardians about poor student behavior before suspending the student. Instead, respondent openly discussed the impact of poverty on the students and would say, "The parents don't really care." He explained to respondent that even though some parents "seemed" to not care, they likely were working two jobs, and the school also had foster youth who were in constant transition, yet, as educators, it was their responsibility to follow through and communicate with the parents/guardians. Respondent also accused the students' parents as "not valuing education" and he had

a “nonchalant approach to judging communities like south Pomona.” Respondent would often compare south Pomona with neighboring communities and say, “If we had parents like those that care, maybe he’d do it.” Respondent also criticized immigrant families and would say, “They came to this country and don’t care.” Respondent also addressed the students and their families as being “thugs or criminals” who did not value education. Respondent also remarked that it would be hard to reach the parents of students who came from single-parent families. Respondent “did a lot of inferring instead of attempting to call.”

58. Dr. Sanchez was concerned when an instructional aide reported that respondent was not addressing students who used illicit substances, i.e. marijuana, during his class. He also discovered that respondent intentionally told his students to pretend to look like they were doing work when administrators walked in the classroom. It was not just these incidents that concerned him, but also respondent’s responses. He spent a lot of time trying to get respondent to understand the purpose of being a teacher is not just to teach math, but also to teach interpersonal skills and being able to follow rules. He constantly referenced the California Teaching Standards with respondent regarding what is expected of teachers, but he “never really gained ground” with respondent.

59. Dr. Sanchez brought up an incident when a parent addressed her concern to him that respondent had demeaned a student, in front of the class, for having bad grades. When he brought up the incident, respondent “almost joked about it instead of seeing the serious nature of the incident.” Respondent admitted to demeaning the student for poor grades. He reminded respondent that he was not able to openly discuss the grades of students.

60. Dr. Sanchez spoke to respondent about his lack of preparing lessons. Respondent admitted to not typically preparing lessons and instead wrote math problems on a sheet of paper with permanent black markers, i.e. Sharpies, underneath a projector. The permanent marker posed an entirely different problem because students used them to graffiti the classroom. One of the biggest problems with respondent was that he failed to acknowledge his responsibility to give feedback to students during class or with grading. Dr. Sanchez stated, "[Respondent] really thought his role was to go up there and stand and work on problems. Students weren't actually being coached on their learning . . . he failed to see his role to help the students." Respondent also had students grade tests and respondent was not actually grading the tests. This was discovered when a student complained to an administrator as to why the student had a lower grade than another student when none of the students did work anyway. It was during the investigation of this complaint that he learned respondent permitted students to access and input grades in his teacher-grading software – called Zangle.

61. Dr. Sanchez stated that a security guard had reported that respondent paid a student to leave respondent's classroom. He also learned from students that respondent told the students to give a favorable version of what was happening in the classroom by telling them, "If [Dr. Sanchez] calls you into the office, I need you to say this." The students reported they were uncomfortable with respondent's conduct as a teacher and an adult. He got a complaint that respondent was having open class discussion with students about another teacher's sexual orientation. He also recalled that respondent used the word "gay" in class, and when he asked respondent about this, respondent replied that he was referencing the archaic meaning of "gay" as in being "happy" or "joyful." He did not believe respondent and thought respondent did actually mean "gay" as in sexual orientation. Respondent openly called students

"thugs" or "aggressive" and refused to engage with them. When he offered for respondent to visit classrooms of other teachers who had the same students and who did not have the same "problem, respondent never accepted the offer. Respondent also refused to intervene when students got into fights in his classroom. During one fight, a student was badly injured, and when Dr. Sanchez asked respondent why he did not try to stop the fight, respondent replied that he did not want to deal with the "thug parents." He reminded respondent of teachers' obligation to intervene if a student's health or safety is at risk, and of respondent's duty to establish protocols in his classroom. Respondent replied in a nonchalant manner and expressed these were not his roles.

62. Dr. Sanchez saw a common thread amongst the complaints about respondent that was he was not teaching. The students complained that respondent would either simply give students the answer or tell them to refer to their notes, but the notes were from respondent's Sharpie notes that did not help the students. The students complained to other teachers and administration that they did not know how to do the math problems in respondent's class and that respondent was not teaching them. He addressed an issue of respondent not using the Chrome Books in the classroom for instructional purposes. Respondent complained the students did not charge them and he told Dr. Sanchez, "Why would he use them?" Respondent was written up for various reasons, one of which was that he constantly allowed students to leave his classroom and allowed students who were not assigned to his classroom to sit in his classroom. Respondent also wrote passes for students indicating they were with him when the students were in fact not with him in his classroom. Respondent also permitted multiple students to leave his class at the same time, which was a problem for security who complained this was not appropriate. Respondent refused to follow the school policies, and he did not even try at all.

