

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
AND A COMMISSION ON PROFESSIONAL COMPETENCE
FOR THE LOS ANGELES UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA**

In the Matter of the Dismissal of:

YAMILA ESTRADA, (EN 566989),

A Permanent Certificated Employee,

Respondent.

OAH No. 2023070207

DECISION

The Commission on Professional Competence, consisting of Jacqueline Tyler, complainant's designee, Stephanie R. Cobb, respondent's designee, and Jennifer M. Russell, Senior Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by video conference on January 5, 8-12, 16-19, 22-26 and February 5-9, 2024.

Susan Hyman and Leslie Chi, Assistant General Counsels, represented complainant Francisco J. Serrato, Ed.D., Interim Chief Human Resources Officer for the Los Angeles Unified School District (LAUSD or District). Tamra M. Smith, Attorney at Law, with Ajilal Hassan, Law Clerk, of Equality Law LLP, represented respondent Yamila Estrada (Estrada), who was present on all hearing days.

Complainant seeks dismissal of Estrada from the District based on allegations of unprofessional conduct, unsatisfactory performance, evident unfitness for service, persistent violation of laws and regulations, and willful refusal to perform assignments without reasonable cause. Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on February 9, 2024. The Commission determined complainant failed to establish by the preponderance of the evidence Estrada's unfitness to teach. The Accusation is dismissed.

FACTUAL FINDINGS

Jurisdictional Matters

1. Estrada is a permanent certificated employee of the District.
2. On June 7, 2023, the District filed and served on Estrada a Notice of the Board of Education Intention to Dismiss and Placement of Immediate Unpaid Suspension with a Statement of Charges alleging acts and omissions allegedly constituting Estrada's unprofessional conduct in violation of Education Code section 44932, subdivision (a)(2), unsatisfactory performance in violation of Education Code section 44932, subdivision (a)(5), evident unfitness for service in violation of Education Code section 44932, subdivision (a)(6), persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing her, in violation of Education Code section 44932, subdivision (a)(8), and willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing district, in violation of Education Code section 44939.

3. On July 7, 2023, Estrada filed a Request for Hearing and Notice of Defense objecting to the Statement of Charges on grounds that, among other things, it fails to state acts or omissions or a proper factual basis on which the District may proceed.

4. On October 6, 2023, the District filed with OAH and served on Estrada an Accusation containing the Statement of Charges. The Accusation is the operative pleading in this matter. At hearing, pursuant to Government Code 11507, complainant amended the Accusation to omit Charges 1, 2, 13, 14, 15, 16, 17, 23, 24, 25, 34, 35, and 125. Concomitantly, discipline and directives pertaining to these omitted Charges are stricken from the Accusation.

5. On November 9, 2023, Estrada filed a First Amended Request for Hearing and Notice of Defense asserting, among other things, the District seeks dismissal of Estrada in retaliation for certain protected union activity, in violation of Government Code section 3543.6, subdivision (a).

6. All jurisdictional requirements are satisfied.

District Standards, Student Assessments, and Teacher Evaluations

COMMON CORE STATE STANDARDS

7. The California State Board of Education (Board) establishes the academic standards for all kindergarten through twelfth-grade students in the California education system as well as policies for curriculum, instructional materials, assessments, and accountability. The Board has adopted the Common Core State Standards ("the Standards"), which provide benchmarks in Mathematics and English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects

(ELA) for students' acquisition of the knowledge and skills necessary to progress from one grade to the next, eventual graduation from high school, and college and career readiness. (See Exh. 53.) The District adheres to the Standards.

8. Students who are English language learners are required to achieve the benchmarks set forth in the Standards. Thus, English Language Development Standards (ELD) provide for instruction for English language learner students to develop their listening, speaking, reading, and written English skills in order for them to access subject area content.

9. Instruction for students with disabilities incorporates certain services and supports, including an Individualized Education Program (IEP), accommodations, and specialized teachers, therapists, and personnel, among other things, to meet the Standards.

STUDENT ASSESSMENTS

10. The Dynamic Indicators of Basic Early Literacy Skills (DIBELS) is a series of procedures and measures administered to students in kindergarten through fifth grade to monitor and screen their acquisition of early literacy skills.

11. Throughout their educational development, English language learner students are administered the English Language Proficiency Assessments for California (ELPAC) to measure their progress learning English and level of English proficiency.

12. Reclassification is the process whereby English language learner students transitioning from elementary to middle school are deemed fluent and proficient in English after meeting various Board and District linguistic and academic criteria. English language learner students unable to meet the criteria for reclassification by the

fifth grade are required to continue with an ELA course of studies, and forego elective classes, in middle school until they do.

TEACHER EVALUATIONS

13. The LAUSD Teaching and Learning Framework (TLF) is a research-based teacher development and evaluation protocol. The TLF is used to provide teachers with guidance and feedback on areas of strength and where improvement is needed in their design and delivery of instruction to culturally, linguistically, economically, and academically diverse learners. The TLF is used in conjunction with classroom observations, professional conversations (i.e., planning conferences and pre-and post-observation conferences), and artifacts such as lesson plans, samples of student work, samples of assessments, or other types of documentation evidencing a teacher's practice to evaluate a teacher's instruction design and delivery.

14. Components of the TLF consist of five standards. Standard 1: Planning and Preparation, which includes demonstrating knowledge and command of subject area content and content-related pedagogical approaches, an awareness of students' skills, knowledge, and language proficiency, and design of standard-based learning activities and assessment criteria; Standard 2: Classroom Environment, which includes the creation of an academic environment or climate of respect and rapport, the management of classroom routines, procedures, and transitions, as well as monitoring and responding to student behaviors; Standard 3: Delivery of Instruction, which includes communicating instructional aims or objectives, using academic language to deliver subject area content, and employing standard-based projects, assignments, and activities to engage students in learning; Standard 4: Additional Professional Responsibilities, which includes maintaining accurate records to track student progress, communicating with families, and demonstrating professionalism through

ethical conduct and compliance with federal, state, district, and school regulation; and Standard 5: Professional Growth, which entails the use of reflection to inform future instruction and inquiry and collaboration with colleagues. For each of the five components of the TFL, there are four rating categories for evaluating whether and to what extent observed teaching practices are aligned with the Standards. The four rating categories are Ineffective Practice, Developing Practice, Effective Practice, and Highly Effective Practice.

15. Article X of the 2019-2022 Agreement Between the Los Angeles Unified School District and United Teachers Los Angeles (Collective Bargaining Agreement) governs the evaluation requirements applicable to this case, including evaluation frequency, notifications to the employee being evaluated, and the selection of performance focus elements. (See Exh. RX 1192 at pp. 66-77 [B2348-B2359].) Typically, a District school's administrator, the principal or assistant principal, conducts one or more informal observations of a teacher each academic year to ensure their teaching is in accordance with the Standards. The administrator meets with and provides feedback to the teacher. The teacher is afforded an opportunity to respond. If warranted, the teacher receives assistance and guidance through the Peer Assistance and Review (PAR) Program. The administrator documents the informal observation, matters discussed in the meeting, as well as any assistance, guidance, and directives provided the teacher. Subsequent informal observations may occur to determine whether the teacher implemented previous guidance and directives.

16. Additionally, each academic year, the administrator conducts a planned, formal observation of the teacher's classroom teaching. The administrator and teacher participate in an initial planning conference for the formal classroom observation where the teacher selects three focus elements from the TLF's Standard 1, 2, or 3, the

administrator selects three focus elements from the TLF's Standard 3, and administrator and teacher jointly select one additional focus element. During the formal classroom observation, the administrator observes the teacher's practice and collects evidence from the beginning to the end of the lesson. The administrator and the teacher participate in a post-observation conference to discuss teaching practices and next steps for the teacher's professional development.

17. At the conclusion of a typical academic year, the administrator provides the teacher with a Final Evaluation containing performance ratings in several categories. Performance ratings are either Below Standard Performance, Meets Standard Performance, or Exceeds Standard Performance.

18. The District's 2020-2021 academic year was atypical. In response to the COVID-19 pandemic, District schools closed for in-person instruction and adopted to an online Distance Learning program to prevent the spread of COVID-19. Concomitantly, the District and United Teachers Los Angeles (UTLA) entered into a 2020-2021 Distance Learning Sideletter agreeing, "For the 2020-2021 school year, evaluation of unit members shall be limited to non-permanent employees (provisional and probationary)." (Exh. RX 1220 at p. 3 [B2805].)

District Class Description-Elementary Teacher

19. According to the District's "Class Description-Elementary Teacher," dated July 2019, an elementary teacher's essential functions include: teaching self-contained classes in kindergarten through grade six in elementary schools in accordance with the requirements of approved courses of study and at a rate and level commensurate with established student progress expectations using adopted textbooks and other instructional materials authorized for such courses; using information about individual

students' academic strengths, needs, and progress in planning; designing activities to engage students in cognitively challenging work aligned to standards; using resources to promote high levels of learning and student engagement in the classroom environment; closely monitoring student learning in order to understand how students are progressing toward learning objectives and providing students with instructive and timely feedback to move their learning forward; establishing a safe and supportive classroom environment, where risk-taking is encouraged and students feel free contributing their ideas, and teacher and student interactions are respectful and polite to promote a positive learning environment for all students; providing clear behavior expectations for students and monitoring student behavior throughout the class and school campus; communicating with families to create a partnership around student learning by providing information about the instructional program and the progress of their child(ren); and reflecting on practice and student work to determine what went well and what changes could improve instruction, and using reflection to inform future instruction. (See Exh. 73.)

Alta California Elementary School

20. The District's Alta California Elementary School (Alta California) provides instruction to District students enrolled in transitional kindergarten through the fifth grade. As a "Title 1 school," Alta California is a recipient of federally funded benefits intended to reduce the education achievement gap between students who are and are not from low-income households.

21. From 2015 to the present, Jose Benitez has served as Alta California's principal.

22. From 2015 to 2021, Vanessa Victorio served as Alta California's assistant principal.

23. From 2021 to the present, Carolina Martin has been serving as Alta California's assistant principal.

24. During the 2019/2020 academic year, Laura Tahmasebi served as the designated Fifth Grade Level Chairperson for Alta California. In that capacity, Tahmasebi convened bi-monthly meetings, during which data pertaining to student progress and assessments were analyzed and discussed along with instructional techniques and resources.

25. Tahmasebi conducted no evaluation of Estrada's classroom performance. As mentioned in Factual Findings 91 and 108, Estrada observed Tahmasebi's classroom management.

26. During the 2019/2020 and 2020/2021 academic years and the 2021 fall semester, Christy Maar was the Title III EL Instructional Coach for several District schools, including Alta California. As a Title III Instructional Coach, Maar mentored teachers to improve their effectiveness as educators. Maar does not evaluate teacher classroom performance. As Maar variously testified, "I wasn't there to evaluate. I was there to help improve teachers' support of EL learners" and "I'm not there to say this is good or bad. I'm there to say you might want to take a look at this." As noted in Factual Finding 91, Maar provided instructional coaching to Estrada, including lesson demonstrations and feedback on pre-teaching sessions. During instructional coaching, Maar provided no evaluative rating of Estrada's classroom performance to Estrada.

27. The Peer Assistance and Review (PAR) Program is a state-wide program to provide assistance and guidance to new and experienced classroom teachers to

improve their instructional skills. During the 2019/2020 academic year, Laurie Chase served as Estrada's PAR consulting teacher. During the 2020/2021 academic year, Cheryl Mallin served as Estrada's PAR consulting teacher.

Respondent

28. Estrada earned a Bachelor of Arts degree in 1995 and a Master of Arts degree in 2009 from California State University Northridge. Estrada has a Clear Multiple Subject Credential and a Bilingual Crosscultural Language in Academic Development (BCLAD) authorization to provide specialized instruction to individuals for whom English is a second language.

29. Estrada's career as an educator working in the District began in 1985. Estrada has served as a teaching assistant, substitute teacher, and teacher at various District schools. From 2012 until the June 7, 2023 recommendation for her dismissal from the District, Estrada was an "Elementary Teacher" to Alta California.

30. Estrada is an active member of UTLA. In April 2019, Estrada became the UTLA Chapter Chair for Alta California with responsibility for, among other things, apprising the membership of UTLA policies, organizing school site activities, and defending members' professional rights.

The Hearing Evidence

31. For the 2018/2019 academic year, Estrada received a "Below Standard" rating on her Final Evaluation Report. (See Exh. 75.) Consistent with District practices, Estrada was further evaluated commencing with the 2019/2020 academic year.

32. Victorio, Benitez, and Martin, the Alta California administrators, observed and evaluated Estrada's classroom performance during the 2019/2020, 2021/2022, and

2022/2023 academic years, as discussed below. Collectively, Victorio, Benitez, and Martin testified that Estrada demonstrated ineffectualness in her preparation and planning of instructional activities for students, delivery of instruction consistent with the Standards, and maintenance of a classroom environment conducive for learning. In large measure, their testimony on direct examination conveyed their generalized impressions, conclusions, and opinions of Estrada's classroom performance. However, during cross-examination, in several instances their testimony contradicted their reported observations documented in conference memoranda they prepared.

33. Guided by Evidence Code section 780 and the decisional law, discussed in Legal Conclusions 3 through 7, the Commissioners assessed credibility and considered and weighed the substance of these three administrators' testimony. Regarding Victorio, the Commissioners afforded diminished weight to Victorio's testimony, in part, because Victorio repeatedly flouted provisions of the Collective Bargaining Agreement governing the sufficiency of a teacher's preparation and planning. Confronted with a probing cross-examination, Victorio's memory became conveniently absent. Victorio hesitantly recanted claims she made about observing multiple deficiencies during Estrada's classroom instruction. Victorio's failure to alert Estrada about dangerous student behaviors Victorio claimed she saw when she observed Estrada's classroom called into question Victorio's credibility and reliability as a narrator of events.

34. Benitez's credibility was similarly diminished because of his omission of material facts from his evaluation of Estrada's performance, including the effect of COVID on in-person classroom instruction and the effect of a temporary medical condition on Estrada's discharge of her duties. On several matters, Benitez grudgingly gave credit to Estrada although the evidence showed credit was warranted. Benitez, at

times, impugned his own written narration of what he purportedly observed occurring in Estrada's classroom when he admitted to limitations in his scripting. In addition, the tenor of Benitez's testimony suggested tension and personal animosity seeped into the professional relationship between him and Estrada, thus affecting his objectivity as an evaluator of her classroom. Benitez appeared incensed by Estrada's practice of documenting their interactions. The Commissioners, however, rejected any suggestion that Benitez's criticisms of Estrada resulted from union animus.

35. Martin's testimony was comparatively straight forward. Martin testified without prevarication. Nonetheless, Martin's testimony revealed her tendency to dismiss instructional techniques she did not favor regardless of their merit. The Commissioners accorded moderate weight to Martin's testimony.

36. Estrada primarily countered Victorio, Benitez, and Martin's testimony with her own testimony, documentation of her teaching practice, and corroborating artifacts and student samples. Estrada presented as earnest, direct, and truthful as she answered counsels' questions to the best of her recollection.

37. Several parents, students, and colleagues offered anecdotal evidence of Estrada's commitment to her students' academic success. Their collective testimony merits moderate weight.

38. The Commission's credibility determinations aided its assessment of the totality of the evidence in the record to reconcile the allegations in the charges, detailed in Factual Findings 38 through 290, as follows.

2019/2020 Academic Year

39. In the 2019/2020 academic year, Estrada was assigned a fifth grade classroom with a roster of 28 students. At hearing, Victorio variously described the demography of Estrada's classroom as comprised of "students with special education classifications," "a variety of students at different learning levels," "diverse learners," "emerging English learners," "emergent bilingual students," and "newcomer," meaning students new to the United States of America. Maar variously described the demography of Estrada's classroom as comprised of "some struggling students," "some challenging students," and "students with behavior issues that were challenging."

SEPTEMBER 26, 2019 INFORMAL CLASSROOM OBSERVATION

40. On September 26, 2019, between 8:22 a.m. and 9:25 a.m., Victorio conducted an unannounced observation of Estrada's classroom. Tamika Dixon, an LAUSD administrator, accompanied Victorio to support Victorio as an evaluator. Victorio reports she observed Estrada checking student answers to a math homework assignment related to a lesson on *Powers and Exponents*. (See Exh. RX 1030.) At hearing, Estrada testified she had "no prior information" about the observation and "in that moment all of a sudden [she] blanked out and made errors." Estrada played music to calm herself down to transition to a writing activity titled *Describe a Character*. (See Exh. Rx 1075 [B871].) Victorio reports Estrada sat for most of the observation with a small group of students, to whom she periodically asked a question about their progress, did not provide any other supports, or monitor. Victorio further reports when she left the classroom, she observed Estrada seated in the front of the room occasionally calling out to students to ask if they were completing the assignment.

Victorio reports she observed the students independently working on tasks listed on the whiteboard.

41. On October 4, 2019, Victorio convened a post-observation conference, at which time she discussed her observations of Estrada's lesson planning and preparation, delivery of instruction, and management of classroom environment. Victorio subsequently prepared an October 7, 2019 conference memorandum containing her observations and statements Estrada purportedly made during the post-observation conference.

42. The October 7, 2019 conference memorandum contains a list of assistance and guidance Victorio offered Estrada, including instructions for preparing weekly lesson plans and a directive to submit them to Victorio on the Friday before the upcoming week no later than 3:00 p.m. The assistance and guidance list includes instructions for the preparation of a white board in advance of instruction, the communication of the purpose of the lesson prior to direct instruction, the maximization of instructional time, the design of intentional group structures to support student learning, the communication of clear, explicit directions prior to beginning a task, the monitoring of student learning, the delivery of accurate information, as well as the development and reinforcement of an effective classroom management plan.

43. The October 7, 2019 conference memorandum informs Estrada classroom coverage would be provided to allow Estrada to visit Tahmasebi's fifth grade classroom to observe the use of effective strategies in classroom management and instruction. Victorio instructed Estrada to take advantage of professional development classes and attached the *2019-2020 PAR Professional Development*

Schedule. Victorio additionally informed Estrada a PAR Consulting Teacher was available to assist Estrada.

44. The October 7, 2019 memorandum informs Estrada that failure to make immediate and sustained improvement in her performance may lead to the issuance of a Below Standard Evaluation or discipline such as a Notice of Unsatisfactory Service and/or Act, or Notice of Suspension, or both, and dismissal from the District. On March 9, 2020, Estrada submitted a written rebuttal to the October 7, 2019 memorandum. (See Exh. Rx1032.)

45. Based on Victorio's October 7, 2019 memorandum, the District alleges specific charges against Estrada, which the Commissioners resolve as follows.

46. The District alleges in Charge 3, on September 26, 2019, Estrada did not plan complete and clear lessons that contained the sufficient level of detail needed to deliver standards-based instruction to the 28 students assigned to her class. According to the District, in reviewing the lesson plans for September 26, 2019, which Estrada left on her desktop, the following was observed:

- a. Estrada did not include time frames or instruction, with the exception for Physical Education.
- b. Estrada did not identify learning objectives, the skills she planned to teach, and the materials she planned to use.
- c. Estrada listed generic activities or programs such as, "Mystery Science" and "Go Noodle," which did not include the necessary details to assist and to systematically teach a standard like, Next Generation

Science Standard 5-PS2-1: Support an argument that the gravitational force exerted by Earth on objects is directed down.