63. In addition, Dr. Sanchez testified there were community meetings at Garey that typically occurred after a lock down or other events. At these meetings, parents would often vent their concerns. A parent once asked Dr. Sanchez why respondent was not grading homework, why their student's grade was inaccurate, and why respondent was making students do things they should not be doing. Dr. Sanchez had received complaints from the custodians that respondent's classroom was the messiest and there were rodent issues because respondent let his students eat in the classroom. This led to other teachers complaining that custodians could not make their rounds and were not able to regularly clean their classrooms. Respondent's remedy was to "bribe" his students to clean his classroom. Respondent would tell students that if they cleaned his classroom he would raise their grade from a "D" to "C." Most of the complaints from students were they thought respondent was unfair and favoring certain students by allowing them to clean in exchange for raising their grade. The impact of the students was negative because the students, who already had a high level of self-apathy, were not given proper expectations and essentially were told they would not succeed, but to clean a table and respondent would pass them. Instead of helping the students to graduate and go to college, respondent was "leveraging the students" because he was "unable to do his own job."

64. Dr. Sanchez testified that he met with respondent on several occasions to discuss the various incidents and conduct that were of concern. He issued verbal warnings, a written conference summary in 2018, a letter of warning in 2019, and a letter of reprimand in 2019. Dr. Sanchez stated:⁶

⁶ On cross-examination of Dr. Sanchez, respondent became irate and began talking over the witness, complainant's counsel, and the undersigned. Instead of

[Respondent] has proven to me that he actually knows math, he just refuses to exert any energy needed to teach teenagers a subject they don't typically like. Not even above and beyond, actually minimally – not even.

TESTIMONY OF SABESTIAN BLACK – FORMER PRINCIPAL

65. The following is a summary of the testimony of Sabestian Black. He has a bachelor's degree in social sciences, a master's degree in educational leadership, an administrator's credential, and a single subject credential in social sciences. He has worked for the district for 21 years as a lead teacher specialist, a secondary teacher in high school, an assistant principal at Palomares Academy in 2011, an assistant principal at Garey from 2013 to 2014, and a principal at Garey in 2019 and 2020.

66. Mr. Black was respondent's direct supervisor in 2019 and 2020. He has never seen a teacher behave with such poor conduct as respondent. After the incident where respondent searched and attempted to search students' backpacks, he began interviewing students about what happened in that incident and other concerns. Mr. Black observed respondent many times and found respondent's classroom to be a very poor learning environment because students were disengaged in learning, engaged in other activities, respondent was often at his desk, and there was very little interaction with respondent and very little learning taking place. There was also little evidence

asking questions of this witness, respondent interrupted and offered his own testimony of extensive comments and narrative that he continued to give despite objections. While the undersigned was ruling on an objection related to respondent's conduct, respondent accused the undersigned of interrupting him.

that respondent engaged with parents regarding grades or students' behavioral issues. Mr. Black found respondent to be a "below-standard teacher" who rarely utilized instruction time in his classroom. His goal was to provide formal feedback to respondent and place him on an improvement plan, but respondent "did not really make himself amenable" to improving his performance. Respondent did not find that his conduct was egregious towards the students or others.

67. Mr. Black testified that he observed students using inappropriate language in respondent's classroom such as the "n" and "f" words. Respondent did not address the inappropriate language. Respondent once suggested a female student and a male student arm wrestle for the female student's seat. This was not appropriate. Respondent requested to suspend a student for two days, but Mr. Black reminded respondent he was required to advise the parent and give rationale for the suspension, pursuant to the Education Code. Respondent was not willing to speak with the parent and he was dismissive. Mr. Black gathered respondent did not find value in engaging with the parent, or he did not feel the community was worth respondent's time.

68. Mr. Black testified about other inappropriate behavior on the part of respondent. He received complaints about respondent discussing homosexuality in the classroom and asking students inappropriate questions about their sexual behavior. After a security officer was removed from the campus, respondent made comments to his students about what happens in jail to persons who are accused of sexual impropriety. There were consistent reports from students about such inappropriate discussions. Respondent also was reported for stroking his classroom projector in a sexual nature. Respondent discussed with his students a rating of female staff members based on their appearance. Respondent sold candy in his classroom, which was not permitted. Respondent allowed students to view his "Q" account - a database

for teachers to input attendance and other student records – and this permitted those students to view personal information about other students. Respondent let students out of class for reasons that were not appropriate and allowed them to wander around the campus. Respondent would also let multiple students leave his class at one time. During staff meetings, respondent sometimes acted inappropriately by being comedic about certain events or saying something “funny.”