- d. For the 100-minute block of ELA time, Estrada did not clarify what she planned to teach:
 - i. For the *Benchmark Advance Close Reading: Use Text Evidence to Draw Inferences*, Estrada listed eight related Common Core State Standards ("CCSS").
 - ii. For the *Benchmark Advance Introduce Long Vowels* activity, Estrada listed five related CCSS.
 - iii. For the *Benchmark Advance Plan and Organize a First-Person Reflection* activity, Estrada listed ten related CCSS.

47. The District alleges in Charge 4, on September 26, 2019, Estrada did not plan appropriate learning opportunities to ensure student access to core curriculum and Estrada did not address the specific learning needs of all 28 students assigned to her class. Estrada did not plan or include supports such as:

- a. ELD supports available on line and in the Teacher's Edition of the Benchmark Advance textbook for 26 EL students.

- b. frequent checks for understanding or chunking of instructions and information for the four students who have IEPs.

48. Evidence relevant to Charges 3 and 4 was jointly entered into the record and discussed together here. The preponderance of the evidence does not support Charges 3 and 4. At hearing Victorio acknowledged, notwithstanding her contrary opinion, Article IX, Section 4.1 of the Collective Bargaining Agreement does not require a teacher to itemize time specific tasks. Victorio admitted she assumed Estrada did not plan for an instructional task if Estrada did not write it down. Victorio did not account for a posted Daily Schedule or check her assumption with Estrada. At the time of Victorio's classroom observation, a Daily Schedule with time frames for subject matter instruction was posted in Estrada's classroom. (See Exh. RX1185.) Estrada's lesson plan book provides for teaching ELA writing on September 23 and 24, 2019. However, DIBELS testing occurred on those days and, as a consequence, Estrada was required to adjust her lesson plan accordingly, including teaching the ELA writing activity Victorio observed two days later on September 26, 2019. Victorio admitted it is common for a teacher to write instructional objectives in shorthand format, as Estrada did in her lesson plan book (See Exh. RX 1027.)

49. The District alleges in Charge 5, on September 26, 2019, Estrada did not provide the students with rigorous, standard-based learning activities to provide higher levels of thinking and engage them in learning about powers and exponents when she merely provided them with the answers to the math homework and retaught the problems from the homework that most of the students missed or called on students to explain how they solved the problems.

50. The District alleges in Charge 6, on September 26, 2019, Estrada did not effectively communicate to students what they would be learning prior to engaging them in descriptive writing activities. Estrada merely stated, "We will continue with writing the story," or words to that effect. The specific allegations are as follows:

- a. Estrada motioned towards the white board, projected an image of an outline of a human figure, and stated, "We have to cut out the figure and describe the character," or words to that effect.
- b. Estrada did not introduce, discuss, or review any standards such as CCSS.ELA-LITERACY.W.5.5: *With guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach.*
- c. Estrada did not connect how students would use their descriptive skills in their writing, pause to engage their level of understanding regarding the descriptive writing assignment; instead, Estrada moved on.

51. The District alleges in Charge 7, on September 26, 2019, Estrada did not deliver a teacher-directed ELA descriptive writing lesson about a character that followed a gradual release to independent student practice. The specific allegations are as follows:

- a. Estrada did not guide the students to recognize that the purpose of descriptive writing is to describe a person, place, or thing in such a way that a picture is formed in

the reader's mind as outline in the *Benchmark Advance Teacher' Edition* and *ELA Common Core State Standards*, Estrada led the students in a whole-group, low-level activity.

- b. For approximately 37 minutes, without a clear standards-based objective, Estrada assigned the students to independently complete a descriptive essay on a character they created as she sat at a table with five to six students who she announced, "need a little help."
 - i. Estrada alternated from sitting at the table with her elbow on the desk and her chin resting in the palm of her hand as the students in her small group silently worked and walked around the room tidying up bookcases and tables.
 - ii. At times Estrada questioned the students at her table or those who sat at their desks around the room using words to the effect of "What are you doing," "Are you ready to type," "[Student Name], are you working," "Are you writing," and "Necesita ayuda [Spanish for 'Do you need help?']."
- c. Without referring to any standards, Estrada told the students to put their writing away, prepare for Universal Access Time, where she erased the previous "Must Do's"

and "May Do's" from the white board, and rewrote new activities for the students to complete.

d. Estrada did not refer to:

CCSS.ELA-LITERACY.W.5.3: Write narratives to develop real or imagined experiences or events using effective technique, descriptive details, and clear event sequences.

CCSS.ELA-LITERACY.W.5.3.d: Use concrete words and phrases and sensory details to convey experiences and events precisely

CCSS.ELA-LITERACY.W.5.6: With some guidance and support from adults, use technology, including the Internet, to produce and publish writing as well as to interact and collaborate with others; to demonstrate sufficient command of keyboarding skills to type a minimum of two pages in a single sitting.

52. The District alleges in Charge 8, on September 26, 2019, Estrada did not provide students with clear verbal or written directions or expectations, clarify the criteria, sequence the tasks, or provide any further direction for the descriptive writing task. The specific allegations are as follows:

a. At approximately 8:33 a.m., as the students engaged in off-topic conversations, Estrada asked students to take out their character descriptive writing and then called

out, using words to the effect of, "Shh! Shh! We have to describe the character using details! Cut it [the character] out. Do a Thinking Map. Then type it in Google."

- b. Immediately after, Estrada called on student R [REDACTED] to explain the assignment to which he responded, "We have to do that," or words to that effect. Student R [REDACTED] pointed to the image respondent projected of a character the students needed to create and describe.
- c. Estrada did not provide clear directions or set any expectations for the task at approximately 8:48 a.m. (about half-way into the assignment). Almost one-third of the students continued to engage in off-topic conversations and had not started, and those who did, wrote a description of their character with inattention to detail, spelling, or grammar.

53. Evidence relevant to Charges 5 through 8 was jointly entered into the record and discussed together here. The preponderance of the evidence does not support Charges 5 through 8. The evidence showed the students had been working on the *Describe a Character* activity for at least two weeks. Estrada testified when she first introduced the activity to students, she "went over the standards," which she "reviewed the next day and, before [Victorio's] visit, it was reviewed as well." Estrada introduced a poster with the heading *Character Traits*, on which several itemized traits descriptive of a character's appearance and personality appear. (See Exh. Rx. 1189.) The evidence showed Estrada employed multiple scaffolding and supports, including circle maps,

gradual release methods, and "I do/We do" technique, to introduce a *Library Lunatic* character, which was used as a model during the writing exercise. (See Exh. Rx. 1075 [B872-B877].) Estrada showed a video "as a different modality of teaching."

54. At hearing, Victorio admitted she assumed, without verifying, Estrada did not use "I do/We do" techniques because Estrada did not say the specific words, "Remember my writing." When student R [REDACTED] pointed and stated, "We have to do that," Estrada asked, "Can you give me a complete sentence?" Student R [REDACTED] responded, "We have to describe a character." Estrada testified she did not observe the students engaging in off-topic conversations. A poster titled *Alta California Student Behavior Contract* hung on the wall of Estrada's classroom. (See Exh. RX 1184.) Victorio claimed not seeing the posted contract. Estrada sent the parents of her students a September 3, 2019 letter enclosing a Discipline Plan with guidelines for homework and behavioral responsibilities and classroom rules and expectations. Estrada required parents to sign and return the Discipline Plan to acknowledge their receipt and support of the classroom rules, consequences, and rewards. (See Exh. RX 1024.) At hearing, Victorio admitted she was aware of Estrada's practice requiring parental acknowledgement of expectations for acceptable classroom behaviors.

55. The District alleges in Charge 9, on September 26, 2019, Estrada did not form purposeful and productive instructional group structures to cognitively engage the small Newcomers group of students she worked with as the rest of the class wrote independently or provide them with the support needed to achieve the ELA Writing Instructional outcomes. The specific allegations are as follows:

- a. Estrada did not provide the students seated in her group with any additional supports such as a modified

assignment, the use of sentence stems or frames, or a word bank for completing the descriptive writing task.

- b. When asked, one of the students in the classroom stated that Estrada did not work with all the students and only called the students who need help. The student stated that everyone else has to try it on their own and stay at their desks.

56. The preponderance of the evidence does not support Charge 9. At hearing, Victorio admitted when she entered Estrada's classroom she observed students on task working on math homework and then on the *Describe a Character* activity. Victorio observed Estrada working with a small group of students who were absent from class the previous day "to catch them up with the writing activity." Estrada further explained she "had a plan for differentiating instruction." Estrada had different sentence frames. Estrada created "a little; chart for students to answer questions." No evidence that Victorio sought verification of the student's statement regarding which students Estrada offered help was entered into the record.

57. The District alleges in Charge 10, on September 26, 2019, Estrada did not use a variety of strategies, such as Thumbs Up/Down, individual white boards, or hand signals, to monitor the students' understanding of the content and the task, which resulted in students sitting idly at their seats or engaging in off-task conversations and behaviors. The specific allegations are as follows:

- a. Estrada sat at a table at the front of the room or circulated the classroom but did not ask the students

any probing questions to determine how they were doing with their writing or ask them to show their work.

- b. Estrada did not pause to ask the students if they were struggling with any part of the descriptive writing assignment so that she could address possible misunderstandings or challenges.
- c. As a result of Estrada's failure to monitor and check for understanding the following occurred:
 - i. Approximately five minutes after Estrada assigned the writing task, only approximately four students had taken out their descriptive writing draft and their graphic organizer while the other 24 students engaged in off-topic conversations and off-task behaviors.
 - ii. Approximately ten minutes after Estrada assigned the writing task, about nine students sat idly at their desks, without their writing materials.
 - iii. Student M [REDACTED] V. asked student H [REDACTED] M. for help on the computer.
 - iv. Estrada walked by a male student who was typing on the computer, commented using words to the effect of, "Whenever you see red, it means it's a spelling error," and walked away from him

without explaining how he could use spell check to resolve the spelling or grammar mistakes.

- v. Student H [REDACTED] C., who sat at the front of the classroom with her hood pulled over her head wrote one sentence on her paper and then sat idle for approximately 47 minutes. She did no other work.

58. The preponderance of the evidence does not support Charge 10. The evidence shows that, as students worked on the *Describe a Character* activity, Estrada walked the room. Estrada assisted R [REDACTED] and A [REDACTED] by informing them where grammatical and spelling errors were indicated on their work. A [REDACTED] knew how to use the spell check feature to check for spelling errors. As she walked the room, Estrada observed students with their work on their desk. She encouraged peer support and collaboration. The off-topic conversations and off-task behaviors Victorio observed occurred as Estrada worked with a small group of students. Competent credible evidence did not establish Estrada's awareness of the off-topic conversations or off-task behaviors. Evidence that Victorio sought verification of the unidentified student's statement regarding which students Estrada helped or did not help was not offered at hearing.

59. The District alleges in Charge 11, on September 26, 2019, Estrada did not review the *MyMath Chapter 2, Lesson 3* homework ahead of time and reinforced at least one content error during the activity that could negatively impact the students' ability to understand powers and exponents. The specific allegations are as follows:

- a. Estrada projected Question 13($40 = \underline{\quad}$) and called on a student to provide the answer. When the student answered, " 10^4 ," Estrada incorrectly wrote the following on the blank line: $40 = 10^4 = 10 \times 10 \times 10 \times 10$.
- b. When Estrada looked at the incorrectly completed form she had projected for the students to use to correct their own homework sheet, Estrada stated using words to the effect of, "Ugh, that's wrong . . . let's try again . . . Ugh, I'm sorry."
- c. Estrada then attempted to use a calculator to find the answer before she called on a few more students who also provided incorrect answers.
- d. Estrada stared at the problem and again apologized to the student for not knowing the answer as the students made statements such as, "Man, I got everything wrong." "How you do it [*sic*]," and "Did you get that?"
- e. Estrada then reached for her *MyMath Teacher's Edition* (TE) and projected a tiny image of the worksheet for the students to see, as they yelled out, "I can't see," "Teacher, what's it say [*sic*]" and "What?"
- f. After studying the image for a while and still being unable to solve the problem or read the exponent in the answer ($40 = 2^3 \times 5$), Estrada quickly closed the TE and directed the students to put their math homework away,

as the students continued to yell out, "We didn't finish,"
"What about the Back," and "Teacher, I got 'em all
wrong!"

60. The preponderance of the evidence supports Charge 11. Estrada admits making the mathematical errors. During the post-observation conference, Estrada informed Victorio that she (Estrada) returned to the *Powers and Exponents* math lesson later during the September 26, 2019 instructional day to re-teach, through modeling, problems 13 through 16. (See Exh. RX 1029.) In mitigation, it is not uncommon for teachers to err and then model how to remediate their error to demonstrate to students the positive value of admitting to and accepting responsibility for one's conduct.

61. The District alleges in Charge 12, on September 26, 2019, Estrada did not monitor and redirect the following off-task and inappropriate student behaviors to establish a classroom culture conducive to teaching and learning:

- a. Approximately 19 (out of a total of 28) students socialized throughout the observation. Estrada unsuccessfully attempted to redirect them on several occasions, but they persisted in their off-topic conversations.
- b. Estrada did not respond when Student A [REDACTED] G. continuously threw his four mechanical pencils across the desk top and towards student E [REDACTED] P., who was attempting to color his character.

- c. Student E [REDACTED] L. sat idly at his seat for approximately 22 minutes. Estrada did not redirect him; (d) One male student repeatedly reeled back in his chair so that the back of the chair rested against the desk of the student who sat directly behind him. Estrada did not redirect this unsafe behavior.

62. The preponderance of the evidence does not support Charge 12. The off-topic conversations and off-task behaviors Victorio observed occurred as Estrada was occupied working with a small group of students at the kidney desk in front of the classroom. At hearing, Victorio admitted not knowing whether Estrada was aware of or saw any unsafe behaviors. Victorio did not bring any of the unsafe behaviors she observed to Estrada's attention for Estrada to remediate.

OCTOBER 3, 2019 TAHMASEBI 'S CLASSROOM INCIDENT

63. The District alleges in Charge 18, on October 3, 2019, at the end of the school day, Estrada asked a custodian to open the door of the classroom assigned to Tahmasebi. Estrada entered the classroom and took photographs of a rubric that was posted. On October 4, 2019, Tahmasebi reported the incident, as Estrada entered her classroom and took photographs without her knowledge.

64. The preponderance of the evidence supports Charge 18. Estrada admitted she entered Tahmasebi's classroom without Tahmasebi's knowledge or prior consent to photograph a posted rubric Tahmasebi created for all fifth-grade teachers' use in connection with a grading exercise. In mitigation, Estrada did not ask Tahmasebi for permission to enter the classroom and take the photograph because Tahmasebi already went home. Estrada testified, "In retrospect, I should have called but I didn't

think it was a major issue because she was the grade representative and she shared a lot to things.” Estrada apologized to Tahmasebi when she learned from Benitez that Tahmasebi considered it odd Estrada entered Tahmasebi’s workspace under those circumstances. (See Exh. RX 1223.) Estrada gave Tahmasebi “a card and a little pastry.” In further mitigation, Estrada’s conduct might be properly understood as an effort to obtain information to improve her classroom performance.

OCTOBER 18 AND 25, 2019 LESSON PLANS

65. The District alleges in Charges 19 and 20, on October 18, 2019, Estrada did not submit lesson plans to Victorio and willfully refused to comply with Victorio’s October 4 and 7, 2019 oral and written directives to submit weekly lesson plans for each period by 3:00 p.m. on the Friday prior to the upcoming week beginning on Friday, October 18, 2019.

66. The District alleges in Charges 21 and 22, on October 25, 2019, Estrada did not submit lesson plans to Victorio and willfully refused to comply with Victorio’s October 4 and 7, 2019 oral and written directives to submit weekly lesson plans for each period by 3:00 p.m. on the Friday prior to the upcoming week beginning on Friday, October 18, 2019.

67. Evidence relevant to Charges 19 through 22 was jointly entered into the record and discussed together here. The preponderance of the evidence does not support Charges 19 through 22. On October 18, 2019, Victorio met with Estrada at 2:40 p.m. At that time, Estrada showed Victorio her lesson plan book admitted in evidence as exhibit RX 1035. On October 25, 2019, all District schools in the San Fernando Valley, including Alta California, were closed due to poor air quality and safety concerns related to the Saddleridge Fire. As a consequence, a scheduled

October 25, 2019 meeting to review Estrada's lesson plan was postponed to October 28, 2019, when Victorio met with Estrada from 2:45 p.m. to 3:30 p.m. At hearing, Victorio admitted she was not aware of any evidence of Estrada's willful refusal to comply with the October 4 and 7, 2019 oral and written directives to submit weekly lesson plans.

NOVEMBER 1, 2019 INFORMAL CLASSROOM OBSERVATION

68. On November 1, 2019, from 11:14 a.m. to 12:15 p.m., Victorio, conducted an unannounced observation of Estrada teaching an ELA writing activity—the Constructive Response Task titled *The Peaches*. At the time of the observation, the following sentence frame appeared on a chart hanging on the white board: *The _____ oldest son that he planted the seed of the peach in the ground to grow a _____ peach so he could buy more.* Victorio reports she observed Estrada delivering a lecture on how to make descriptive writing more interesting by including dialogue and details; several students reading completed sentence frames written on post-it notes and then attaching the post-it notes to the chart; students independently proofreading previously written assignments; students sitting idle or engaging in off-topic conversations and disruptive behaviors; and Estrada circulating the classroom without intention and pausing on occasion to briefly interact with a few of the students.

69. On November 14, 2019, Victorio convened a post-observation conference, at which time she discussed her observations of Estrada's lesson planning and preparation, delivery of instruction, and management of the classroom environment. Benitez and Angela Vitalis, a District middle school teacher, were present at the post-observation conference. Victorio subsequently prepared a November 15, 2019 memorandum containing her observations and the statements Estrada purportedly made during the post-observation conference.

70. The November 15, 2019 conference memorandum contains a list of assistance and guidance, including for Estrada to prepare weekly lesson plans and a directive to submit them to Victorio on the Friday prior to the upcoming week no later than 3:00 p.m.; clearly and explicitly communicate the purpose of the lesson prior direct instruction; deliver ELA writing activities in a clear and concise manner; actively monitor students as they engage in tasks to determine their level of understanding and adapt instruction as needed; be familiar with the content intended for sharing with students in order to deliver accurate information; establish and implement an effective classroom behavior plan that includes clear expectations, rewards, and consequences; develop, teach, model, and practice effective transitions, procedures and routines for the classroom; and reflect and implement strategies in the areas of routines, procedures, classroom management and well-sequenced direct instruction observed during a November 5, 2019 visit to Tahmasebi's Grade five classroom.

71. The November 15, 2019 memorandum instructs Estrada to take advantage of professional development classes and attached *2019-2020 PAR Professional Development Schedule* and *Classroom Management: Research-Based Strategies for Success* and *The ABCs of Student Engagement*. Victorio additionally informed Estrada a PAR Consulting Teacher continues to be available to assist Estrada.

72. The November 15, 2019 memorandum informs Estrada that failure to make immediate and sustained improvement in her performance may lead to the issuance of a Below Standard Evaluation or discipline such as a Notice of Unsatisfactory Service and/or Act, or Notice of Suspension, or both, and dismissal from the District. The evidence did not establish whether or when Estrada submitted a written rebuttal to the November 15, 2019 memorandum.