69. Mr. Black recalled the library incident that occurred on December 13, 2019, and that he received two reports and one email about respondent’s lack of supervision of the students, his lack of redirecting students who made sexual comments like “titties” about a particular comic book, his interaction with Ms. Pruett, his inquiry about pornographic Japanese comic books, his inquiry to purchase a black-Jesus figurine that was in a library display and remarking “everything has a price,” and his insinuation that Ms. Pruett was a “stripper” because she had lots of dollar bills. When Mr. Black met with respondent to discuss this incident, respondent complained about “reverse discrimination” and the incident was the fault of the vendor, Ms. Pruett, for bringing an inappropriate comic book. Respondent also laughed about the word “titties” and said, “That’s how boys talk.” Respondent complained that he was a white male in a predominantly Latino and non-white community, and he was being singled out. Respondent complained that the female adults involved in the library incident discounted him because of his male gender. Respondent told Mr. Black something to the effect of, “[Ms. Montgomery-Roa] was tough and thought she was a Queen Bee. She’s a bully and I stand up to bullies. Sometimes the bully needs to get slapped and taught a lesson.” Respondent took no responsibility for the library incident. Mr. Black issued respondent a letter of reprimand regarding the library incident.

70. Mr. Black testified about the backpack incident that occurred on February 19, 2020. Respondent searched students' backpacks because he believed one of them had stolen his chocolates. Campus security observed respondent calling a student a "fucking pussy" while the student was trying to leave the classroom. Respondent prevented the student from leaving the classroom, grabbed the student by his backpack, and tried to search the student's backpack. The student reported that respondent was being "really aggressive." When Mr. Black asked respondent if he called the student a "fucking pussy," respondent replied that the "students let him have it, so why can't we let them have it." Mr. Black contacted law enforcement who arrived to investigate. Mr. Black contacted the district's human resources department and placed respondent on administrative leave, during which time respondent called his classroom and asked students what was being said about him.

71. Mr. Black testified regarding respondent's fitness to teach, and stated: "It's important to provide students with an appropriate and strong education, especially students struggling with math who need a strong supportive and prepared teacher every day to reverse that course. [H]e didn't provide that for several years."

Respondent's Evidence

72. The following is a summary of respondent's testimony and the documents he submitted into the record:

73. Respondent testified about the backpack incident that occurred on February 19, 2020. He learned that student "M" had somehow broken a lock to his cabinet and stole his chocolate. He got really upset. He tried to search student "M"'s backpack and he grabbed the wrist of student "M" who yelled, "Don't fucking touch me, don't touch my backpack, you're a fucking pussy." The Pomona Police Department

was called for assistance. He alleged the police told him there was no wrongdoing on his part because he had "reasonable suspicion" to search student "M" when he observed student "M" throw respondent's stolen bathroom pass a few minutes earlier. Respondent saw student "M" take a Snickers bar and admits that he grabbed the wrist of student "M." However, respondent alleged he had the right to grab the wrist of student "M," pursuant to Education Code section 44807. Student "M" reported to Mr. Black that respondent tried to grab his backpack. When Mr. Black called the police, this was "one of the turning points" of his life. The police told him, for the sake of his teaching credential, "Don't put your hands on the kids." He did not realize it would become a big issue, and now his teaching credential is on the line. He was placed on administrative leave by Mr. Black, and when he met with the assistant superintendent of human resources, Mr. Knowles, respondent made a "little wise crack" as he usually does when he gets in trouble. When he learned the police were called about "child abuse," he got shivers down his spine. However, student "M" "did him a "solid" and did not want to press charges. He alleged the other teachers started calling Mr. Black, "Sebitchsan," whose first name is Sebastian, because Mr. Black called the police on him. Respondent also alleged that student YE is "full of you know what," because she covered for student "M" and knows that he took the candy. When asked on cross-examination if he was aware that a "hunch" is not considered to be "reasonable suspicion," he replied, "That's for you guys. You went to law school." He did admit, "Searching those kids, in retrospect, was horrible and ruined my career."