73. Based on Victorio's November 15, 2019 conference memorandum, the District alleges specific charges against Estrada, which the Commissioners resolve as follows.

74. The District alleges in Charge 26, on November 1, 2019, Estrada did not plan appropriate learning opportunities to ensure the students' access to the core curriculum and to address the specific learning needs of all 28 students to her class. The specific allegations are that Estrada did not plan or include supports such as:

- a. the use of word bank that related to the topic on which the students would write.
- b. the use of an outline, including a section for topic sentences and supporting sentences for the 26 EL students.
- c. frequent checks for understanding or chunking of instructions and information for the four students with IEPs.

75. The District alleges in Charge 27, on November 1, 2019, Estrada did not provide the students with activities aligned to the ELA standard she listed in her lesson plan book, *CCSS.ELA-LITERACY.W.5.3: Write narratives to develop real or imagined experiences or events using effective techniques, descriptive details, and clear event sequences* in order to teach them to make their sentences more exciting. The specific allegations are as follows:

- a. Estrada posted a fill-in-the-blank sentence on the chart paper, asked the students to fill in the blanks to make

the sentence "more exciting," and then called up individual students to read their sentences aloud for approximately nine minutes as the remaining students sat idle and disengaged.

b. Estrada lectured about the Constructive Response Writing task for approximately 16 minutes as the students continued to sit idly at their seats and engage in off-topic conversations with their tablemates.

i. Estrada did not provide explicit instruction that would develop the student's descriptive writing skills.

ii. Estrada did not model how to make sentences more exciting by presenting a short think-loud with clear examples of sentence and text structures.

iii. Estrada did not provide the students with enough time to write and proofread with immediate guidance from her.

iv. Estrada did not dedicate a few minutes for the students to share their writing to support their writing development.

76. The District alleges in Charge 28, on November 1, 2019, Estrada did not communicate to the students what they would be learning prior to the proofreading

activities, seek any student input, or engage the students in any discussion about the purpose of their activities. The specific allegations are as follows:

- a. Estrada stated, "Let's review the assignment that we've been working on," or words to that effect, and then read the story, *The Peaches*.
- b. Estrada did not review a learning objective before she asked the students to proofread their own writing to give them a context for their leaning such as, "Today we will proofread our work to identify common grammar, spelling, punctuation, and mechanic errors in our descriptive writing."

77. The District alleges in Charge 29, on November 1, 2019, Estrada did not deliver a teacher directed lesson with a clearly defined structure to teach students how to proof read their writing to make sentences more exciting and clarify their written message. The specific allegations are as follows:

- a. Estrada asked the students to take out their 4-Point *Constructive Response Rubric* and read it aloud using very non-specific language with words to the effect of, "You have to rewrite and add a conclusion. You are still in the process of proofreading, It needs to be four to five sentencesYou need to have quotation marks. . . . I 'm putting these posters here for you to access."
- b. For approximately 11 minutes, Estrada released the student to independently complete the *Constructive*

Response Proofreading task. Based on the students' behaviors, the students were unclear what Estrada wanted them to do.

- i. Students did not work on the assignment. They either sat idly at their desks or laughed and talked amongst themselves about subjects unrelated to the proofreading assignment.
- ii. Estrada walked around the room asking students to take out their writing assignment and used words to the effect of, "I don't see you writing" and *Te acabo de enseñar que tienes que hacer* [Spanish for "I just showed you what you have to do."]
- c. Estrada did not effectively close the Constructive Response Proofreading activities at approximately 11:50 a.m. when she announced, with words to the effect of "Okay guys! We have to go. Please Line up!"

78. Evidence relevant to Charges 26 through 29 was jointly entered into the record and discussed together here. The preponderance of the evidence does not support Charges 26 through 29. At hearing, Victorio admitted to weekly planning meetings with Estrada "to go over subjects." Victorio "talked through [Estrada's] lessons and asked [Estrada] about what supports [Estrada] would put in place." Victorio took credit for providing Estrada with "a lot of ideas" for planning the descriptive writing activity in connection with *The Peaches* story. The day before the observation,

on October 31, 2019, Estrada introduced learning objectives for *The Peaches* story to her students. Estrada's testimony established she "gave explicit details," "went over tasks with students," "posted sentences," and "used sticky notes to help with my own sentences." The October 31, 2019 class session on the descriptive writing activity was disrupted, however, because Estrada's students were required to attend a Dios de Los Muertos celebration at the Parent Center. After the celebration, Estrada resumed instruction in connection with the descriptive writing activity for *The Peaches* story with her students but additional time was needed to complete that instruction. Victorio began her November 1, 2019 classroom observation not knowing Estrada previously provided students with explicit instructions to develop their descriptive writing skills. At hearing, Victorio admitted Estrada called on students when working with fill-in-the-blank sentences but Victorio was critical "in terms of how [the sentences] were presented and how students were supported." Victorio testified, "You have the opportunity for students to echo read and talk to partners about possible words to put in [the blanks]. . . . If there were more support and student participation and more exciting and more engaging, it would have been better." Victorio admitted she saw students at the board sharing their writing but Victorio was critical about sequencing: "This had to do with the sequencing. [Estrada] started off with fill-in-the-blank and then students went back to their seats for a writing task, a different task. I am not sure if they were writing or proof-reading." Victorio admitted she speculated Estrada circulated the classroom without intention. Victorio testified, "I don't know what her intention was."

79. The District alleges in Charge 30, on November 1, 2019, Estrada did not use a variety of strategies, such as *Thumbs Up/Down*, individual white boards, or hand signals to monitor the students' understanding of the content and the task and encourage their participation. The specific allegations are as follows:

- a. Estrada mostly stood at the front of the room. When Estrada circulated the classroom, she did not ask the students any probing questions to determine how they were doing with their writing.
- b. Estrada did not pause to ask the students if they were struggling with any part of the *Constructive Response Proofreading* assignment so that she could address possible misunderstandings or challenges.
- c. As a result of the lack of monitoring and checking for understanding, the following occurred:
 - i. At approximately 11:17 a.m., only approximately one-half of the students had taken out their *Constructive Response* writing assignment while the other half of the students engaged in off-topic conversations and off-task behaviors.
 - ii. At approximately 11:23 a.m., Estrada used words to the effect of, "You all should have your papers out," as approximately nine students sat idly at their desks, without their writing materials.
 - iii. At approximately 11:35 a.m., Estrada asked if anyone had any questions and when only three students said, "No," Estrada announced she would "walk around."

- iv. At approximately 11:44 a.m., students F [REDACTED] V., J [REDACTED] T., A [REDACTED] G., K [REDACTED] S., A [REDACTED] C., R [REDACTED] O., E [REDACTED] T., and about six other students sat idly at their seats.

80. The preponderance of the evidence does not support Charge 30. Neither party's evidence addressed whether Estrada used specific strategies used, including *Thumbs Up/Down*, to monitor student understanding. On one hand, Victorio was critical asserting Estrada was required to "sit with students not just walk around" to check for understanding, while on the other hand, Victorio admitted Estrada "did ask students about their confusion." Samples of students' work product in connection with *The Peaches* story, including J [REDACTED] T., A [REDACTED] C., K [REDACTED] S., and R [REDACTED] O.'s samples, undermine the allegation students sat idly at their seats. (See Exh1042.)

81. The District alleges in Charge 31, on November 1, 2019, Estrada did not correct at least one content error during the writing activity that could negatively impact the students' ability to understand sentence structure. Estrada posted the following grammatically incorrect sentence on chart paper on the white board: "The ____ oldest son that he planted the seed of the peach in the ground to grow a ____ peach so he could buy more." The specific allegations are as follows:

- a. Five students read aloud their incorrectly completed sentences and placed them on the chart paper, and Estrada did not correct it.
- b. After the fifth student read her incorrect response, Estrada attempted to correct the error and rewrote another incorrect sentence on the chart paper: "The

_____ oldest son told him that he planted the seed of the peach in the ground to grow a _____ peach so he could _____ a peach tree.”

- c. After Estrada read the second incorrect sentence frame aloud twice, she stared at the poster, shook her head, and began to lecture about the *Constructive Response*.

82. The preponderance of the evidence does not support Charge 31. At hearing, Victorio equivocated and retracted her observation that Estrada posted grammatically incorrect sentences. Queried on cross-examination “What is incorrect about the sentence [Estrada] wrote?,” Victorio testified, “Off the top of my head, I don’t know. This is a sentence coming directly from the teacher’s manual. . . . I would have to look at the lesson again. . . . I’m not sure if I’m identifying the same sentence in the teacher’s manual or if there was a grammatical error. . . . No, I do not find a grammatical error in this sentence.”

83. The District alleges in Charge 32, on November 1, 2019, Estrada did not monitor and redirect the following off-task, and inappropriate student behaviors, to establish a classroom culture conducive to teaching and learning. The specific allegations are as follows:

- a. Approximately 20 (out of a total of 25) students socialized. Estrada unsuccessfully attempted to redirect them on several occasions, but they persisted in their off-topic conversations.
- b. Student A [REDACTED] G. continuously engaged in off-task and disruptive behaviors, such as laughing and talking

with student A [REDACTED] C. who sat at another table but was crawling on the floor. Estrada made no attempts to redirect his behavior.

- c. Estrada did not redirect student F [REDACTED] E. when he laid his abdomen and torso across the seat of his chair for approximately 21 minutes or when he playfully threw a paperback book and pencil at student J [REDACTED] A., who sat directly across from him.
- d. Student A [REDACTED] G. engaged in off-task and disruptive behaviors such as standing at his seat and swinging his arms wildly and hopping back and forth across the front of the room. Estrada only asked him to sit at his seat once.
- e. Estrada did not redirect student J [REDACTED] A. when she (1) crawled across the floor and under students' desks or (2) stretched her body across two desktops and engaged in a conversation across the room with a student H [REDACTED] C., as she called students to the front of the room to read their fill-in-the-blank sentence.

84. The preponderance of the evidence does not support Charge 32. Victorio admitted Estrada redirected student A [REDACTED] C.'s behavior by requiring him to change his seat. Benitez testified Estrada acted appropriately by asking A [REDACTED] C. to change seats. Estrada did not observe any student throwing books, crawling on the floor, or laying across desktops. During the observation, Victorio did not bring any

inappropriate student behaviors posing a threat to student safety to Estrada's attention for Estrada to remediate. Estrada explained she knows student J [REDACTED] A. to be a quiet, shy, and respectful student. Given her knowledge of student J [REDACTED] A., Estrada believed it unlikely for student J [REDACTED] A. to engage in the inappropriate behavior Victoria ascribed to student J [REDACTED] A., and Estrada observed none.

85. The District alleges in Charge 33, on November 1, 2019, Estrada did not provide an effective learning environment for students when she did not establish and practice effective routines, procedures, and transitions so that the students would know what she expected of them when they walked from her classroom to the Parent Center for the Dia de los Muertos exhibit. The specific allegations are as follows:

- a. At approximately 11:50 a.m., Estrada dismissed the students from their desks to line up. Although Estrada repeatedly asked the students to show her how fifth graders should line up, the students laughed, talked boisterously, hugged, and playfully shoved one another in the line.
- b. As the students walked to the Parent Center, rather than walk quietly, as to not disturb other classrooms, approximately 14 (out of a total of 25) students talked and laughed loudly with their peers.
- c. At approximately 12:13 p.m., when Estrada let the students back to the classroom from the Parent Center, rather than walk behind the other, they clustered

together and continued to laugh, push one another, and run from one area of the line to another.

- i. Estrada walked at the front of the line and she periodically stopped and placed two fingers to her lips as a signal for the students to quiet down.
- ii. As soon as Estrada turned her back to continue walking, the students continued to engage in the same loud and disruptive behaviors.

86. The preponderance of evidence does not support Charge 33. At hearing, Victorio admitted she assumed routines and procedures for transitioning from the classroom to elsewhere were neither established nor implemented. Victorio acknowledged Estrada instructed students to line up and Estrada put her fingers to her lips to signal students to quiet down, which Victorio admitted were appropriate classroom management techniques. Estrada additionally reminded her students that they were fifth graders and not kindergartners, who would also be present at the Parent Center. Estrada credibly testified her students were chatty with excitement but not unruly.

DECEMBER 3, 2019 FORMAL CLASSROOM OBSERVATION

87. On December 2, 2019, Victorio convened a planning conference to schedule a formal classroom observation and identify the TLF focus elements on which Estrada's performance would be rated. During the planning conference, Estrada "walked [Victorio] through the lesson" she planned to teach—Unit 3: Cultivating Natural Resources. Estrada informed Victorio the lesson would be taught two to three days. Estrada explained to Victorio that she added a rotation activity to the lesson.

Estrada created six stations with items containing corn as an ingredient “after doing research” and realizing she “had items at home that could add realia to the lesson.” Estrada “warned” Victorio, “It might be loud because [the students] had not seen the realia before.”

88. On December 3, 2019, between 11:00 a.m. and 12:15 p.m. Victorio conducted a formal observation of Estrada teaching an ELA writing activity on Developing Natural Resources to 26 students. Victorio noted several charts posted on the whiteboard included *Essential Question* (*How do we decide which resources we should develop?*); *Unit Objective* (*A resource is something found in nature that humans can use to help us survive and thrive. Earth provides many resources such as wood and metals for building homes.*); *Vocabulary Chart*; and *Student Objectives Chart* (*I will be able to: (a) connect the Essential Question to information I already know; (b) work with a group to ask questions and think ideas; and (c) play a specific role in a group discussion.*). Victorio reported she observed Estrada reading from the *Essential Question* and *Unit Objective* charts. Victorio reported observing the following: Estrada asked students to read *Student Objective* charts and the vocabulary words “developed” and “resources” and their respective definitions. Estrada read aloud the *Lesson Introduction* and *Prior Knowledge* sections from the *Cultivating Natural Resources Unit* of the *Benchmark Advance Teacher’s Edition* (TE). Estrada provided each student with a sheet of paper and asked them to create a Circle Map graphic organizer and to record two to three things that contain corn. Estrada abruptly moved from the Circle Map activity and directed the table groups to move about the classroom to observe items made from corn. Music played and the music was stopped to indicate when students should rotate from one box of item to another. During this time, Victorio reported she observed students laugh at the items, talked amongst themselves, and threw the bags of potato chips in the air. Victorio further reported she

observed Estrada provide each student with a packet to use for a *Collaborative Conversation* group activity. Estrada then read the roles of group members and assigned a role to each student in the table group. Estrada purportedly ended the activity by asking students to rate their *Collaborative Conversations* using the Observation Checklist for *Collaborative Conversations*.

89. On December 11, 2019, Victorio convened a post-observation conference, at which time she discussed her observations of Estrada's delivery of instruction and management of the classroom environment. Benitez was present at the post-observation conference. Victorio subsequently prepared a December 12, 2019 memorandum containing her observations and the statements Estrada purportedly made during the post-observation conference.

90. The December 12, 2019 conference memorandum contains a list of assistance and guidance, including for Estrada to clearly and explicitly communicate the purpose of the lesson prior to direct instruction to give students a context for their learning; maximize the use of instructional time in order to provide well-planned, sequenced, teacher-directed instruction to engage students in meaningful learning; provide clear directions to students before asking them to complete a task; provide students with multiple opportunities to develop oral English language skills; develop, teach, and continually reinforce an effective classroom management plan that includes clear expectations, rewards, and consequences.

91. The December 12, 2019 conference memorandum, documents Estrada's receipt of support from Maar; instructs Estrada to reflect on and implement the effective procedures in areas of routines, classroom management, and well-sequenced direct instruction demonstrated in Tahmasebi's classroom; and informs Estrada a PAR

Consulting Teacher is available to assist her with developing and implementing rigorous lesson plans.

92. The December 12, 2019 conference memorandum informs Estrada that failure to make immediate and sustained improvement in her performance may lead to the issuance of a Below Standard Evaluation or discipline such as a Notice of Unsatisfactory Service and/or Act, or Notice of Suspension, or both, and dismissal from the District. Victorio further informs Estrada, "If I were to evaluate you today, I would issue a Below Standard Evaluation" (Exh 11 at p. 8 [A409].)

93. Based on Victorio's December 12, 2019 conference memorandum, the District alleges specific charges against Estrada, which the Commissioners resolve as follows.

94. The District alleges in Charge 36, on December 3, 2019, Estrada did not effectively communicate to the students what they would be learning prior to the activities. After she read aloud the *Essential Question* verbatim, she merely read the Unit Objectives, two vocabulary words, and the student objectives directly from the *Benchmark Advance Teacher's Edition*. The allegation continues as follows:

- a. Estrada then displayed the Cultivating Natural Resources article and read aloud several highlighted sentences.
- b. Estrada did not connect how the students would use their critical thinking skills to engage in dialogue with their peers around the topic of natural resources, pause to engage the students in the discussion, or ask the students any questions, to gauge their level of understanding regarding the *Essential Question*.

95. The District alleges in Charge 37, on December 3, 2019, Estrada did not provide the students with rigorous standards-based learning activities to cognitively engage them in learning about corn as a natural resource. Estrada spent approximately 75 minutes lecturing to students. The specific allegations are as follows:

- a. She read verbatim from three charts she posted on the white board, displayed a Circle Map for the students to copy, and then assigned them to add two to three more items made from corn. She discouraged student engagement when:
 - i. The students began to talk with their table partners about items that are made from corn, she told them not to discuss what they were writing on the map using words to the effect of, "Don't say it; just write it!" and "Write it. You are not sharing."
 - ii. Student A [REDACTED] exclaimed he needed to add the information from the class map to his own Circle Map, she told him he did not need to do so.
- b. Estrada assigned the students to rotate around the room to look in boxes containing items made from corn but did not ask them to add the additional information onto their *Circle Maps*.
 - i. When student at Table 5 began to record the items they observed from the box onto their

personal *Circle Maps*, she used words to the effect of, "You don't' need to record it."

- ii. She told Student K [REDACTED] S. that she did not need to write the names of the objects on *her Circle Map*, as student K [REDACTED] S. was trying to add the information to her personal *Circle Map*.

- c. Estrada continued to read verbatim from three more charts as she lectured and assigned the students work in groups of three to complete a *Collaborative Conversation*.

96. The District alleges in Charge 38, on December 3, 2019, Estrada did not provide the students with clear verbal and written directions or expectations or provide any further direction for both the rotation and *Collaborative Conversation* activities. The students merely laughed and played with objects during the rotations and were unable to successfully complete the *Collaborative Conversation* activity. The specific allegations are as follows:

- a. During the rotation activity:
 - i. Group of students loudly went to their assigned stations and began pulling items out of the boxes without a purpose. Estrada did not provide them with an exact task, such as identifying the items in the box or discussing with their group members how each item is used.

ii. She did not monitor the noise level in the classroom. She told the students that they would rotate once the music stopped but she had to yell out over the students' voices two to three times for them to rotate because the noise level in the classroom was high due to off-task behavior.

1) During the activity, Estrada looked at the visiting administrator and used words to the effect of, "Sorry, it's a little loud."

2) Estrada then began to call out the specific table groups using words to the effect of, "Mr. Gunter is next door."

3) Once the students returned to their seats, she told them that they were too loud.

b. During the *Collaborative Conversation* activity, Estrada did not provide the students with clear directions.

i. She told each student which of the three roles they would undertake within their groups, however, the majority of the students spent their group time arguing about [their roles]

1) Students A [REDACTED] G., A [REDACTED] A., and J [REDACTED] M. spent approximately four minutes reassigning themselves group roles.