74. Respondent testified about the library incident with Ms. Montgomery-Roa that occurred on December 13, 2019, which he later found out became a "big deal." He became upset because the vendor, Ms. Pruett, told him that he "just needed to get laid." He was also arguing with Ms. Montgomery-Roa about a section in the Education Code that he interpreted as a teacher being able to physically restrain

students. They had “gotten into it” about this issue at an earlier meeting when she told him that teachers are not permitted to touch students. At the library, when they “got into it again,” Ms. Montgomery-Roa threatened him to “meet up over this” and he told her something about getting “whatever hurt” although he meant “butt hurt.” He admitted that he also mocked another teacher who would say, “Stop it kids, stop it.” He thought it was a double-standard that Ms. Montgomery-Roa was not written up for the library incident, but he was written up. He thought it was “racism” because she was black and he was a white male. He felt as if the three women in the library “ganged up on him” like he was “Harvey Weinstein.” He stated, “Us white guys are hated. I felt I’m getting in trouble, they’re not as usual.” On cross-examination, he remarked that Mr. Black could have handled the situation differently, and instead of banning him from the library, he could have shaken hands with Ms. Montgomery-Roa to “work it out.”

75. Concerning the “active shooter” group messages amongst the teachers in his math department, he was trying to show that Ms. Perez was “abusive” to him when he wrote, “meow,” in response to her messages directed to him. He was also trying to use a Robin Williams’s quote that references making people laugh because he knows what it is like to feel bad inside. He admitted that he shared with his students the sexuality of another teacher who was gay. When asked on cross-examination why he shared the teacher’s private information, respondent replied, “I don’t know, maybe because it was just kind of fun . . . [the teacher] was gay . . . the principal told [the teacher] to stop spreading the gay word.” He also explained that he referenced that particular teacher’s penis to a student and said something like, “[Teacher] looks like he doesn’t have a lot going on there . . . he has a flat front side.” He was “trying not to be too graphic.” On cross-examination, respondent was asked about him telling students to have their computers out in case administration walked in the classroom. He

testified, "I'm just saying, if you want to be lazy and throw away your life, don't get me in trouble."

76. Respondent testified about his tinnitus – ringing in his ear – that he first experienced during a pep rally at Garey on February 7, 2019. He was assigned to stand in the bleachers and the noise level was "really loud." He suffered hearing loss that became ringing in his ear. He was in "bad shape" because of the ringing in his ears, he was depressed, and he could not sleep. He submitted a letter from Robert Ruder, M.D., his treating otolaryngologist, dated June 4, 2019, which referred his tinnitus and work accommodations that respondent needed. Dr. Sanchez was "harassing" him and "really started laying into him" in his March 2019 evaluations. He went on a leave of absence from May 13, 2019, through August 6, 2019, and he filed a workers' compensation case due to his injury, which settled for \$4,250.

77. Respondent testified that Dr. Sanchez was "horrible" to him and was a "jerk" and told him, "I'm not your note taker." Respondent alleged there was "favoritism towards the Hispanics, and against him, the white person." He also alleged that Dr. Sanchez "got rid of another white employee" and "fired another white guy."

78. Respondent stated in testimony:

I am the one who has suffered when I go to bed. My job status has changed. The kids are doing fine. Sabestian (Mr. Black) is a principal and they all make over \$100,000 a year. Marco (Dr. Sanchez) is doing better and he makes probably at least \$150,000. Everyone is fine except for Coggi. I don't

know how student M is doing, at least he's not physically injured by me.⁷

79. Respondent testified about his "positives." Some of his math students went to MIT, Harvard University, and the University of California colleges. One of his students now works at SpaceX on rockets. The library and backpack incidents occurred three years ago, which is a long time ago, and he has been dealing with them for that long. When students who had "F" grades in his class asked him what they could do to get a "D," he let them clean the classroom. He was trying to teach students that "through work we can achieve positive things in life." He purchased comic books for his students because he is a "good guy" and cares about those who have less than him. He understands that he has to "control his temper" and "tongue" because he does not want to be homeless. He likes his Corvette and launching his rockets. He only has six years left for retirement, and he sees the "light at the end of the tunnel." When asked on cross-examination if he thought it was problematic to give students menial work instead of math work, he responded, "No, it's just something I needed help with – and you do work, you get a reward, like Pavlov's dogs."

80. Respondent submitted the following character reference letters: a letter from Jorge Salas, dated April 11, 2023, head of a math department at Gabrielino High School in San Gabriel Unified School District; a letter from Marissa Hockberger, dated April 28, 2021, a teacher at Pomona Unified School District; a letter from Wendy Herd, dated May 16, 2022, a supervisory math teacher at Independent Learning Academy

⁷ As mentioned above, respondent constantly interrupted witness testimony and he also remarked during the hearing, but not during his own testimony, that everyone at the hearing earned six figures while he is on benefit programs.

(ILA); and a letter from Erika Bugarin, dated December, 17, 2021, an assistant principal at La Merced Middle School in Montebello Unified School District. The letters indicate that respondent was proficient with websites and educational software programs, he was "always willing to help," he had a "high level of proficiency with technology," and he was able to maintain several Google Classrooms in a remote learning environment. Respondent testified that these letters were from his supervisors where he has been employed under temporary contract since he resigned from the district. He stated, "I used to be permanent. Now, I'm temporary. But, I just go back on unemployment. No jobbie for Mikey. Now, I just eat crow."

81. Respondent referenced emails in 2022 that he received from students and parents while working at his temporary contract positions. They include emails from a student at ILA, a grandmother of a student at ILA, and a calculus student at ILA. The emails indicated that respondent was liked as a teacher, and he was thanked for helping the students. He testified to the different assignments that he designed for his students such as "Mars One Mission," "ID and Research Your Favorite College or University," "Coding a Basketball Game," "Is Global Warming a Real Thing?," "Minecraft Sheep," "Voyager 1 and 2," "Admission Requirements of CSU and UC," "How To Go From Community College to a CSU or UC," and "The Situation in Ukraine."

82. Respondent submitted his undergraduate transcripts from the University of California, San Diego, from 1993 to 1997, which indicate he majored in bioengineering and was on the pre-medical track, he earned near straight As, and he had a combined GPA of 3.851. He submitted his graduate school transcript from National University, from 2008 through 2014, which indicates he earned a master's degree in Instructional Leadership, and he obtained his administrative credential. He attended Fullerton College in 2003 and 2004, where he took classes for fun in

AutoCAD and programming. He attended Mt. San Antonio College (Mt. Sac) in 2013 and 2015, where he took classes in real estate, human geography, and psychology.

83. Finally, although some examples were cited above, during respondent's cross-examination of witnesses, he repeatedly asked inappropriate questions and he made argumentative remarks such as telling student witnesses that they must have not been harmed too much by him since they graduated or were in their senior year of high school, asking a teacher witness how many students he married, telling a teacher witness that he knows where she lives and what color of car she drives, and causing a witness to become worried about their safety during the hearing. Respondent also repeatedly interrupted witness testimony on cross-examination by offering his own testimony, despite multiple objections by complainant's counsel and being repeatedly admonished by the undersigned to cease this behavior. Moreover, respondent exhibited ongoing frustration and sometimes anger throughout the hearing, as demonstrated by his verbal remarks and body movements. Overall, respondent demonstrated a lack of respect for the proceedings and refused to take steps to rectify his behavior or control his emotional outbursts, and he did not attempt to control his conduct until the final day of the five-day hearing. In sum, his behavior at the hearing served to corroborate many of the allegations leveled against him, especially as it relates to an evident unfitness to teach.

84. Respondent did not call any witnesses.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant bears the burden of proof of establishing that the charges in the accusation are true. (Evid. Code § 115.) The standard of proof in an administrative disciplinary action seeking the suspension or revocation of a professional license is clear and convincing evidence. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt; it requires sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

Relevant Statutes

2. Education Code section 44421 permits the CTC to revoke or suspend a credential for “for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.”

3. Education Code section 44345 lists as grounds to deny any application for the issuance of a credential an applicant who “has committed any act involving moral turpitude.” (*Id.* at subd. (e).) Any denial on the grounds of moral turpitude must “be based upon reasons related to the applicant’s fitness to teach or fitness to perform other duties for which that applicant is certificated, or competence to perform the duties which the credential would authorize the applicant to perform.”

Evaluation

4. Clear and convincing evidence established that respondent engaged in inappropriate and/or unprofessional conduct to his students and coworkers while on school property or during school hours, during the 2016-2017, 2017-2018, and 2019-2020 school years, including:

- respondent's failure to maintain structure and discipline in his classroom because he let his students smoke marijuana in his classroom, he permitted his students to use inappropriate language, he suggested a female student arm wrestle a male student for her seat instead of directing the male student to leave the classroom since he was not enrolled in respondent's class, he permitted multiple students to leave his classroom at the same time, he wrote passes for students indicating they were in his classroom when they were not, he allowed students to be in his classroom when they were not enrolled in his class, he allowed students to draw images of penises on the board and he did not erase the images, and he had a Swiffer pad with red coloring on it, which looked like a female sanitary pad, that was used as the restroom pass for students;
- respondent's failure to teach and use instructional time in his classroom because he did not teach students who complained they were not learning anything, he did not help students when they asked for help, other teachers and math tutors complained that respondent was not teaching his students, he refused to contact parents and/or guardians when there were issues with students' grades or behavior, he did not have lesson plans and/or prepared lessons, he did not utilize the Chrome Books that were supplied for his students and/or he advised his students to pretend to use their Chrome