- 2) Student J. M. asked her group members to write the word 'director' and whichever student she determined had the neatest printing, would be the note taker.
 - 3) Student R. S., J. A., and F. E. asked the visiting administrator for clarification on their assigned roles and the responsibilities that came along with them.
- ii. Estrada did not provide clear and concise directions to the students for how to complete the *Collaborative Conversation* worksheet. For example, student L. R's group explained to the visiting administrator that they wrote the word corn in each of the three fill-in-the blank spaces because they did not know what else to write.
 - c. Estrada did not model the responsibilities for each group role and provided whole group practice with the fill-in-the blank sentence frames on the *Collaborative Conversation* worksheet.

97. The District alleges in Charge 39, on December 3, 2019, Estrada did not provide the students with opportunities to comprehend and incorporate academic language during any of the ELA activities when she introduced two vocabulary words (develop and resources). The specific allegations are as follows:

- a. Throughout the entire ELA block of time, Estrada routinely accepted one-word answers from the students. She did not rephrase the students' answers or model the use of complete sentences such as, "An item that contains corn is ____."
- b. Estrada did not provide opportunities for the students to use the academic vocabulary that she placed on a chart and attached to the white board. For example, in the T-Chart graphic organizer, *Cultivating Natural Resources*, Estrada did not provide the students with appropriate sentence frames so they would be able to appropriately respond and complete the *Collaborative Conversation* worksheet, such as, "Developing resources help us ____." or "Developing resources harm us ____."
- c. Estrada did not review all the realia items with the class which would have extended their knowledge about items containing corn. Estrada did not use this opportunity to provide support to the Newcomer students so they would have been able to make connections to some of the items made from corn that she listed on the *Circle Map*.

98. Evidence relevant to Charges 36 through 39 was jointly entered into the record and discussed together here. The preponderance of the evidence does not support Charges 36 through 39. Estrada opened Unit 3: *Cultivating Natural Resources* by showing a video. Over multiple classroom sessions, Estrada relied on and

duplicated the sample statements and modeling discussed in the teacher's resource guide for Unit 3. (See Exh. RX1060.) Estrada additionally implemented the teacher's guide suggested ELD supports. (See Exh. RX1060 at B576.) Estrada worked with students to create circle maps and posters to reflect information students already knew about corn and its use as a natural resource. At hearing, Victorio admitted she inaccurately reported Estrada spent 75 minutes, the entire instructional time during the classroom observation, lecturing. Victorio admitted Estrada provided students with direction but Victorio objected to Estrada's delivery of the directions because Estrada read verbatim to students. Victorio's observation was limited to the beginning of the Cultivating Natural Resources unit. Victorio was not present during other instructional sessions culminating in Estrada's closing of the Cultivating Natural Resources unit. Victorio's observation therefore did not account for artifacts, including images and photographs of natural resources, illustrated vocabulary cards, sample guiding questions, model sentence frames, flip books, and bins of food and household items Estrada used and relied on to teach the Cultivating Natural Resources unit in its entirety. Documentation of students' work product undermines Victorio's reported observations and accompanying criticisms. (See Exhs. RX1059 at pp. 12-46 [B538-B572], Rx1060, Rx1061, and RX1062.) At hearing, Victorio admitted to observing Estrada employing shared learning targets to inform students about the intention of the Developing Natural Resources unit and to direct and guide student learning. Victorio also admitted to observing Estrada "going over the essential question" and seeing "some posters" with "some of the targets." Victorio further admitted to observing Estrada discussing guided questions to facilitate collaborative conversations among students and admitted the discussion is a technique used to close a lesson. Victorio admitted to observing Estrada use sentence frames designed for reclassifying students and that such use constitutes differentiation. Victorio admitted she did not

know whether Estrada discussed the benefits and burdens of developing natural resources with students because she “was not in the classroom after the observation.”

99. The District alleges in Charge 40, on December 3, 2019, Estrada did not monitor and redirect the following off-task, and inappropriate, behaviors to establish a classroom culture conducive to teaching and learning, as follows:

- a. Approximately 14 (out of a total of 26) students socialized throughout the observation. Estrada unsuccessfully attempted to redirect them on several occasions, but they persisted in their off topic conversations.
- b. Although Estrada awarded table points, she did not redirect students as they laughed, threw food items, and ran from each rotation.
- c. Students A [REDACTED] G. and J [REDACTED] M. argued over a seat during the *Collaborative Conversation* activity and Estrada did not appropriately redirect them when she merely asked what they were going to do when they attended middle school.
- d. Estrada did not ask student E [REDACTED] T. to sit in his chair appropriately when he repeatedly rocked his chair from side to side causing a loud striking noise each time the legs of his chair hit the floor.

100. The preponderance of the evidence does not support Charge 40. Estrada's testimony established students were excited and surprised learning about the various food and household items containing corn. Consequently, there was a lot of conversation among students during the gallery walk. Victorio admitted to observing Estrada award table points and that an award of table points is an acceptable technique for addressing any off-task or inappropriate classroom behaviors. Estrada did not observe any student throwing food items or running, and Victorio did not bring any such behaviors to Estrada's attention for Estrada to remediate.

101. The District alleges in Charge 41, on December 3, 2019, Estrada willfully refused to comply with the directive provided to her orally on November 14, 2019 during a conference with Victorio and was directed to "(1) Effective immediately deliver standards-based lessons with appropriate learning activities, (2) Effective immediately differentiate learning activities to meet the diverse needs of the students assigned to her class roster to provide them with equal access to the curriculum, (3) Effective immediately clearly communicate the instructional purpose of all lessons and activities and review it again at the end, (4) Effective immediately develop, teach and reinforce an effective classroom behavior plan, and (5) Effective immediately consistently monitor and respond appropriately to students' off-task and disruptive behaviors," and provided to her in writing in the reference memorandum issued on November 15, 2019.

102. The preponderance of the evidence does not support Charge 41. Based on the Commissioners' resolution of the allegations in Charges 36 through 41, Estrada complied with the directives Victorio provided to her orally during the November 14,

2019 conference and in writing in the conference memorandum issued on November 15, 2019.

JANUARY 27-31, 2020 LESSON PLANS

103. The District alleges in Charge 42, on January 27, 2020, Estrada did not submit complete lesson plans for the week of January 27-31, 2020. According to Charge 42, Estrada's plans:

- a. Listed only the following items for math instruction on January 30, 2020, and provided no description of any material that she would use:

Math

Ch.8-Lesson 6

Compare Fractions (cont'd)

Std. 5NF.5

GP-Review #1

IP-#2-18 (odds)

- b. Did not identify learning objectives for any of the content areas.

104. The preponderance of the evidence does not support Charge 42. At hearing, Victorio conceded the *LAUSD New Teacher Resource Guide 2017-2018*, which Victorio attached to the December 12, 2019 memorandum in connection with the December 3, 2019 formal classroom observation, provides for variation in lesson plan format based on teacher preferences, style, subject area, or what simply feels most intuitive. (See Exh. 11 at pp. 22-23 [A423-A424].)

JANUARY 30, 2020 INFORMAL CLASSROOM OBSERVATION

105. On January 30, 2020, from 1:12 p.m. to 2:09 p.m., Victorio conducted an unannounced observation of Estrada teaching a fifth grade math activity on factorization and greatest common factors to 24 students. Victorio reported she observed students waiting approximately five minutes for Estrada to log onto her laptop, find the appropriate website, and turn on a projector. Estrada directed students to read aloud a posted standard and then played a video about greatest common factors. Victorio reported she observed Estrada pausing the video on occasion to lecture about the topic as most of the students stared at the screen. Victorio also reported Estrada projected a MyMath workbook page about prime factorization and greatest common factors. Estrada then read the page aloud and lectured as she solved sample problem herself, often pausing to ask student questions about the problem. The students then simply copied Estrada's work. Victorio reported that for the remainder of the Math instructional block, she observed Estrada solve two more problems as students copied her answers into their workbooks or quietly engaged in off-task behaviors. According to Victorio, approximately 40 minutes into the workbook activity, most of the students had only copied three problems from Estrada's sample and completed one additional Guided practice problem.

106. On February 7, 2020, Victorio convened a post-observation conference, at which time she discussed her observations of Estrada's lesson planning and preparation, delivery of instruction, and management of the classroom environment. Benitez and Estrada's UTLA representative Gregg Solkovits were present at the post-observation conference. Purportedly, Estrada did not have anything to share during the post-observation conference. Purportedly, Solkovits asked about a Nationally Board-Certified teacher for Estrada to observe and Benitez clarified Estrada was

provided multiple opportunities to observe colleagues and would continue to provide such opportunities. Victorio subsequently prepared a February 11, 2020 conference memorandum containing her observations.

107. The February 11, 2020 conference memorandum contains a list of assistance and guidance, including for Estrada to submit physical copies of complete weekly plans, which should include learning objectives for each content area, the skills or strategies intended for introduction or review, and the materials intended for use; to post a Daily Schedule and follow the posted schedule; to differentiate lesson activities; to review information available in *My Math TE* in advance of instruction; to provide well planned, logically sequenced standard-based, teacher-directed instruction; to prepare questions focused on the learning objective in advance of the lesson; to model consistently accurate academic language and provide students with ample structured opportunities to engage in discussions about the concept or skill taught; to develop and utilize effective systems to keep track of students entering and exiting the classroom; and to use current and authentic student-produced work representative of all the students to establish a classroom environment that reflects and promotes student learning.

108. The February 11, 2020 conference memorandum documents that Estrada was provided classroom coverage, on November 5, 2019, to observe Tahmasebi's fifth grade class and Victorio would arrange for coverage and facilitate an opportunity for Estrada to visit a colleague's classroom to observe effective practice in the area of discussion and participation strategies. Victorio attached the *2019-2020 PAR Professional Development Schedule* and informed Estrada a PAR Consulting Teacher continues to be available to assist her.

109. The February 11, 2020 conference memorandum additionally informs Estrada that failure to make immediate and sustained improvement in her performance may lead to the issuance of a Below Standard Evaluation or discipline such as a Notice of Unsatisfactory Service and/or Act, or Notice of Suspension, or both, and dismissal from the District. Estrada did not submit a written rebuttal to the November 15, 2019 memorandum.

110. Based on Victorio's February 11, 2020 conference memorandum, the District alleges specific charges against Estrada, which the Commissioners resolve as follows.

111. The District alleges in Charge 43, on January 30, 2020, Estrada did not follow her submitted lesson plans. Estrada's lesson plans for January 30, 2020, in the area of math, indicated that she would provide the students with instruction on comparing fractions, but Estrada did not follow them when she instead led the students through an activity on greatest common factors and made no connection to comparing fractions.

112. The District alleges in Charge 44, on January 30, 2020, Estrada did not follow her Daily Schedule posted on an easel in the back of the classroom. Estrada engaged the students in math activities during the social studies instructional block. Charge 44 alleges Estrada's schedule reflected the following:

Posted	Actual
1:10-1:40 Math	1:12-2:209 Math
1:40-2:10 Social Studies/Science	
Health/P.E./Art	

113. Evidence relevant to Charges 43 and 44 was jointly entered into the record and discussed together here. The preponderance of the evidence does not support Charges 43 and 44. Estrada began instruction on greatest common factors on January 29, 2020. Additional time was needed to clarify student understanding of the material. Estrada resumed instruction on greatest common factors January 30, 2020, the following day. On the same day, a fire/earthquake drill disrupted the posted Daily Schedule for that day. The start time for math instruction therefore shifted from 1:10 p.m. to 1:12 p.m. Additional time was necessary for Estrada to clarify student understanding of greatest common factors, thus the math instruction concluded at 2:09 p.m. instead of the scheduled 1:40 p.m. Victorio did not ask Estrada about the circumstances requiring Estrada to vary the allotted time for math and the scheduled instruction on comparing fractions. At hearing, Victorio acknowledged it was appropriate for Estrada to adjust her planned lesson for January 30, 2020 to clarify and complete her instruction on greatest common factors.

114. The District alleges in Charge 45, on January 30, 2020, Estrada did not address the diverse learning needs of the 25 students assigned to her class. (a.) Estrada did not plan for or use sentence frames, sentence starters, and a preview of content specific vocabulary (i.e., factors, common, prime factorization) for the 23 EL students, eight of whom were EL Level 0 or 1. (b) Estrada did not plan for or use math manipulatives, such as counters or tiles, to represent concretely the given numbers and their possible factors for the three students with IEPs.

115. The preponderance of the evidence does not support Charge 45. Prior to observing Estrada's classroom on January 30, 2020, Victorio met with Estrada and reviewed Estrada's lesson plan for the week of January 27-31, 2020. At hearing, Estrada explained Victorio "indicated no issue with the lesson plan." Victorio admitted during

her weekly planning meetings with Estrada, she did not tell Estrada she wanted Estrada to plan for or use sentence frames or manipulatives. The plan was for Estrada to ask clarifying questions should students raise their hands to suggest a gap in their understanding of the lesson. Estrada's evidence of her subsequent use of sentence frames more than two years later, on August 26, 2022, is not credited here. (See Rx1189 at p. 86 [B2150].)

116. The District alleges in Charge 46, on January 30, 2020, Estrada did not clearly communicate to the students what they would be learning about finding the greatest common factor of a set of numbers and why. The specific allegations are as follows:

- a. Estrada stated words to the effect of, "Today's lesson. Greater Common Factor [sic]," and Estrada directed the students to chorally read aloud the posted *California State Standard (CCS) for Math* and an *Essential Question*.

Standard 5NBT3

Interpret a fraction as division of the numerator by the denominator ($a/b = a \div b$). Solve word problems involving division of the whole number leading to answers in the form of fractions or mixed numbers.

Essential Questions [sic]:

How are factors and multiples helpful in solving problems?

b. After the students read both items aloud:

- i. Estrada did not pause to clarify any of the terms such as factors, or multiples.
- ii. Estrada did not explain the connection between the greatest common factor and finding common denominators when solving problems involving fractions.
- iii. Estrada did not ask questions to check for student understanding. Instead, Estrada moved on to a video about greatest common factors.

117. The District alleges in Charge 47, on January 30, 2020, Estrada did not provide the students with a teacher-directed lesson that could engage them in higher level of thinking and provide them with the opportunity to learn how to use prime factorization to determine the greatest common factor of two or more numbers. For approximately 47 minutes, Estrada led the students through the following confusing, low-level activities.

- a. Estrada spent approximately six minutes playing a *MyMath* video about greatest common factors.
 - i. She paused the video on occasion to lecture about factorization and asked questions, which most of the students did not attempt to answer.

- ii. As she lectured, several of the students called out "I don't get it," but she did not attempt to address their misunderstanding.
- b. Estrada projected page 557 of the *MyMath* workbook onto the screen and directed the students to copy a two-sentence definition of the greatest common factor directly from their workbooks into their math journals. For approximately seven minutes, Estrada stood at the front of the room as the students copied the definition or quietly engaged in off-task behaviors.
 - i. She did not ask the students any questions about the words 'common,' 'greatest,' or 'factor' to ensure they understood the meaning of the vocabulary.
 - ii. Several students asked, "What do I do?" and "What do we copy?" Estrada responded by stating words to the effect of, "You have a math journal. Copy the definition," and "All you have to do is copy."
- c. Estrada read the first half of page 557 of the *MyMath* workbook aloud verbatim and told the students to echo her as she read.
- d. Estrada lectured at a rapid pace, as she solved the sample problem herself by filling in the responses on the

projected workbook page while the students copied her answers.

- e. Estrada projected page 558 of *MyMath* workbook on the screen and read aloud the directions to the students.
 - i. She lectured again as she completed the sample problem and Guided Practice problem 1 while the students once again copied her answers.
 - ii. She paused on occasion to ask questions that most of the students did not attempt to answer and they instead waited for her to fill in the answers.
- f. Estrada released the students to complete Guided Practice problem 2 independently. Most of the students stared at the page and did not begin to work. For approximately 16 minutes, Estrada circulated the classroom and approached individual students only if they needed help.
 - i. Most of the students had not started the problem but approximately one minute into the activity, Estrada interrupted them to talk about the first Independent Practice problem located on the next page.

- ii. She continued to circulate the classroom as most of the students continued to struggle with Guided Practice problem 2.
- iii. At approximately 2:07 p.m., Estrada called up student E [REDACTED] T. and asked him to write his solution to problem 2 on the projected work book page. As E [REDACTED] filled in his answers, the remaining 23 students copied his solution or changed their answers to match his.

118. The District alleges in Charge 48, on January 30, 2020, Estrada did not ask questions that could elicit higher-level thinking and help her gauge the level of student understanding about finding greatest common factors or the connection between greatest common factors and fractions. Estrada asked the following low-level recall questions using words to the effect of:

- a. "If you multiply 2 times 12, is it 24?" None of the 24 students answered and Estrada added words to the effect of "Yes? or No?" Once again none of the students responded.
- b. "We did this earlier. What number multiplied by 4 is 20?" Approximately seven of the 24 students called out, "Five!" as the remaining 17 students sat and stared at the board.
- c. "What is [the answer to] number two?" Student R [REDACTED] R. called out, "Ten."

119. Evidence relevant to Charges 46 through 48 was jointly entered into the record and discussed together here. The preponderance of the evidence does not support Charges 46 through 48. As discussed in Factual Finding 113, Victorio was not present in Estrada's classroom when Estrada first initiated instruction on greatest common factors on January 29, 2020. Victorio therefore did not observe how Estrada introduced the lesson on greatest common factors. At hearing, Victorio claimed not knowing the subject matter content of the video notwithstanding that in her February 11, 2020 memorandum she repeatedly claimed Estrada used a *MyMath* video to instruct students on greatest common factors. Victorio admitted Estrada's use of the video, including pausing it at times to provide students with information, is an appropriate teaching tool. Victorio equated providing students with information with "lecturing." Victorio admitted Estrada was making "some effort" to interact with students by pausing to ask questions and was able to elicit feedback from some students. Victorio also admitted the selected dialogue or statements she attributed to Estrada in the February 11, 2020 memorandum are incomplete. Victorio further admitted the dialogue or statements she selected to report do they reflect Estrada's efforts to engage students by modeling, i.e., providing a step-by-step explanation while solving a math problem. Victorio testified, "I can't write everything she said down. . . ."

120. The District alleges in Charge 49, on January 30, 2020, Estrada did not use correct terminology. Charge 49 alleges Estrada made several errors throughout the math activities.

- a. Estrada incorrectly identified the term 'greatest common factor' as 'greater common factor'. This error: (1)
changed the meaning of the term from the superlative

to the comparative, and (2) provided the students with an incorrect model of the term.

- b. Estrada posted the incorrect term 'Greater Common Factor' on the white board as a heading for the math activities.
- c. On several occasions, Estrada stated words to the effect of, "Put them (i.e., the factors) in chronological order," inaccurately using the word chronological, which refers to time or events, rather than use the term numeric order.

121. The District alleges in Charge 50, on January 30, 2020, Estrada did not model the correct use of academic language, or scaffold student learning by providing them with specific sentence frames, or structured opportunities to develop their oral English Language skills as follows:

- a. Estrada posted the following item on the white board, but never referenced it, nor did she encourage the students to use complete sentences: *Remember to speak in complete sentences.*
- b. Estrada repeatedly accepted one-word answers or short phrases such as, "Ten," "Twenty-four," and "Four and seven." She did not ask the students to elaborate upon their responses or provide them with a sentence frame such as ' ____ and ____ are factors of ____,' in order to support their language development.

- c. Estrada incorrectly used the word "and," which indicates the operation of addition, when discussing multiplication with the students. She continually made statements using words to the effect of, "3 and 4 is 12" and "2 and 9 is 18."
- i. The students repeated her errors making statements such as "16 and 2 is 32," rather than "16 multiplied by 2 equals 32."

122. Evidence relevant to Charges 49 and 50 was jointly entered into the record and discussed together here. The preponderance of the evidence supports Charges 49 and 50. Victorio's un rebutted testimony established Estrada did not use correct terminology or model the correct use of academic language during instruction on greatest common factors.

123. The District alleges in Charge 51, on January 30, 2020, Estrada did not establish effective procedures to monitor and keep track of the students. The specific allegations are as follows:

- a. Approximately 33 minutes after entering the classroom, Estrada stated words to the effect of, "I'm sorry. Where's A [REDACTED]?" indicating that student A [REDACTED] G. was missing from the classroom.
- b. One of the students stated, "He went home at lunch." Estrada responded, using words to the effect of, "Oh. I just noticed that he isn't here." Estrada did not contact

the office to confirm the student had gone home and she instead continued with her activities.

124. The preponderance of the evidence does not support Charge 51. Student A [REDACTED] G. received therapeutic counseling services and at times was excused early from school to receive those services. Victorio was unaware of A [REDACTED] G.'s circumstances. Estrada asserted she confirmed A [REDACTED]'s absence from her classroom with the school office, in accordance with her customary practice.

125. The District alleges in Charge 52, on January 30, 2020, Estrada did not monitor and redirect the following off-task student behaviors to establish an academic culture conducive to teaching and learning as follows:

- a. Estrada told student A [REDACTED] C. to stop ripping paper. He angrily replied, "I'm not ripping anything, I'm just getting my book!" Estrada used words to the effect of, "Let's be positive." As all the students around him watched, A [REDACTED] angrily responded, "No one is positive here!" Estrada walked away without addressing A [REDACTED]'s inappropriate response.
- b. Student F [REDACTED] E. spent several minutes making a paper airplane rather than working on the math activity. Estrada did not redirect him back to the task.
- c. Student R [REDACTED] R. repeatedly yelled out off-topic comments throughout the activity. Estrada did not address his off-task behavior and R [REDACTED] continued to call out.

- d. Several of the students played with pencil sharpeners, doodled in their *MyMath* workbooks, rearranged items in their pencil boxes, rummaged for items in their desks, or exchanged markers with classmates rather than complete the activity. Estrada did not redirect them back to the task, or address any of their off-task behaviors.

126. The preponderance of the evidence supports Charge 52. At hearing, Estrada had no recollection of the off-task behaviors Victorio observed. Estrada's lack of recollection did not preponderate over Victorio's un rebutted testimony that Estrada did not redirect students' off-task behaviors on January 30, 2020.

127. The District alleges in Charge 53, on January 30, 2020, Estrada did not establish an effective learning environment that is conducive to and reflective of the learning and accomplishments of the students when the student work samples on the Writing and ELD bulletin boards had not been updated since November 2019.

128. The preponderance of the evidence does not support Charge 53. District school closures for Thanksgiving, Christmas, and winter breaks rendered it impracticable for Estrada to implement her customary practice of updating the Writing and ELD bulletin boards every six weeks in accordance with District policy.

129. The District alleges in Charge 54, that on January 30, 2020, Estrada willfully refused to comply with the directive provided to her orally on December 11, 2019 and November 14, 2019 during conferences with Victorio to "(1) Effective immediately deliver standards-based lessons with appropriate learning activities, (2) Effective immediately differentiate learning activities to meet the diverse needs of the students assigned to her class roster to provide them with equal access to the

curriculum, (3) Effective immediately clearly communicate the instructional purpose of all lessons and activities and review it again at the end, (4) Effective immediately develop, teach and reinforce an effective classroom behavior plan, and (5) Effective immediately consistently monitor and respond appropriately to students' off-task and disruptive behaviors," and provided to her in writing in the reference memorandum issued on December 12, 2019 and November 15, 2019.

130. The preponderance of the evidence does not support Charge 54. Based on the Commissioners' resolution of the allegations in Charges 43 through 53, Estrada complied with the directives Victorio provided to her orally during the November 14 and December 11, 2019 conferences and in writing in the conference memoranda issued on November 15 December 12, 2019.

MARCH 3, 2020 INFORMAL CLASSROOM OBSERVATION

131. On March 3, 2020, between 8:11 a.m. and 9:04 a.m., Victorio conducted an unannounced observation of Estrada's fifth grade Breakfast in the Classroom (BIC) and ELA activities initially with 23 students, then 20 students after three students were pulled out for the resource specialist program (RSP). Victorio reported students watched a CNN 10-minute video about the presidential primaries. (CNN-10 is a daily news show about current events and global issues.) In connection with the ELA activity, Victorio reported she observed Estrada distribute a worksheet titled *Recognizing Shifts in Verb Tenses* to students. Victorio further reported the worksheet contained 10 sentences with verb tense errors. Victorio also reported the following: Estrada projected the worksheet without introducing a standard or learning objective. Estrada sat at a table with EL students and did not provide them with any direction or instruction. Estrada then spent 35 minutes looking at her laptop and pausing on occasion to circulate the classroom while most students struggled to complete the

worksheet. At 8:59 a.m., Estrada directed students' attention to her projected sample worksheet. One student, whom Estrada selected, shared her response to the second item on the projected worksheet. The other students copied the response.

132. Approximately, 10 months later, on January 15, 2021, Victorio convened a post-observation conference, which the COVID pandemic delayed. Victorio discussed her observations of Estrada's lesson planning and preparation, delivery of instruction, and management of the classroom environment. Benitez and Solokovits, the UTLA representative, were present. Victorio subsequently prepared a January 15, 2021 conference memorandum containing her observations.

133. The January 15, 2021 conference memorandum contains a list of assistance and guidance, including for Estrada to submit physical copies of complete standards-based weekly plans that describe a clear sequencing of learning in each content area; to prepare her classroom in advance of instructional activities; to provide well planned, logically sequenced standard-based, teacher-directed instruction; to provide students with clear directions to support their completion of assignments; and to plan appropriate differentiated activities to meet the learning needs of Level 0 and Level 1 EL.

134. The January 15, 2021 conference memorandum additionally instructs Estrada to deliver standard-based lessons with appropriate learning activities; to clearly communicate the instructional purpose of all lessons and activities and review the purpose again at the end of the lesson; to develop, teach, and reinforce an effective classroom behavior plan; to monitor consistently and respond appropriately to students' off-task and disruptive behaviors; and to post current and authentic student-produced work upon return to the physical environment.

135. The January 15, 2021 conference memorandum informs Estrada that failure to make immediate and sustained improvement in her performance may lead to the issuance of a Below Standard Evaluation or discipline such as a Notice of Unsatisfactory Service and/or Act, or Notice of Suspension, or both, and dismissal from the District.

136. For reasons not established by the evidence, the January 15, 2021 conference memorandum was subsequently revised on January 22, 2021.

137. Based on Victorio's January 15, 2021 conference memorandum, as revised January 22, 2021, the District alleges specific charges against Estrada, which the Commissioners resolve as follows.

138. The District alleges in Charge 55, on March 3, 2020, Estrada submitted incomplete lesson plans for the Week of March 2-6, 2020, as follows:

- a. Estrada did not describe a sequence of learning that could help guide instructional delivery. The plans consisted of general activities (e.g. editing worksheets, continue answering text dependent questions).
- b. Estrada did not identify learning objectives for any content area.
- c. Estrada did not follow her lesson plans. Estrada indicated she planned to teach students how to edit text for commas and semicolons in a series and capitalization, but assigned a one-page worksheet about

verb tenses that she did not include in her plans for Wednesday, March 3, 2020.

139. The preponderance of the evidence does not support Charge 55. The evidence shows that on the Friday prior to the March 3, 2020 observation, Victorio and Estrada met and discussed deficiencies with Estrada's lesson plan for instructing student how to edit text for commas and semicolons during the week of March 2-6, 2020. Estrada made corrections to the lesson plan in accordance with Victorio's instructions. For example, Victorio instructed Estrada to accommodate two students with IEPs by chunking assignments into smaller parts. At the time of the March 3, 2020 observation, Estrada did not follow the lesson plan because students needed additional time to work on shifts in verb tenses. (See Exh. RX1067 [B764-B767].) Victorio did not observe Estrada identify learning objectives regarding shifts in verb tenses because Victorio was not present during previous instructional sessions when verb tenses were initially introduced to the class. (See Exh. 15 at pp. 10-11 [B600-B601].) At hearing, Victorio admitted Estrada's departure from the planned lesson on commas and semicolons to provide further instruction on shift in verb tenses was not wrong.

140. The District alleges in Charge 56, on March 3, 2020, Estrada did not prepare her classroom in advance of instructional activities, as follows: Estrada posted a standard and a learning objective that did not align to her English Arts activities about verb tenses and instead referred to Mathematics instruction about fractions.

Standard 5NF.2

Solve word problem involving addition and subtraction of fractions referring to the same whole, including cases of unlike denominators e.g., by using visual fraction models or equation [sic] to prevent a problem

Objective

Student [sic] will add unlike fractions and solve problems involving the addition of unlike fractions.

141. The preponderance of the evidence does not support Charge 56. Estrada's lesson plan for the week of March 2-6, 2020 reflects Estrada planned instructional activities regarding Standard 5NF.2. (See Exh. 15 at pp. 10-11 [B600-B601].) At hearing, Victorio admitted it was appropriate for Estrada to prepare her classroom in advance of those instructional activities by posting the math standard and objective. Victorio claimed the posted standard and objective for planned math activities did not align with the English Arts activities she observed in Estrada's classroom; however, Victorio did not report or testify that standards and objectives regarding planned ELA activities about verb tenses were not actually posted in Estrada's classroom.

142. The District alleges in Charge 57, on March 3, 2020, Estrada did not address the diverse learning needs of the 24 students assigned to her class when she did not plan or include supports such as:

- a. Preview of content specific vocabulary such as verb, tense, past and present for the 22 EL students.

- b. Chunking of the assignment (e.g., assigning only the odd numbered sentences) for the two students with IEPs.

143. The preponderance of the evidence does not support Charge 57. As discussed in Factual Finding 139, Estrada addressed the diverse learning needs of students by including accommodations, such as chunking assignments into smaller parts, in her lesson plan, as Victorio previously instructed her to do.

144. The District alleges in Charge 58, on March 3, 2020, Estrada did not clearly communicate to the students what they would be learning about verb tenses and why. The specific allegations are as follows:

- a. Estrada stated words to the effect of, "We are continuing with verb tenses. It will be in your IAB [Interim Assessment]."
- b. Estrada moved on to read the directions from the projected worksheet but did not (1) ask the students any questions about verb tenses to ensure that they understood the activity, or (2) ask the students to paraphrase the purpose of the activity.

145. The preponderance of the evidence does not support Charge 58. As discussed in Factual Finding 139, Victorio was not present during previous instructional sessions when verb tenses were initially introduced to the class. Consequently, Victorio was not present to observe whether or how Estrada communicated why and what students would be learning about verb tenses. Nor was Victorio present to observe

whether Estrada checked to see if her students understood what they would be learning.

146. The District alleges in Charge 59, on March 3, 2020, Estrada did not deliver a teacher-directed lesson to teach the students how to identify a verb and use the correct verb tense in a sentence. According to Charge 59, for approximately 41 minutes, Estrada lead the students through the following disjointed, low-level activities:

- a. Estrada distributed a photocopied worksheet entitled *Recognizing Shifts in Verbs*. She projected the worksheet and without providing any further explanation, she read aloud the first sentence. She wrote the response (i.e., the corrected sentence) on her worksheet as the students simply copied her answer.
- b. Estrada directed several of the students to change seats and called one group of five EL students to sit at a table with her, before releasing the entire class to complete the worksheet independently.
 - i. Estrada spent the majority of the next approximately 28 minutes seated at a table looking at the MISIS website on her laptop.
 - ii. Estrada paused on occasion to circulate the classroom without intention. Many of the students attempted to complete the worksheet,

but most stopped working after completing only one, out of ten, sentences

- c. Estrada interrupted the assignment and told the students that she had seen that many of them were making errors. Estrada proceeded to read the same worksheet directions aloud once more, circulated the room briefly, and then sat down again to look at a YouTube video about verb tenses on her laptop.
- d. Estrada directed the students to stop working and called up student H [REDACTED] M. to complete the second sentence on the projected worksheet while the remaining students sat and waited.
 - i. H [REDACTED] M. completed the sentence correctly, and the remaining 22 students simply copied her work.
 - ii. While most of the students sat idle, or socialized, Estrada asked H [REDACTED] M. to explain her work and Estrada simply stated that the sentence did not make sense. Estrada did not ask H [REDACTED] M. to identify the verb or the verb tenses in the sentence, nor did she clarify for the students that the verb tenses has been used incorrectly in the sentence.

147. The preponderance of the evidence supports part of Charge 59. Victorio's testimony established Estrada should not have been using MISIS during instructional time, even when students were working independently. Estrada admitted using MISIS but denied using it "that long." Victorio's testimony established students stopped working and sat unattended for approximately 20 minutes as Estrada circulated the classroom. Estrada's testimony asserting she did not see students copying student H■■■■ M.'s work is not credited because H■■■■ was called to share her work on a worksheet projected for the entire class to see and reference. Neither party offered evidence regarding allegations in subparagraphs (a) and (c) of Charge 59.

148. The District alleges in Charge 60, on March 3, 2020, Estrada did not provide clear directions to support students in completing the verb tense worksheet when she failed to provide a systematic demonstration of how to identify the verbs in each given sentence and determine the correct tense in each case. Instead, according to Charge 60, Estrada:

- a. Projected the worksheet, and stated words to the effect of "So, yesterday we practiced verb tenses. You need to read the directions [on the worksheet] right now."
Estrada read the directions aloud, while most of the students simply sat and listened and other echoed her reading.
- b. Read aloud the first sentence (i.e., When I finished the quiz, I check my answers.), and rather than ask the students to identify the verbs and verb tenses in the sentence, Estrada stated words to the effect of, "what's missing?"

- i. Two of the students answered, "It's wrong," but Estrada did not ask them to explain their answers.
 - ii. Estrada called on student H ■■■ M., who stated that the word "check" should be changed to "checked." Estrada wrote the corrected sentence on her projected sample while the majority of the students simply copied her sample. Estrada did not pause to explain that the verb finished was the past tense, and therefore the verb check should also be changed to the past tense.
- c. Moved on stating words to the effect of "How many agree (i.e. with H ■■■'s answer)?" Most of the students did not respond. Estrada stated words to the effect of, "So, I'm going to have you work together," and Estrada released the students to finish the work sheet independently. Although the students socialized, they did not work with a partner to complete the worksheets.
- d. As a result of Estrada's unclear and inadequate directions, the following occurred:
- i. One of the students directed himself to her and stated, "This is kind of hard." Rather than ask him to clarify why he found the work difficult, Estrada stated words to the effect of "Just give it a try,"

and she walked away without providing him any support.

- ii. Several of the students called out comments such as, "I don't get it," and "It's difficult." Estrada did not acknowledge their comments or offer any assistance.
- iii. Approximately seven of the students were unable to identify the verbs in the sentence and did not know which of the words needed to be changed. Additionally, some of the students changed the words completely (i.e., the word "saw" to "buy" rather than the tense (i.e., "saw" to "see").

149. The preponderance of the evidence supports Charge 60. Estrada denied she heard and ignored students' statements and comments and testified she "would have stopped and find a video to support learning" if the assignment were hard. The Commissioners did not credit this aspect of Estrada's testimony in so far as it was aspirational.

150. The District alleges in Charge 61, on March 3, 2020, Estrada did not adjust her lesson or activities in response to the learning needs of the Level 0 and Level 1 English Learner students in her class, when she failed to employ differentiated strategies to meet their specific learning needs. Instead, according to Charge 61, Estrada:

- a. Called a group of five EL (Level 0-1) students to her table but provided them with no direction or guidance

regarding the worksheet assignment, and she looked at MISIS on her laptop.

- b. Four of the five students sat and stared at their worksheets, while one attempted to complete the sentence. Rather than provide the students with a targeted mini lesson, such as a review about the verbs and how to identify verbs, Estrada:
 - i. Stated words to the effect of “Es muy difícil, van a agarrar Lexia. [It’s too difficult, you will do Lexia (i.e., an outline literacy program)].” Estrada then directed the students to retrieve Chromebooks from the computer cart but provided no further instructions or explanation.
 - ii. Continued to sit at the table and watch a YouTube video about verb tenses on her laptop, which included screen shots of the verb tense worksheet. Estrada paused on occasion to circulate the classroom, while four of the EL students worked on basic reading skills on the Lexia program, and one the students attempted to complete the worksheet independently.

151. The preponderance of the evidence does not support Charge 61. At hearing, Victorio admitted presenting EL students with a video about verb tenses is an

acceptable differentiation strategy. Estrada instructed the EL students to do Lexia while she searched for the YouTube video.

152. The District alleges in Charge 62, on March 3, 2020, Estrada did not establish clear behavioral expectations nor did she monitor and redirect the following off-task student behaviors to establish an academic culture conducive to teaching and learning. Specifically, Charge 62 alleges:

- a. Several of the students socialized and played with items at their desks such as notebooks, pencils, and pencil boxes, rather than complete the assigned worksheet. Estrada did not redirect them back to their task.
- b. One of the students directed himself to a student seated at his table and yelled, "Shut up!" on at least two occasions. Estrada did not address his inappropriate behavior.
- c. One male student directed himself to another student who had walked over to his table, and yelled, "¡Metiche! ¡Vete para allá! [Nosy! Go over there!]" Although Estrada was seated in close proximity to both of the students, she did not address the student who was walking around the classroom or the student who made the inappropriate comment.
- d. One male student loudly commented about a female student seated at his table stating, "She's too ugly."

Once again, Estrada did not redirect the inappropriate behavior.

153. The preponderance of the evidence does not support Charge 62. The credible evidence did not establish Estrada's awareness of the off-task behaviors Victorio claimed to have observed on March 3, 2020. The credible evidence did not establish Estrada failed to redirect any student or remediate any off-task behavior brought to her attention on March 3, 2020.

154. The District alleges in Charge 63, on March 3, 2020, Estrada did not establish an effective learning environment conducive and reflective of the learning and accomplishments of the students when the student work samples on her "Writing" bulletin board had not been updated since November 2019.

155. The preponderance of the evidence supports Charge 63. Estrada's Writing bulletin board was not updated on March 3, 2020.

156. The District alleges in Charge 64, on March 3, 2020, Estrada willfully refused to comply with the directives, provided to her orally during conferences held on November 14, 2019, December 11, 2019, and February 7, 2020, and in conference memoranda issued to her on December 12, 2019, November 15, 2019, and February 11, 2020, to deliver standards-based lessons with appropriate learning activities; differentiate learning activities to meet the diverse needs of students assigned to her class roster to provide them with equal access to the curriculum; clearly communicate the instructional purpose of all lessons and activities and review it at the end; develop, teach, and reinforce an effective classroom behavior plan, consistently monitor and respond appropriately to students' off-task and disruptive behaviors.