- Books when staff or administrators walked by or in his classroom, he did not grade students' homework, and he allowed students to enter grades in his Zangle account – which was his teacher-software program for grading; and
- respondent's inappropriate conduct as shown by his own use of inappropriate language and he engaged with students using such language and he did not correct students' behavior, he discussed other teachers' sexual orientation and body parts with students, he discussed topics that were sexual in nature with students and he asked students' about their sexual orientation, he made inappropriate comments at staff meetings, he discussed "titties" with students during the library incident, he became argumentative when the librarian and vendor challenged his inappropriate conversation and conduct with students, i.e. the use of the word "titties" and not taking away an inappropriate comic book that had a scantily clad woman on the cover, his mockery of another teacher, his attempt to purchase a library display figurine of a black-Jesus, he asked the vendor if she brought Japanese-pornographic comic books, he emailed a personal photo of the librarian and her toddler (that he found on the librarian's Etsy account) to the district's human resource officer and the union and he portrayed the librarian as being aggressive because of the words that were printed on her toddler's onesie, he engaged in a physical and verbal altercation with student "M" when he called student "M" a "pussy" and grabbed the wrist of student "M," he searched and attempted to search the backpacks of student "M" and other students, he engaged in inappropriate messaging with his department members when a reminder was sent about an active shooter training and he replied by asking about "inactive shooters" and the "lazy ones," he disparaged a student in front of the classroom by

calling out her poor grades and calling her a “dumbass” in front of other students, he called other students a “dumbass,” and he offered students to clean his classroom in order to raise their grades instead of assigning classwork and homework to raise their grades, and/or he offered students to clean his classroom in exchange for giving them a candy bar.

RELATIONSHIP TO FITNESS TO TEACH

5. Any adverse action on the grounds that respondent committed an act of moral turpitude must be based upon reasons related to the applicant’s fitness to teach. (Ed. Code, § 44345.) The statutory definition of immoral 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.’” (*San Diego Unified School Dist. v. Comm. on Professional Competence* (2011) 194 Cal.App.4th 1454, 1466) (*SDUSD*) [citation omitted].)

6. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 235 (*Morrison*), the Supreme Court held that “an individual can be removed from the teaching profession only upon a showing that his retention in the profession poses a significant danger of harm to either students, school employees, or others who might be affected by his actions as a teacher.” The court delineated the following criteria to determine whether a teacher’s conduct indicates that he or she is not fit to teach: (1) the likelihood that the conduct may have adversely affected students or fellow teachers; (2) the degree of such adversity anticipated; (3) the proximity or remoteness in time of the conduct; (4) the type of teaching certificate held by the teacher; (5) the extenuating or aggravating circumstances, if any, surrounding the conduct in question; (6) the praiseworthiness or blameworthiness of the motives resulting in the conduct;

(7) the likelihood of the recurrence of the conduct in question; and (8) the extent to which disciplinary action may inflict an adverse impact or have a chilling effect upon the constitutional rights of the teacher involved or other teachers. (*Id.* at pp. 229-230.) "These factors are relevant to the extent that they assist the board in determining . . . the teacher's fitness to teach, i.e., in determining whether the teacher's future classroom performance and overall impact on his students are likely to meet the [school district's] standards." (*Ibid.*) There must exist a "factual nexus between [the teacher's misconduct] and unfitness to teach." (*San Dieguito Union High School Dist. v. Commission on Professional Competence* (1982) 135 Cal.App.3d 278, 288 (*San Dieguito*).

Not all the *Morrison* factors must be considered, only the most pertinent ones. (*West Valley-Mission Community College District v. Conception* (1993) 16 Cal.App.4th 1766, 1777.) Additionally, the *Morrison* factors may be applied to all the charges in the aggregate. (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1456-1457 (*Woodland*)). The determination of fitness for service required by *Morrison* is a factual one. (*Id.* at fn. 3); (*Fontana Unified School District v. Burman* (1988) 45 Cal.3d. 208, 220-221 (*Burman*); *Governing Board v. Haar* (1994) 28 Cal.App.4th 369, 384.)

7. In considering the *Morrison* factors relevant to this case in relation to the sustained allegations the following conclusions are reached.

The Likelihood That The Conduct May Have Adversely Affected Students, Fellow Teachers, or The Educational Community, and The Degree of Such Adversity Anticipated

8. Respondent's conduct had a negative effect on his students and fellow teachers, many of whom sought to avoid him or felt uncomfortable in his presence.