157. The preponderance of the evidence does not support Charge 64. Based on the Commissioners' resolution of the allegations in Charges 55 through 63, Estrada complied with the directives Victorio provided to her orally during conferences held on November 14, 2019, December 11, 2019, and February 7, 2020, and in writing in the conference memoranda issued to her on November 15, 2019, December 12, 2019, and February 11, 2020.

2019/2020 Academic Year Below Standard Evaluation

158. On April 22, 2020, Victorio issued a Below Standard Evaluation to Estrada for the 2019/2020 academic year. (See Exh. 17.)

2020/2021 Academic Year

JANUARY 27, 2021, FEBRUARY 5, 2021, FEBRUARY 12, 2021, FEBRUARY 23, 2021, AND APRIL 6, 2021 VIRTUAL CLASSROOM OBSERVATIONS

159. Beginning in March 2020 and continuing throughout the 2020/2021 academic year, the District suspended in-person instruction due to the COVID pandemic. The District replaced in-person instruction with three hours of online instruction in a virtual setting each school day.

160. The Commissioners determined Benitez's evaluation of, which is distinct from supervision of, Estrada's virtual classroom performance during the 2020/2021 academic year was inconsistent with and contrary to the terms of the 2020-2021 Distance Learning Sideletter discussed in Factual Finding 18. The Commissioners therefore make no factual findings regarding the District allegations in Charges 65 through 75. Concomitantly, discipline in the form of notices of unsatisfactory service or suspension and directives Benitez provided to Estrada either orally during conferences

held on January 15, 2021, and on April 23, 2021, or in writing in conference memoranda issued on January 15, 2021, and on April 26, 2021 are not included in the Commissioners' resolution of allegations discussed in Factual Findings 182, 209, 235, and 263.

2021/2022 Academic Year

161. District schools, including Alta California, resumed in-person instruction during the 2021/2022 academic year.

OCTOBER 27, 2021 OBSERVATION

162. On October 27, 2021, from 10:57 a.m. to 11:48 a.m., Benitez conducted an unannounced observation of Estrada instructing 23 students in connection with two separate ELA activities—one on using commas and quotations and another adding descriptive details to *The Peaches* story. Benitez reported he observed the following: Fifteen students entered the classroom at approximately 10:57 a.m. Two students argued at the classroom doorway. An objective, purportedly for an unrelated lesson, was written on the white board. The posted Daily Schedule had overlapping subject times. The day prior to Benitez's observation, students completed a handout titled *Commas and Quotation Marks: Inside or Outside*, the image of which was projected from an overhead on to a screen. Benitez reported observing Estrada calling on volunteers one at a time to the overhead to write their answers. Volunteers disputed the order in which they were to take turns writing their answers as other students sat and waited for each volunteer to write an answer. Benitez reported Estrada told each volunteer which correction they should make to their answer. The volunteers took 23 minutes to complete six questions. The exercise was disrupted when one of the volunteers tripped over and unplugged the overhead projector's power cord. Benitez

reported, at approximately 11:20 a.m., Estrada moved on and began to touch upon various topic: *The Peaches* assignment, brainstorming, narrative, dialogue, four-point rubric and character traits. Estrada then read directly from handouts and charted paper while lecturing to students and directing them to what they know. The students watched Estrada lecture and shuffled through their papers. After Estrada lectured, she instructed students to start a draft. Students were unsure about the assignment and raised questions. Estrada explained the directions again.

163. On November 15, 2021, Benitez convened a post-observation conference, at which time he discussed his observations of Estrada's lesson planning and preparation, delivery of instruction, and management of the classroom environment. Benitez subsequently prepared a November 16, 2021 conference memorandum containing his observations and Estrada's statement that she would provide a written response. Benitez informed Estrada she may respond in writing by November 29, 2021. Estrada's response to the November 16, 2021 conference memorandum was admitted as Exh. RX1117.

164. The November 16, 2021 conference memorandum contains a list of assistance and guidance, including for Estrada to design and plan standards-based lessons and describe a clear sequence of instruction in each content area; communicate clearly to students what they will be learning and why it is important; provide standards-based, teacher-directed instruction that is well planned, logically sequenced, and engages students in meaningful learning; develop lessons that are effectively using instructional time; monitor student behavior at all times; reflect on areas needing improvement and adapt and utilize support when offered; consider signing up for the PAR Coaching Support resource; and take advantage of available professional development classes.

165. The November 16, 2021 conference memorandum instructs Estrada to deliver standard-based lessons with appropriate learning activities; to clearly communicate the instructional purpose of all lessons and activities and review the purpose again at the end of the lesson; to develop, teach, and reinforce an effective classroom behavior plan; to monitor consistently and respond appropriately to students' off-task and disruptive behaviors; implement strategies to support checks for student understanding and avoid reading through material without further discussing content with students; and to ensure instructional time is effectively utilized and refrain from having students wait.

166. The November 16, 2021 conference memorandum additionally informs Estrada that failure to make immediate and sustained improvement in her performance may lead to the issuance of a Below Standard Evaluation or discipline such as a Notice of Unsatisfactory Service and/or Act, or Notice of Suspension, or both, and dismissal from the District.

167. Based on Benitez's November 16, 2021 conference memorandum, the District alleges specific charges against Estrada, which the Commissioners resolve as follows.

168. The District alleges in Charge 76, on October 27, 2021, Estrada did not follow the posted Daily Schedule. According to the allegations, Estrada engaged the students in ELA activities during the ELD and Math instructional blocks. The posted Daily Schedule stated the following, as set forth in Charge 76:

<u>Posted</u>	<u>Actual</u>
10:50 – 11:20 ELD (cont.)	10:57 – 11:48 ELA

10:20 – 11:30 Math

12:30 – 1:10 Lunch

169. The preponderance of the evidence does not support Charge 76. Each Wednesday during the 2021/2022 academic year, the entire Alta California student population was subject to COVID testing in the Multi-Purpose Room (MPR). October 27, 2021 was a Wednesday. At hearing, Benitez admitted Estrada had to deviate from the Daily Schedule posted in her classroom and engage her students in ELA activities during the scheduled time for ELD and Math instruction because she was required to take her students to the MPR for weekly COVID testing.

170. The District alleges in Charge 77, on October 27, 2021, Estrada did not address the diverse learning needs of the 23 students assigned to her class, when she did not plan or include supports such as *Conversation Norms*, pair sharing, questions, or scaffolding. The particular allegations are as follows: (a) Estrada delivered her lesson to the whole group without any differentiation. (b) Seven students were ELD 1, eleven students were ELD 2, and the remaining had yet to be identified.

171. The preponderance of the evidence does not support Charge 77. On October 27, 2021, Estrada translated the Peaches story from English to Spanish. Benitez admitted observing Estrada “referencing” *The Peaches* story. Benitez observed Estrada working with four students in Spanish, which Benitez admitted at hearing is a form of differentiation. Benitez further admitted, testifying, “Yeah, Yeah,” that Estrada had posters on her classroom walls evidencing scaffolding strategies for her ELD students.

172. The District alleges in Charge 78, on October 27, 2021, Estrada did not post a standard or an objective for the lessons to give the students a context for their

learning. The specific allegations are as follows: (a) An unrelated objective was written on the whiteboard. It stated: I will be able to: read with purpose and understanding, preread to identify and annotate key events, summarize a text and share my thinking with peers. (b) Estrada apologized to the class for not having a standard by stating, "We are going to close the lesson. I took out the standard. I apologize. I put another poster up there," or words to that effect.

173. The District alleges in Charge 79, on October 27, 2021, Estrada did not clearly communicate to the students what they would be learning to give them a context for their learning, as follows:

- a. Estrada began the lesson regarding commas and quotations by having a student write the answer on the overhead. Estrada did not explain or review the importance of commas and quotations in their writing.
 - i. Estrada concluded the lesson without clarity by stating, "Alright. We are going to close the lesson. I took out the standard. I apologize. I put another poster up there." "Using commas to set up words like 'yes'. 'Yes' and put a comma and 'no'. "And 'tag'. They call it a tag question. We talked about that for the rest of the sentence." "I am going to have you click over to the Peaches Assignment."
 - ii. Estrada then moved into the next activity without reviewing the importance of commas and quotations marks in their written work.

- b. Estrada began the lesson that concluded with writing a draft, with a lecture on a variety of topics including a Peaches Assignment, brainstorming, narrative, dialogue, rubric and character traits.
 - i. At the end, students asked, "Do we also have to write Ms. Estrada?" "What do we do if we are finished?" "Do you have to write the story and do it again?" "Ms. Estrada, what do I do?"
 - ii. Estrada did not make any connections between the activities or explain how they align with the larger unit of study.

174. Evidence relevant to Charges 78 and 79 was jointly entered into the record and discussed together here. The preponderance of the evidence does not support Charges 78 and 79. The comma and quotation marks lesson Benitez observed was a continuation of Estrada's ELA lesson from the previous day. Estrada's continuation of the comma and quotation marks lesson was disrupted by the required weekly COVID testing discussed in Factual Finding 169. Students had just returned from COVID testing when Benitez arrived at the classroom. Estrada reviewed a homework assignment, which included students' responses to questions on the Commas and Quotation Marks worksheet Estrada projected on the overhead. (See Exh. Rx1117 [B130]). Benitez was not present when Estrada first initiated the ELA activity involving commas and quotation marks and he therefore could not know whether or not Estrada communicated standards or objectives to contextualize the students' learning about commas and quotation marks. To close that ELA activity, Estrada projected and read to students the Standards. In the conference memorandum

and at hearing Benitez did not and was unable to identify which students purportedly asked questions noted in subparagraph b.i. of Charge 79.

175. The District alleges in Charge 80, on October 27, 2021, Estrada did not provide students with a teacher-directed lesson to engage them in higher levels of thinking and provide them with the opportunity to learn how commas and quotations are used or how to write a draft. The allegations in Charge 80 state:

- a. Estrada spent approximately 23 minutes calling one student volunteer at a time. Estrada waited for each volunteer to rewrite their response onto the overhead projector. Estrada directed students to make corrections as the volunteer wrote on the overhead. As the volunteers wrote, the remaining students watched them write, looked around the room, and spoke out of turn to participate, and looked at their answers.
- i. Estrada did not check for understanding within the whole group to ensure the class understood comma and quotations. She spoke only to the student at the overhead and made closed statements towards the class.
- ii. Estrada told a student asking for help, "So you needed to read sentence adding commas to the correct place. That is all they are asking you to do. The task is just to add the comma."

- iii. After a student completed writing on the overhead, you stated, "Everyone check your paper," without any accountability or oversight.
- b. Estrada asked questions without allowing students to respond. Estrada asked questions without allowing students to respond. She asked, using words to the effect of:
 - i. "This is correct? I am hoping this is a capital D. Ok. Afterward, what somebody said. That is correct? Who is next?"
 - ii. "Ok, anybody disagrees? No, are we going to have an extra comma?"
 - iii. "That is correct? You forget to. This comma is correct. You need to put it there."
- c. Estrada made a blanket statement regarding student understanding when referring to one student using words to the effect of "G [REDACTED]. So far you guys are getting them. All this work paid off. All this work."
- d. Estrada did not allow for collaboration within the whole group for students to make meaning.
 - i. A student writing on the overheard made an error, a student at his desk asked, using words to the effect of: "Can I help him?" Estrada responded

using words to the effect of: "No, I need him to make the corrections."

- ii. Students longing to collaborate spoke out of turn stating words to the effect of "Can I do number 3?" "Can I do number 4 or 5?" Estrada stated, using words to the effect of: "Hold on a minute. Let me write names down."
- e. Estrada did not attempt to engage students when the projector turned off and had to restart. She waited two minutes. During this time, she did not give students a task to complete and they quietly sat for the projector to restart.
- f. Estrada did not give clear and consistent statements with her feedback. Estrada stated using words to the effect of:
 - i. "So where is the quotations? No, not the quotations. Cause we already have the quotation marks. Where is the comma?"
 - ii. "No, that is correct. It is inside the quotations. You have a period and a comma. Just a few pointers, she capitalized and end with a period."
 - iii. "She did it correctly. This one goes inside of the quotation marks. Right here (Pause) Could fix that

here? You see how it looks like it is outside. It goes inside (Pause) You did that one correctly."

iv. "That is correct. You forgot to. This comma is correct. You need to put it there."

g. Estrada spent approximately 23 minutes lecturing at students about a variety of topics and did not provide the student with clear verbal or written directions or expectations.

i. Estrada began by stating the review was for a few students. She stated using words to the effect of: "Because we had a few people. Yeah. The brainstorm. Because we had a few people absent yesterday, we need to go back and review."

ii. A student with a one-on-one assistant asked Estrada to move because he was copying from the board and she was blocking his view. Estrada stated using words to the effect of "Ok. I'll give you two minutes." The class waited and were unsure of what to do.

iii. Estrada continued to lecture without clarity. She stated using words to the effect of: "Ok, E [REDACTED], I need to review. I have to remind everybody when we write the assignment." "Notice there is a lot of dialogue in here. Here they end up with an

exclamation." "When you are writing you are going to change the words. You are going to add descriptive words. You are going to an exclamation. Question mark." "We talked about this morning. Oh, let me again review the task. We have to rewrite the story." "D [REDACTED], G [REDACTED] you should have your paper out."

- iv. Estrada continued to lecture without connecting topics. Estrada stated using words to the effect of:
"Rewrite your story by having dialogue. The second thing you need to do is add dialogue."
"Number three, you need to add descriptive details. We have been working on adding descriptive details and a conclusion or ending without changing the events."
- v. Estrada read word or word all four points of the rubric and mentioned a variety of topics without clarity. She stated using words to the effect of:
"Some evidence. You included some conclusion that supports the text. Yesterday, I showed you previous examples from some students." "That is not the conclusion you need to expand your conclusion. One sentence is not good enough. "A 2, limited evidence of the ability to write. May be you added one dialogue and forgot the other."

- vi. Estrada jumped from topic to topic. She stated using words to the effect of: "So yesterday we worked on the brainstorming, and you were to describe the character. Right? So hopefully, you had a chance to do that." "I have extra copies for those that need. Some people needed one of these yesterday, so I am going to give you one so raise your hand."
- h. Estrada did not give clear directions so that the students understood what to do.
 - i. She gave a series of unclear directions. She stated using words to the effect of: "You have to review your writing practice. You have to write a narrative writing. I will be collecting the papers so you guys."
 - ii. Estrada read word for word "What is Narrative Writing" and "What is a Dialogue" posters on the whiteboard without stopping to check for understanding or having students accountable for learning.
 - iii. Estrada gave unclear feedback and directions. She stated using words to the effect of: "Before recess I told you we were going to work on this, so I am

going to show you how. You have the description, but it is fuzzy."

- iv. Estrada gave indistinct directions. She stated using words to the effect of: "If you need a computer to find more words. We are going to go 1 through 23. You have the paper called character traits. Some of you have description."
- v. Estrada did not provide sequential directions and did not provide clarity. She stated, using to the effect of: "You have a list. You have a story to write. Some of you are done. What you need to work on is adding descriptive details. You are going to start your draft."
- vi. Estrada gave indistinct directions. She stated, using words to the effect of: "Stop! So, notice what I added." "One windy afternoon, a hardworking of smart farmer bought peaches. We put a line and color coated descriptive words." "The oldest brother had one color. The second son had another color." "He gave one to his beautiful wife and one to his four." "This is my draft and made some mistakes. Is the draft a polished paper?"

1) Student replied aloud, "No."

- 2) Estrada responded using words to the effect of: "So, I am going to work with a few student that need my assistance in Spanish."
 - 3) The students responded using words to the effect of: "I know Spanish. I know Spanish too."
 - 4) Estrada responded using words to the effect of, "I am going to work with four students. Can I get a thumbs up? (Pause) Can I get a thumbs up? If you know what you need to do and can work independently?"
- vii. Estrada gave unclear directions. Sthe stated, using words to the effect of "Hold up I can't hear you. There is a lot of noise. What are the jobs for you today?"
- 1) There was no response from the students.
 - 2) Estrada then stated, using words to the effect of "I already did the four characters for you. What are you going to do right now?"
 - 3) A student responded, "The Peaches."

- 4) Estrada stated, using words to the effect of:
We did the brainstorming. What is the next thing?" "There is a lot of noise going on. I can't hear you. I am going to have to walk over there." "What is that called? A draft. Can everyone say draft?"
- 5) Estrada continued using words to the effect of: "I am going to give you a new piece of paper. It is not giraffe. It is draft." "I want you to give me that quotation mark paper. I am going to collect it." "If you need a computer to look up descriptive details. You need to have this paper out."

176. The preponderance of the evidence does not support Charge 80. The evidence offered at hearing did not address with specificity the itemized allegations set forth in Factual Finding 175, except that Benitez admitted Estrada called on students but claimed Estrada "was only soliciting responses from her six volunteers." Benitez admitted Estrada likely collected student work to check the students understood the assignment. Benitez admitted Estrada attempted to sequence the lesson, as a sample of student work illustrates. (See Exh. RX1117 {B1305}.)

177. The District alleges in Charge 81, on October 27, 2021, Estrada did not monitor student behavior outside her classroom as students entered. Students were arguing outside her door as they were entering the class. Estrada remained seated in front of her class next to the overhead projector and did not intervene.

178. The preponderance of the evidence does not support Charge 81. Estrada did not observe any student behaviors, including students arguing, that required her intervention. Estrada observed students quietly waiting in line to sanitize their hands in accordance with District guidelines.

179. The District alleges in Charge 82, on October 27, 2021, Estrada did not have effective procedures for teacher-to-student or student-to-student interaction based on the following:

- a. Multiple times throughout both lessons, student would talk without raising their hand. Talking was centered around wanting to collaborate or asking clarifying questions when they did not understand.
- b. Estrada responded to this behavior by repeatedly stating, using words to the effect of: "Please raise your hand" and "It is getting noisy," with inconsistent results from the students.
- c. Approximately 14 of 23 students sat in silence and did not speak throughout the entirety of the lessons. Estrada did not incorporate any sentence starters or strategies to engage the students in the learning.

180. The preponderance of the evidence does not support Charge 82. During the ELA writing activity in connection with *The Peaches* story, Estrada's students asked questions for clarification and about collaboration without first raising their hands. Estrada politely reminded students to raise their hands and students complied.

Students who were engaged in their brainstorming processes did not speak during The Peaches story ELA activities.

181. The District alleges in Charge 83, on October 27, 2021, Estrada willfully refused to comply with the directives, provided to her orally during conferences held on November 14, 2019, December 11, 2019, and February 7, 2020, and in writing in conference memoranda dated November 15, 2019, December 12, 2019, and February 11, 2020, to deliver standards-based lessons with appropriate learning activities; differentiate learning activities to meet the diverse needs of students assigned to her class roster to provide them with equal access to the curriculum; clearly communicate the instructional purpose of all lessons and activities and review it at the end; develop, teach, and reinforce an effective classroom behavior plan, consistently monitor and respond appropriately to students' off-task and disruptive behaviors; implement strategies to support understanding and avoid reading through material without further discussing content with students; set expectations and create a rubric for student participation and engagement; post current and authentic student-produced work upon return to the physical environment; create a reward system to encourage student participation and promote classroom expectations; address student behavior in a timely manner.

182. The preponderance of the evidence does not support Charge 83. Based on the Commissioners' resolution of the allegations in Charges 76 through 82, Estrada complied with the directives provided to her orally during conferences held on November 14, 2019, December 11, 2019, and February 7, 2020, and in writing in conference memoranda dated November 15, 2019, December 12, 2019, and February 11, 2020.

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183. On November 29, 2021, Benitez convened a pre-observation planning conference with Estrada. They reviewed Estrada's instructional sequence, which included the purpose and objectives of a planned lesson on Cultivating Natural Resources.

184. On November 30, 2021, between 11:00 a.m. and 12:14 p.m., Benitez conducted an observation of Estrada's ELA/ELD activities in connection with a lesson on Cultivating Natural Resources. Benitez reported he observed a 16 feet by 4 feet whiteboard covered with teacher-created charts variously labeled Student Objectives, Essential Question, Unit Objective, Vocabulary Words, Self-Evaluate, Reflect and Close the Lesson, Photographs of 9 Natural Resources, Collaborative Conversation, Student Share Activity, Sentence Frame (1), Observation Checklist for Collaborative Conversation, Prior Knowledge, Sentence Frame (2), Student Objectives, Vocabulary Chart with Spanish Cognates, Preview Genre, a circle map on "Items made of corn," and an image of a corn plant with labeled parts. Benitez further reported Estrada read the charts and reviewed with students an activity requiring them to pair and complete a circle map on "items of corn." The students completed that activity and shared out. Estrada explained to students a second activity which required them to get into groups, circulated from station to station, and identify items containing corn. The students shared out items containing corn. Estrada next showed a video on cultivating natural resources and explained a third activity requiring students to complete the ELD sentence frames. Students shared their responses. Estrada ended the lesson by restating what the students learned during a self-evaluation activity.

185. On December 16, 2021, Benitez convened a post-observation conference, at which time he discussed his observations of Estrada's lesson planning and

preparation, delivery of instruction, and management of the classroom environment. Benitez subsequently prepared a December 16, 2021 conference memorandum containing his observations and Estrada's statement that she would provide a written response. Benitez informed Estrada she may respond in writing by January 14, 2022. Estrada's response to the December 16, 2021 conference memorandum was admitted as Exh. RX1125.

186. The December 16, 2021 conference memorandum contains a list of assistance and guidance, including for Estrada to narrow the focus of her lessons so as not to cover too much material during each lesson; create an interactive lesson using student-created charts or charting responses; provide clear and concise directions; check for understanding using random selection and open-ended questions; implement lessons with differentiation of assignments; refrain from making judgement statements toward students; bring closure to each activity by checking for understanding and connecting it back to the objective; engage in purposeful feedback with students; implement pre-conference recommendations and any recommendations applicable into future lessons; implement differentiated lessons for EL students and potential reclassification students; focus on one or two standards and objectives throughout a lesson to ensure mastery; avoid lecturing or reading through lessons without meaningful interactions; establish and teach clear routines and procedures to students so that they understand expectations; consider signing up for the PAR Coaching Support resource; and take advantage of available professional development classes.

187. The December 16, 2021 conference memorandum additionally directs Estrada to deliver standard-based lessons with appropriate learning activities; clearly communicate the instructional purpose of all lessons and activities and review the

purpose again at the end of the lesson; develop, teach, and reinforce an effective classroom behavior plan; implement strategies to support checks for student understanding and avoid reading through material without further discussing content with students; set expectations and create a rubric for student participation and engagement; avoid judgment statements towards students and abide by the District's policy regarding Respectful Treatment of All Persons; and implement recommendations and feedback.

188. The December 16, 2021 conference memorandum further informs Estrada that failure to make immediate and sustained improvement in her performance may lead to the issuance of a Below Standard Evaluation or discipline such as a Notice of Unsatisfactory Service and/or Act, or Notice of Suspension, or both, and dismissal from the District.

189. Based on Benitez's December 16, 2021 conference memorandum, the District alleges specific charges against Estrada, which the Commissioners resolve as follows.

190. The District alleges in Charge 84, on November 30, 2021, Estrada did not narrow her focus of standards. According to the allegations, Estrada included too many standards (8 CCSS [California Common Core State Standards] standards and 6 ELD standards) that could not be fully taught or learned by students.

191. The preponderance of the evidence does not support Charge 84. Estrada previewed her lesson plan for teaching the Cultivating Natural Resources lesson with Benitez during the November 29, 2021 pre-observation conference. At hearing, Benitez admitted he reviewed the lesson plan, which incorporated standards from Benchmark

Advance, the District's adopted curriculum program. Benitez admitted he did not direct Estrada to narrow the focus of the lesson plan he reviewed.

192. The District alleges in Charge 85, on November 30, 2021, Estrada did not randomly select students to check for understanding to gauge student learning.

193. The preponderance of the evidence does not support Charge 85. At hearing, Benitez admitted he and Estrada discussed random selection using popsicle sticks during the November 29, 2021 pre-observation conference. Estrada explained to Benitez she did not favor that technique having learned from attending a training session about possible negative consequences affecting EL students, including a lowering of their affective filter. (See Exh. 1208) Estrada incorporated alternative strategies, including providing EL learners with English and Spanish words and pre-teaching the lesson.

194. The District alleges in Charge 86, on November 30, 2021, Estrada did not deliver a lesson that provided student accountability. According to the allegations, Estrada's lesson was scripted on the board using teacher created charts and she lectured the students as she read through chart after chart. The students simply sat quietly and watched. The District further alleges Estrada did little to engage her students in any learning activities and notes the following:

- a. Estrada read aloud from the first chart, "Today's objective is I will be able to connect essential question. I will be able to connect essential question to information I already know." Students repeated her readings without any connection.

- b. Estrada then read four standards from the overheard and had students recite them.
- c. Estrada read through lists of activities: "collaborative discussions, groups are teacher lead, prepare read or studied required materials, agreed upon rules, activity in groups of three, post the response to specific questions, regroup, review, express your own conclusion."
- d. Estrada cited, "This is out of the comprehension collaboration for the common core."
- e. During the time that Estrada read through the list of activities, the students listened without interaction with her or each other.
- f. Estrada also recited definitions for vocabulary words and referenced photographs. As Estrada recited the information, students watched and listened.
- g. Estrada read Support of Collaborative Conversations: Group Roles and Discussion Prompts to the class from a handout and on a chart while the students listened silently.
- h. Once Estrada finished reading, she asked using words to the effect of: "A [REDACTED], can you repeat what I said? I know I said a lot." A [REDACTED] could not provide an answer, and Estrada moved on.

195. The preponderance of the evidence does not support Charge 86. At hearing, Benitez admitted students did not simply sit quietly and watch Estrada. Estrada engaged students in learning activities by leading students in choral reading, Benitez admitted choral reading is a practice aimed at helping EL students with reading and pronunciation. Benitez also admitted Estrada was previously written up for not going over learning objectives and standard with students and Estrada incorporated that feedback and directives to do so when she projected standards on the overhead, read the standards to students, and students in turn recited the standards. Regarding Estrada's interaction with student A [REDACTED], Benitez admitted his reporting about that interaction was possibly incomplete. Benitez testified he attempted to do his best when scripting his observation but, "I'm not as well-skilled as a court reporter. . . . I get everything that I can but I can't get everything."

196. The District alleges in Charge 87, on November 30, 2021, Estrada did not give clear and cohesive instructions to students. According to the allegations, throughout the lesson, Estrada started and stopped, skipped, went back, moved forward, or gave vague explanations in the following instances:

- a. Estrada moved forward during the lesson when students yearned to give answers. She stated, using words to the effect of "Can you list one resource we have in Panorama City?" "I will wait for more hands." Two students responded, "Tree" and "Dirt." Estrada then stated, "Hold your thoughts. We are going to start the lesson."
- b. Estrada gave an incoherent explanation when she stated, using words to the effect of: "When we have natural

resources, we use them for our benefit but when we produce a lot, it can also hurt us." "I want you to think about that." "How, making a lot of natural resources, using a lot of natural resources can hurt us." "I want you to think about natural resources that you can probably have around you in Panorama City."

- c. Estrada skipped through the purpose of the video. Prior to showing a video on Cultivating Natural Resources, she stated using words to the effect of: "You haven't seen this video so pay close attention." After playing a short video, Estrada stated, using words to the effect of, "What happens when resources are no longer there?" "What do we choose?" "What resources are important to develop more of?" Without allowing any of the students to answer the questions, Estrada moved on and said using words to the effect of: "We are going to go onto the next activity."
- d. After students shared their items of corn on the circle, Estrada ended the discussion by stating, using words to the effect of: "Alright, we are going to stop." "Ok. We are going to take a gallery walk." When getting into groups, Estrada corrected her instructions by stating using words to the effect of: "What you need. Sorry, I forgot to tell you." "Besides this, O [REDACTED]. You need this paper. I forgot."

- e. Estrada gave incohesive directions when she stated, using words to the effect of "Are you ready D [REDACTED]?" "You need to stay on topic, listen respectfully, building on each other and supporting each other." "The more you participate the more knowledge you have." "We are going to do the next part of the lesson." A student responded aloud, "What?" Estrada stated using words to the effect of "We already did a lot of it as a group."
- f. Estrada stopped her thought, answered her question, and moved forward when she stated, using words to the effect of: "Why do humans use so much corn?" "Why do they use it so much?" "We have it because it tastes good." "We are done with this part of the lesson. We are running behind. We are going to self-evaluate."

197. At hearing, the parties did not address Charge 87. As discussed in Factual Finding 195, Benitez admitted he is not a skilled reporter and is not able to record everything when scripting his observations. Under these circumstances, without credible corroborating testimony or documentation, the preponderance of the evidence does not support Charge 87.

198. The District alleges in Charge 88, on November 30, 2021, Estrada did not check her students understood the lesson. According to the allegations, Estrada's attempts to check for understanding yielded one-word answers and uniform responses as follows:

- a. Students gave one-word answers when she asked using words to the effect of: "Can you list one resource we have in Panorama City?" "I will wait for more hands." Two students responded, "Tree" and "Dirt."
- b. Estrada solicited thumbs up as the answer. When students began to list items of corn on a circle map, she directed the class using words to the effect of "Give me a thumbs up. I want to make sure everyone has at least one item." "I need to make sure everyone is giving me thumbs up."
- c. When students shared circle map items, the majority of students responded using words with corn: popcorn, corn seed, corn flakes, corn chips, corn soup and etc. They did not expand beyond the word corn.
- d. When sharing out after viewing and realizing various products contain corn, students responded with one-word answers: Takis, Skittles, and gum. Estrada did not encourage any of the students to respond using complete sentences.
- e. Prior to showing a video on Cultivating Natural Resources, Estrada stated using words to the effect of: "You haven't seen this video so pay close attention." After playing a short video, Estrada stated using words to the effect of: "What happens when resources are no

longer there?" "What do we choose?" "What resources are important to develop more of?" "We are going to go into the next activity." There were no references or connection to the video observed.

- f. Estrada praised a one-word response when she asked using words to the effect of: "What would happen if we ran out of water? Who else would it affect?" When a student responded, "Animals," Estrada said using words to the effect of: "Great job guys. Give yourselves a pat on the back."
- g. Estrada did not solicit any response beyond a one-word answer. Estrada asked using words to the effect of: "What else is made of wood." A student responded, "Paper." Estrada questioned using words to the effect of: "What else is made of wood? Really important. We need it." Another student responded, "Houses." Estrada then asked using words to the effect of: "What about plants?" and another student stated, "More food." Again Estrada made no attempts to have the students expand on their answers or respond using complete sentences.
- h. Estrada solicited correct uniform responses when she asked using words to the effect of: "Did we create information in regards to natural resources?" "Were able to create or connect to prior knowledge?" "Everyone needs to give me answer." "Show me your circle map."

Were you able to list one or two items?" "Give me a thumbs up." "Were she able to work in a group?" All students responded, yes.

199. The preponderance of the evidence does not support Charge 88. Regarding subparagraph (a) of Charge 88, the student answering "tree" was a newcomer student, who initially answered in Spanish. Estrada directed the newcomer student to answer using "tree" in a sentence in English. Regarding subparagraph (b) of Charge 88, Benitez admitted at hearing "thumbs up" is a technique for checking understanding. Although Benitez was critical of the "thumbs up" technique, he admitted Estrada was incorporating feedback she received from Victorio (See Exh 8 at p.5 [A331].) Regarding subparagraph (c) of Charge 88, Benitez admitted fifth-graders sharing their knowledge about corn are expected to use the word "corn" on their circle maps. (See Exh. RX 1125 [B1358-B1359].) The students used their circle maps during a think/share activity. Benitez admitted he opined to Estrada that students were "highly engaged" and the circle map was the "peak of the lesson." Benitez did not include his opinion in the December 16, 2021 conference memorandum claiming he was "trying not to confuse [Estrada] by putting something like that in the memo," Regarding subparagraph (d) of Charge 88, Estrada posted sentence frames which students used during the think/share activity. (See Exh. RX1125 [B1357, B1360].) Regarding subparagraph (e) of Charge 88, the video on Cultivating Natural Resources is admitted in evidence as exhibit RX 1127. Estrada's questions and statement—"What happens when resources are no longer there?" "What do we choose?" "What resources are important to develop more of?" "We are going to go into the next activity."—reference and are connected to the content of the Cultivating Natural Resources video. Regarding subparagraphs (f) and (g) of Chage 88, students had sentence frames on their desks. Students incorporated one-word responses into their sentence frames.

(See e.g. Exh. RX 1125 [B1360].) Students used the sentence frames during the Collaborative Conversation activities. Regarding subparagraph (h) of Charge 88, Estrada engaged students in a self-reflection exercise to close the lesson using the Self-Evaluate, Reflect, and Close the Lesson activity from the ELD Practicum (See Exh. RX 1125 [B1361].)

200. The District alleges in Charge 89, on November 30, 2021, Estrada did not provide a clear and concise lesson. According to the allegations, students did not understand the purpose of the lesson, which was centered around the importance of cultivating natural resources. Charge 89 alleges Estrada did not ensure that students understood the lesson based on the following:

- a. A student struggled to give a response to what was learned when Estrada asked, using words to the effect of: "G■■■■■, can you explain why you said no?" "This question is in every lesson, so we have to connect to prior knowledge." "Connect to essential question." "Resources we already know are these." "List the items about corn." Student G■■■■■ remained silent.
- b. Estrada directed students to what was learned rather than having them explain their learning when she stated, using words to the effect of: "Were we able to create or connect to prior knowledge?" "Everyone needs to give me answer." "Show me your circle map. Were you able to list one or two items?" "Give me thumbs up." "Were you able to work in a group?" Students responded, "Yes." Estrada stated, using words to the effect of:

"G■■■■, you are still not giving a response. You look very puzzled."

- c. At the conclusion of her lesson, Estrada prompted a student by using a sentence frame and stating: "Today, I learned to." The student answered, using words to the effect of: "Corn uses." Estrada continued by stating, "We are going to continue onto the next part of the lesson."
- d. At the conclusion of her lesson, Estrada did not give students the ability to express what was learned, but rather lead them through a self-evaluation exercise where students were unsure of how to respond.

201. The preponderance of the evidence does not support Charge 89. Based on student G■■■■' silence, Benitez opined students did not understand the importance of cultivating natural resources. Estrada, however, told Benitez that G■■■■ is a confident student and his presence unnerved G■■■■. G■■■■ shared with Estrada that Benitz stood behind her and she felt very nervous responding to Estrada's question. Students raised their hands to share what they learned. As discussed in Factual Finding 199, students participated in a Self-Evaluate, Reflect, and Close the Lesson activity.

202. The District alleges in Charge 90, on November 30, 2021, Estrada did not differentiate her teaching for students who were EL learners and potential reclassification students as specified in her lesson plan. According to the allegations in Charge 90, two groups of students completed both sections of the integrated ELD

handout. There were no instructions given that distinguished that one section was for EL students and the other was for Potential Reclassification students.

203. The preponderance of the evidence does not support Charge 90. Estrada differentiated her instruction for EL students and potential reclassification students. Estrada provided wait time for students with IEPs. Estrada used visual aids, including realia. Estrada translated vocabulary from English to Spanish to facilitate newcomer student participation. Estrada introduced sentence frames for use during circle map activities. Estrada paired students according to ability and interest during collaborative conversation activities. At hearing, Benitez acknowledged Estrada's use of these differentiation techniques while asserting, "I don't know if they were effective."

204. The District alleges in Charge 91, on November 30, 2021, Estrada did not establish, teach, and reinforce a set of classroom routines for the following activities.

- a. When working in groups, Estrada stated using words to the effect of: "There is no talking right now." However she did not review a set of group norms and expectations before she placed the students in their assigned groups.
- b. When asking for responses, Estrada stated using words to the effect of: "If you have participated, put your hand down." Estrada did not use equity sticks or any other type of system to track the students whom she had called upon.

205. The preponderance of the evidence does not support Charge 91. At hearing, Benitez testified he did not recall Estrada assigning students to groups to

discuss the Cultivating Natural Resources video. Benitez testified, "If I did, it would have been in my notes." Under these circumstances, Benitez likely had no knowledge of whether Estrada reviewed a set of group norms and expectations before placing students in an assigned group. Neither party presented evidence pertinent to whether or what type of system Estrada used for tracking students she called on.

206. The District alleges in Charge 92, on November 30, 2021, Estrada did not interact with a student in a way that projects respect and creates a safe and supportive learning environment as follows:

- a. Estrada made two judgment statements towards a student during an exchange. Estrada stated using words to the effect of: "Are you having a fuzzy moment?" and "You look very puzzled." After each statement, the student remained silent and did not respond.

207. The preponderance of the evidence does not support Charge 92. At hearing, Benitez admitted having no evidence the student viewed Estrada's statements negatively.

208. The District alleges in Charge 93, on November 30, 2021, Estrada willfully refused to comply with the directives, provided to her orally during conferences held on November 14, 2019, December 11, 2019, February 7, 2020, January 15, 2021, April 23, 2021, and November 15, 2021, and in writing in conference memoranda dated December 12, 2019, February 11, 2020, January 15, 2021, April 26, 2021, and November 15, 2021, to deliver standards-based lessons with appropriate learning activities; differentiate learning activities to meet the diverse needs of students assigned to her class roster to provide them with equal access to the curriculum;

clearly communicate the instructional purpose of all lessons and activities and review it at the end; develop, teach, and reinforce an effective classroom behavior plan, consistently monitor and respond appropriately to students' off-task and disruptive behaviors; implement strategies to support understanding and avoid reading through material without further discussing content with students; set expectations and create a rubric for student participation and engagement; post current and authentic student-produced work upon return to the physical environment; create a reward system to encourage student participation and promote classroom expectations; address student behavior in a timely manner; and ensure instructional time is effectively utilized and refrain having students wait.

209. The preponderance of the evidence does not support Charge 93. Based on the Commissioners' resolution of the allegations in Charges 84 through 92, Estrada complied with the directives provided to her orally during conferences held on November 14, 2019, December 11, 2019, February 7, 2020, and November 15, 2021, and in writing in conference memoranda dated November 15, 2019, December 12, 2019, and February 11, 2020, and November 15, 2021.