The Proximity or Remoteness in Time of Conduct

9. The events that occurred were not recent, as they occurred during the period from 2016 through 2020. However, the conduct is not so remote as to prevent the CTC from taking action. (*Broney, supra*, at p. 477 [conduct was not remote in time where the CTC took action against the credential three years after the criminal conduct occurred].)

Type of Teaching Credential

10. This factor looks to the teacher's teaching certificate and whether the teacher's conduct is consistent with his credential. (*SDUSD, supra*, at p. 1143.) Respondent's conduct is inimical to a credential for elementary or secondary education.

Extenuating or Aggravating Circumstances

11. California Code of Regulations, title 5, section 80300, subdivisions (b) and (m), provide definitions for aggravating and mitigating factors which demonstrates that a greater or more lenient degree of adverse action for an act of professional misconduct is needed to adequately protect the public, schoolchildren or the

profession. These factors are instructive, but not exhaustive, in evaluating extenuating or aggravating circumstances related to fitness to teach.

Aggravating factors include:

- (1) a prior record of adverse action including the nature and extent of that record;
 - (2) that the misconduct evidences multiple acts of wrongdoing or demonstrate a pattern of misconduct;
 - (3) that the misconduct was surrounded by or followed by bad faith, dishonesty or other violation of the laws governing educators;
 - (4) that the misconduct significantly harmed a child entrusted to the care of a credential holder or applicant, significantly harmed the public or the educational system;
 - (5) that the holder or applicant demonstrated indifference toward the consequence of the misconduct, which includes failure to comply with known court orders; or
 - (6) that the holder or applicant had prior notice, warnings or reprimands for similar conduct from any reliable source.
- (*Id.* at subd. (b).)

Mitigating factors include:

- (1) absence of any prior record of adverse action over many years of educational service, coupled with present misconduct which is not deemed most serious;
- (2) lack of harm to the person who is the object of the misconduct;
- (3) emotional or physical difficulties suffered by the holder or applicant which substantially contributed to the misconduct; provided that the difficulties were not the product of illegal conduct by the credential holder or applicant, such as illegal drug or substance abuse; and further provided that the credential holder or applicant has established through clear and convincing evidence that he or she no longer has such difficulties;
- (4) a demonstration of good character of the applicant or holder attested to by references from the educational community or the general community from individuals aware of the extent of the applicant's or holder's misconduct;
- (5) objective action taken by the applicant or holder, spontaneously demonstrating remorse at the time of the misconduct, and recognition of the wrongdoing which is designed to timely make amends for the consequences of the misconduct;

(6) the proximity or remoteness in time relative to the seriousness of the misconduct; or

(7) the nature and extent of subsequent rehabilitation.

12. There are aggravating circumstances including respondent's repeated course of conduct and lack of acceptance of his responsibility. His conduct during the hearing and his inability to control his emotional outbursts are an additional aggravating factor. In mitigation, respondent has no history of discipline with the CTC; since he resigned from the district, he has obtained various temporary-contract employment opportunities in the educational setting, in which his students and supervisors have written letters of support; and the misconduct occurred approximately three or more years ago.

The Praiseworthiness or Blameworthiness of Respondent's Motives

13. Respondent's motives were not praiseworthy.

The Likelihood of the Recurrence of the Questioned Conduct

14. Respondent's acceptance of responsibility was minimal to non-existent. While respondent nominally stated that he acknowledged he should not have searched the students, it was not established that respondent has been rehabilitated. He continues to place blame on Ms. Montgomery-Roa, Ms. Pruetz, Dr. Sanchez, and various students including student "M." Respondent denied most of the allegations and accepted little responsibility for his conduct in the face of clear and convincing evidence. His scant acceptance of responsibility does not indicate that he has engaged

in meaningful introspection about his conduct. Consequently, the risk of recurrence of improper conduct is not minimal. (*San Dieguito, supra*, at p. 1183 (noting it was "likely [the teacher] would repeat her unsatisfactory performance since she appeared to be indifferent to the seriousness of the problem").)

Chilling Effect Upon Constitutional Right

15. There is no relationship between respondent's conduct and free speech.

16. In consideration of the *Morrison* factors and totality of the circumstances, respondent's conduct in the aggregate indicates a factual nexus between his conduct and unfitness for service.

UNPROFESSIONAL CONDUCT

17. The term "unprofessional conduct" is conduct such as to indicate unfitness to teach. (*Perez v. Commission on Professional Competence* (1983) 149 Cal.App.3d 1167, 1174.) Unprofessional conduct has been defined as "that conduct which breaches the rules or ethical code of a profession or conduct which is unbecoming a member in good standing of a profession." (*Shea v. Bd. of Medical Examiners*, (1978) 81 Cal. App.3d 564, at 575; *Bd. of Education v. Swan* (1953) 41 Cal.2d 546, 553.)

18. Respondent engaged in unprofessional conduct demonstrating an unfitness to teach as measured against the *Morrison* factors.

MORAL TURPITUDE/IMMORAL CONDUCT

19. There is broad discretion in determining what constitutes immoral conduct in the context of teacher disciplinary matters. (*California Teachers Assn. v.*

State of California (1999) 20 Cal.4th 327.) Immoral conduct has been defined by the courts as follows:

[T]hat which is hostile to the welfare of the general public and contrary to good morals. Immorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as 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. (*Palo Verde etc. School Dist. v. Hensey* (1970) 9 Cal.App.3d 967, 972, citing *Bd. of Education of San Francisco Unified School Dist. v. Weiland*, 179 Cal. App 2d 808, 811.)

A teacher's conduct is therefore "immoral" when it negatively affects the school community in a way that demonstrates the teacher is "unfit to teach." (*Board of Education v. Commission on Professional Competence* (1980) 102 Cal.App.3d 555, 593 [the term "immoral conduct" must be "given context by reference to fitness for the performance of that occupation"]; *Bassett Unified School Dist. v. Commission on Professional Competence* (1988) 201 Cal.App.3d 1444, 1453 ["[W]here charges of immorality . . . are raised in [a] teacher discharge case[], the applicable standard is whether the person is fit to teach."].)

20. Respondent's conduct was unprofessional, and it rises to the level of immoral conduct or moral turpitude as he referenced topics that were sexual in nature with his students, and he engaged in inappropriate physical, i.e. searching students'

backpacks and grabbing a students' wrist and/or verbal interactions with his students, i.e. calling a student "pussy."

PERSISTENT DEFIANCE OF, AND REFUSAL TO OBEY, LAWS REGULATING THE DUTIES OF PERSONS SERVING IN THE PUBLIC SCHOOL SYSTEM

21. During the period from 2016 through 2020, and prior, there were various principals and an assistant principal who met with respondent about his conduct at Garey. He was given conference summary warnings, letters of warning, letters of reprimand, poor performance evaluations, an improvement plan, and placed on administrative leave. Yet, he continued to persistently defy and refused to obey the laws and board policies regulating his duty to serve as a teacher at Garey.

EVIDENT UNFITNESS TO TEACH

22. Evident unfitness for service is established by conduct demonstrating that the teacher is "clearly not fit, not adapted or suitable for teaching, ordinarily by reason of temperamental defects or inadequacies." (*Woodland, supra*, at p.1444.) It connotes a fixed character trait, presumably not remediable merely on receipt of notice that one's conduct fails to meet expectations of the school district. (*Ibid.*) As a threshold matter, the *Morrison* criteria must be examined to ascertain whether the conduct in question indicates unfitness for service. "If the *Morrison* criteria are satisfied, the next step is to determine whether the 'unfitness' is 'evident'; i.e., whether the offensive conduct is caused by a defect in temperament." (*Id.* at p. 1445.)

23. Respondent has limited recognition that he acted inappropriately. While it was not established that respondent has a fixed character trait that is not remediable, a proper showing of rehabilitation and acceptance of responsibility would be needed for him to demonstrate that he may be fit to return to the classroom.

Cause Exists to Revoke Respondent's Credentials

24. Cause exists to take adverse action against respondent's credentials in that respondent committed acts of unprofessional conduct, immoral conduct, and moral turpitude, respondent demonstrated evident unfitness for service, and respondent persistently defied and refused to obey laws regulating the duties of persons serving in the public school system, evident unfitness for service. (Ed. Code, §§ 44421; 44345, subd. (e).)

25. The purpose of an administrative proceeding seeking the revocation or suspension of a professional license is not to punish the individual; the purpose is to protect the public from dishonest, immoral, disreputable or incompetent practitioners. (*Ettinger, supra*, at p. 856.) Respondent's conduct is inconsistent with the behavior expected of teachers and raises serious concerns about his judgment and maintenance of professional boundaries. On this record, respondent has not established that he has been rehabilitated such that he is safe to continue teaching in public schools. Accordingly, revocation is the only level of discipline sufficient for public protection.

ORDER

All credentials and certificates issued to respondent Michael James Coggi are revoked.

DATE: August 7, 2023



JAMI A. TEAGLE-BURGOS

Administrative Law Judge

Office of Administrative Hearings