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210. On February 4, 2022, between 7:58 a.m. and 8:45 a.m., Benitez conducted an observation of Estrada's fifth grade ELA activities. Benitez entered the classroom at 7:58 a.m. Benitez reported observing all students were seated with materials out. A Behavior Intervention Implementation (BII) assistant was in the classroom. The door between Estrada classroom and the classroom of her neighboring colleague, Mr. Gunter, was open. Mr. Gunter closed the door when he saw Benitez. The bell rang at 8:01 a.m. Estrada entered her classroom at 8:03 a.m. Benitez reported Estrada seemed unsure who let her students into the classroom. Estrada posted charted questions on

the board titled “News Report Question” and “Current Events CNN 10.” Estrada played the CNN 10 video for February 4. Benitez further reported Estrada paused the video several times to give the class unclear information. After the video Estrada instructed the students to complete responses to the charted questions. Some students voluntarily shared their written responses. Estrada then read Standard WS 5.1 and a circle map during the social media lesson. The students then voluntarily read aloud social media handout passages.

211. On February 18, 2022, Benitez convened a post-observation conference, at which time he discussed his observations of Estrada’s lesson planning and preparation, delivery of instruction, and management of the classroom environment. Benitez subsequently prepared a February 18, 2022 conference memorandum containing his observations and Estrada’s statement that she would provide a written response. Benitez informed Estrada she may respond in writing by February 28, 2022.

212. The February 18, 2022 conference memorandum contains a list of assistance and guidance, including for Estrada to plan and prepare materials prior to the day’s lessons; provide clear directions to students so they clearly understand expectations; check for understanding using random selection (equity sticks) and asking open-ended questions; give feedback to students; add differentiation to the lesson; open and close the lesson with the purpose of students understanding and learning; develop rules for student participation; pick up students and begin instruction on time; consider signing up for PAR Coaching resource; and take advantage of available professional development classes.

213. The February 18, 2022 conference memorandum directs Estrada to deliver standard-based lessons with appropriate learning activities; clearly communicate the instructional purpose of all lessons and activities and review the

purpose again at the end of the lesson; develop, teach, and reinforce an effective classroom behavior plan; implement strategies to support checks for student understanding and avoid reading through the material without further discussing content with students; set expectations and create a rubric for student participation and engagement; pick up and supervise students at 7:56 a.m. and begin instruction at 8:01 a.m.; and implement recommendations, assistance and guidance, and feedback.

214. The February 18, 2022 conference memorandum informs Estrada that failure to make immediate and sustained improvement in her performance may lead to the issuance of a Below Standard Evaluation or discipline such as a Notice of Unsatisfactory Service and/or Act, or Notice of Suspension, or both, and dismissal from the District.

215. Based on Benitez's February 18, 2022 conference memorandum, the District alleges specific charges against Estrada, which the Commissioners resolve as follows.

216. The District alleges in Charge 94, on February 2, 2022, Estrada did not plan and prepare her materials prior to the day's lesson. According to the allegations, when she entered the classroom two minutes after the start of the instructional period, she did not have materials prepared. Estrada first had to gather the materials in order to begin the lesson while the students waited for her.

217. The preponderance of the evidence does not support Charges 94. Estrada's classroom daily schedule is evidence of her planned instruction in connection with the CNN 10 video.(See Exh. RX1116.) At hearing, Benitez's testimony failed to explain how Estrada could "gather" materials when she purportedly "did not have materials prepared."

218. The District alleges in Charge 95, on February 4, 2022, Estrada did not give clear and cohesive instructions to students so that they clearly understood what to do, as follows:

- a. Estrada posted two charts without explanation: "News Report Question" and "Current Events CNN". She stated using words to the effect of: "I am going to put up the questions, so you write them down." She did not clearly explain to the class what she intended for them to do with the questions.
- b. After the video and giving time for students to write, Estrada stated using words to the effect of: "Remember you only need to pick one news. There was a lot of news. The one you feel comfortable reporting." She did not explain how they would be reporting on the news area that they picked.
- c. During social media activity, Estrada read standard WS 5.1 without any follow-up or explanation and moved on.

219. The preponderance of the evidence does not support Charge 95. Viewing CNN 10 and engaging in related instructional activities are established routines in Estrada's classroom. (See Exh. RX 1116.) As such, it was not necessary for Estrada to reintroduce the CNN 10 video each day. Students were accustomed to the established routine of using a "Student News Analysis" graphic organizer while watching the video and then writing and sharing their journal entries about a selected news story. Estrada provided sentence frames for guidance on how to report selected news stories. (See

Exhs. RX1132, RX1134.) During the social media activity, Estrada read Standard WS 5.1 and reviewed its instructional objective with students. Several students, including M [REDACTED], G [REDACTED], G [REDACTED], D [REDACTED], A [REDACTED], B [REDACTED], D [REDACTED], C [REDACTED], E [REDACTED], R [REDACTED], and V [REDACTED], participated in reading aloud portions of an article titled *Social Media: Wow! Or Woe?* under Estrada's guidance. (See Exh. 1211 [B2758].)

220. The District alleges in Charge 96, on February 4, 2022, Estrada did not check for student understanding or give feedback throughout the lesson. According to the allegations in Charge 96, Estrada's attempts to check for understanding yielded one-word answers, voluntary responses, thumbs up, and quiet claps, as follows:

- a. When referring to the previous day's CNN 10 video regarding military sent, Estrada asked using words to the effect of: "Just to review, yesterday we had how many people sent?" Several student responded aloud, "3,000." Estrada stated using words to the effect of: "How many countries?" Students responded aloud with a variety of countries.
- b. Estrada informed the class prior to completing the CNN writing assignment that she would only take volunteers and only chose volunteers.
- c. During sharing CNN responses, student D [REDACTED] recited his response to lightsabers. Estrada stated using words to the effect of: "Anybody disagree with him, thumbs up?" "Quiet clap." A second student read their response regarding vending machines. Estrada responded using

words to the effect of: "Ok awesome. Give her a quiet clap." A third student read their response regarding terrorism. Estrada stated, using words to the effect of: "Good. Quiet clap."

- d. During the social media activity, Estrada only selected volunteers for reading.

221. The preponderance of the evidence does not support Charge 96. Estrada reviewed the content of the previous CNN 10 video by posting review questions. (See Exh. RX 1132 [B1388].) As students viewed the CNN 10 video shown during the observation, Estrada frequently paused the video to ask students questions or give students additional information about a news topic. Additionally, Estrada rewound the CNN 10 video to replay certain segments so that students could view news stories multiple times. At hearing, Benitez admitted these are techniques to check for student understanding. Samples of student works illustrate students used sentences to answer questions. (See Ex. RX 1132 [B1403-B1407].) At hearing, Benitez admitted his scripting did not capture what D█████ stated using complete sentences about vending machines and terrorism. Benitez further admitted to the possibility students shared out sentences he did not write down. Benitez testified, "If I didn't write it down, I don't know." Estrada encouraged use of thumbs up and quiet clap from volunteering students to check for understanding because that practice is consistent with her understanding that students without prior knowledge of English need a low affective filter. (See Factual Finding 193.)

222. The District alleges in Charge 97, on February 4, 2022, Estrada did not provide a clear and concise lesson, as follows:

- a. During the video of CNN 10, Estrada stopped and stated random information without purpose. Estrada paused the CNN 10 video at various points. She stated, using words to the effect of the following during the pauses: "So, you can write down the capture of ISSI [*sic*] leader, and 113 people, that is that data," "13 people including civilians," "It is called a raid by special forces," "If you are writing about vending machines 20% sells increased," and "Machines can also detect earthquakes or other things that they can do."
- b. During the CNN writing assignment, Estrada stated using words to the effect of "Some of you came late, write what you can." A student stated using words to the effect of, "It is kind of long." Estrada responded using words to the effect of: "You have the questions here, but you already have them."
- c. After giving students time to write, Estrada began to explain the activity by stating, using words to the effect of: "Remember your report should be about, if you are writing about the vending machines, a question that you have regarding that view" "A piece of evidence."
- d. While students were writing their CNN responses, Estrada gave the purpose of the activity by stating, using words to the effect of: "The point of you watching the news is to

get ready for ELPAC. You are going to have to listen to audio."

- e. After the CNN writing activity, Estrada stated using words to the effect of: "E [redacted] [s/c], we have to test you. Do you want to test now or after." Student E [redacted] [s/c], responded, "After." Estrada responded using words to the effect of: "We have to take it today." Student E [redacted] [s/c], left the room five minutes later for RSP.
- f. Prior to a student reading the social media handout, Estrada stated using words to the effect of: "We have been practicing fluency, read loud and clear.
- g. Estrada did not provide clear explanation of the social media activity. She said using words to the effect of: "We are going to do a tree map and list the pros and con of social media. You are going to use the graphic organizer." "Are you in favor or against?" "Just to review, we did a circle map." She then listed the apps and social media site and stated using words to the effect of "Go ahead and highlight that."

223. The preponderance of the evidence does not support Charge 97. Regarding subparagraph (a) of Charge 97, Estrada pausing the CNN 10 video is an appropriate technique to check for understanding and to provide students with additional information regarding a news topic, as discussed in Factual Finding 221. Regarding subparagraph (b) of Charge 97, late students joining the class know they

are expected to join in participating in the ongoing CNN 10 activities. Regarding subparagraph (c) of Charge 97, it is not inappropriate to interject additional information as students engage in a writing activity. Regarding subparagraph (d) of Charge 97, it's appropriate to inform students their writing or note-taking skills will be assessed in the listening domain of the ELPAC (English Language Proficiency Assessments for California). Regarding subparagraph (e) of Charge 97, Student E [REDACTED]'s special education services require Estrada to inform him of scheduled activities, including testing, to ensure his appropriate transition from activity to activity. E [REDACTED] left the classroom for his scheduled RSP services. Regarding subparagraph (f) of Charge 97, Estrada's statement acknowledging students were reading aloud to increase fluency is accurate. Regarding subparagraph (g) of Charge 97, samples of student contributions to the creation of a chart on the pros and cons of social media and a "What is Social Media?" circle map (that Estrada previously created with her PAR coach) rebut the allegation Estrada did not provide a clear explanation of the social media activity. (See Exh. RX1132 [B1409-B1410].)

224. The District alleges in Charge 98, on February 4, 2022, Estrada did not review the purpose of the CNN video or the social media activity to give the students a context for their learning, nor did she revisit it at the end, as follows:

- a. Prior to the CNN video, Estrada did not introduce, state the purpose, or set expectations. At the end of the CNN video and the writing activity, Estrada did not close or tie together what was learned.
- b. At the opening of the social media activity, Estrada stated using words to the effect of: "We are going to continue with social media." Student began to pull out

their handouts. "We are going to review." Students continued pulling out their handouts. Estrada read standard WS 5.1 without any follow-up or understanding.

225. The preponderance of the evidence does not support Charge 98. Regarding subparagraph (a) of Charge 98, student viewing of the CNN 10 video and engagement in related instructional activities are established routines in Estrada's classroom, as discussed in Factual Finding 219. As such, it was not necessary for Estrada to reintroduce the CNN 10 video each day. At hearing, Benitez admitted Estrada stated a purpose for why students were viewing the CNN 10 video—to prepare for ELPAC. Regarding subparagraph (b) of Charge 98, Benitez observed Estrada opening the social media activity with the article titled "What is Social Media?" As discussed in Factual Finding 219, Benitez observed students taking turns reading paragraphs from the article titled "Social Media: Wow! Or Woe?" Benitez exited Estrada's classroom before she concluded the social media activity. Consequently, Benitez was not present, and therefore could not observe, when Estrada closed the social media activities.

226. The District alleges in Charge 99, on February 4, 2022, Estrada did not give opportunities for student-to-student engagement to allow them opportunities to collaborate, as follows:

- a. While observing the video and during pauses, students were not given the opportunity to discuss and simply sat quietly in their seats.

- b. Estrada asked the students to complete all activities independently and did not allow opportunities for them to work with a peer.

227. The preponderance of the evidence does not support Charge 99. As discussed in Factual Findings 223 and 225, instructional activities related to the CNN 10 video are intended to develop students' listening skills. Estrada paused the video for students to record in their journals what they heard. Under these circumstances the act of recording or writing did not require any peer collaboration. Each student had to record what he or she independently heard.

228. The District alleges in Charge 100, on February 4, 2022, Estrada did not remain on topic. When asked to highlight a passage, Estrada and a student went off topic and discussed where and who could have made the highlighter disappear.

229. The preponderance of the evidence does not support Charge 100. Neither party presented evidence of a purported off-topic discussion about making a highlighter disappear.

230. The District alleges in Charge 101, on February 4, 2022, Estrada did not have procedures in place for calling on students to share their responses. According to the allegations in Charge 101, when soliciting a response to a question or requesting a volunteer, students responded aloud and spoke over each other.

231. The preponderance of the evidence does not support Charge 101. Neither party presented evidence whether procedures existed regarding how students should respond when Estrada asks a question.

232. The District alleges in Charge 102, on February 4, 2022, Estrada did not pick up her students during the first bell at 7:56 a.m. and did not begin instruction at 8:01 a.m. According to the allegations in Charge 102, Estrada's partner teacher, Mr. Gunter, escorted Estrada's students to class and supervised them until approximately 7:58 a.m. Estrada did not arrive at class until approximately 8:03 a.m. When entering the room, she stated, "Was the door open? Did you guys open the door?"

233. The preponderance of the evidence supports Charge 102. In mitigation, however, Estrada suffered an injury to her foot that affected her mobility, and she sought urgent medical treatment on December 3, 2021. Estrada's treating physician placed her on modified activity, required her to use a boot, brace and cane, as needed, and requested the District grant her extra time to travel within the Alta California campus. Estrada promptly notified appropriate District personnel, including Benitez, about her medical condition and related restrictions. Estrada requested accommodations in the form of having school aides or other colleagues, including Mr. Gunter, pick up and escort her students from the school yard to her second floor classroom in the mornings. Benitez did not grant the requested accommodation. Instead, Benitez instructed Estrada to stand near the stairwell on the second floor balcony and wave to her students to signal when they should take the stairs and enter the classroom. Estrada tried standing near the stairwell. Estrada testified, "I didn't feel safe. I almost got run over two times. Kids are not looking as they move from one area to another." Estrada informed Benitez his instruction for her to stand near the stairwell jeopardized her safety. Thereafter, Estrada remained on the first floor to supervise her students' movement up the stairs to the second floor classroom. Estrada then took the elevator to her second floor classroom. At the time of the February 4, 2022 observation, Mr. Gunter offered to escort Estrada's students to her classroom. Estrada and Benitez crossed paths on the first floor as Estrada walked to the elevator.

234. The District alleges in Charge 103, on February 4, 2022, Estrada willfully refused to comply with the directives, provided to her orally during conferences held on November 14, 2019, December 11, 2019, February 7, 2020, January 15, 2021, April 23, 2021, November 15, 2021, and December 16, 2021 and in writing in conference memoranda dated November 15, 2019, December 12, 2019, February 11, 2020, January 15, 2021, April 26, 2021, November 15, 2021, and December 16, 2021, to deliver standards-based lessons with appropriate learning activities; differentiate learning activities to meet the diverse needs of students assigned to her class roster to provide them with equal access to the curriculum; clearly communicate the instructional purpose of all lessons and activities and review it at the end; develop, teach, and reinforce an effective classroom behavior plan; consistently monitor and respond appropriately to students' off-task and disruptive behaviors; implement strategies to support understanding and avoid reading through material without further discussing content with students; set expectations and create a rubric for student participation and engagement; post current and authentic student-produced work upon return to the physical environment; create a reward system to encourage student participation and promote classroom expectations; address student behavior in a timely manner; and ensure instructional time is effectively utilized and refrain having students wait; and implement recommendations and feedback.

235. The preponderance of the evidence does not support Charge 103. Based on the Commissioners' resolution of the allegations in Charges 95 through 102, Estrada complied with the directives provided to her orally during conferences held on November 14, 2019, December 11, 2019, February 7, 2020, November 15, 2021, and December 16, 2021, and in writing in conference memoranda dated November 15, 2019, December 12, 2019, and February 11, 2020, November 15, 2021, and December 16, 2021.

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236. On April 1, 2022, between 1:18 p.m. and 2:10 p.m., Benitez conducted an observation of Estrada's fifth grade math lesson to 22 students. Benitez reported he observed the following: Students seated quietly waiting for Estrada's directions. The overhead projector was on and Estrada was preparing materials. For one minute, Estrada played a video with low volume. The video demonstrated how to find the product of 3.2×2.1 at a quick pace using academic vocabulary. Estrada paused the video and asked unrelated questions. Estrada reviewed and completed the problem $\frac{1}{4} \times 25/25$. A student corrected Estrada when she wrote "ten" rather than "tenths." Estrada played the video then paused it as directed to find the product of 32×21 . Estrada worked out the problem. Estrada called on students who purportedly knew how to multiply. Estrada referenced the "placeholder," which one student knew. Estrada played and paused the video again. Estrada referenced 10×10 as units and worked out that problem. Estrada played and paused the video again. Estrada asked students to write the decimal while she walked around to check their work. Some students needed further help. Estrada purportedly played the video, which gave 6.72 as an answer. Five students celebrated aloud. Estrada paused the video and discussed whole number and fractions discussed the previous day. Estrada continued the video with problem 3.1×1.4 and paused to ask, "What is the reasonable product?" No student responded to the question. Estrada continued the video then paused to ask a question about "fraction form." Estrada played the video, walked around, and paused the video again to tell students to write fraction form and unit form. Estrada then worked out the problem on the board calling on students. Students began to talk when a student did not know the answer. Estrada reinforced, "Please use wait time to allow other to participate." Estrada continued to solve the problem. Estrada played the video, which solved the problem. After the video, Estrada transitioned to Eureka Math

page 231. Estrada reviewed sample problem A and worked out problem B with the class. Students talked over each other to solve the problem. Estrada assigned problems C and D for students to solve. Students worked on the math problems. Estrada told student to check their work and go on ST Math when they were finished. Estrada then called students to the kidney table with 14 minutes remaining in the class.

237. On April 22, 2022, Benitez convened a post-observation conference, at which time he discussed his observations of Estrada's lesson planning and preparation, delivery of instruction, and management of classroom environment. Benitez subsequently prepared an April 25, 2022 conference memorandum containing his observations and Estrada's statement that she would provide a written response. Benitez informed Estrada she may respond in writing by May 2, 2022.

238. The April 25, 2022 conference memorandum contains a list of assistance and guidance, including for Estrada to consider giving instructions, pausing, and then asking a student to repeat the instructions to ensure there is clarity; explain a concept step by step when teaching or reviewing the concept; check for understanding using random selection (equity sticks) and open-ended questions throughout the lesson; teach multiplication; add differentiation to the lesson; open and close the lesson with the purpose of students understanding and learning; develop rules for student participation; develop clear classroom expectations; consider signing up for the PAR Coaching Support resource; and take advantage of available professional development classes.

239. The April 25, 2022 conference memorandum instructs Estrada to deliver standard-based lessons with appropriate learning activities; to clearly communicate the instructional purpose of all lessons and activities and review the purpose again at

the end of the lesson; to develop, teach, and reinforce an effective classroom behavior plan; to monitor consistently and respond appropriately to students' off-task and disruptive behaviors; to implement strategies to support checks for student understanding and avoid reading through material without further discussing content with students; and to implement recommendations, assistance and guidance, and feedback.

240. The April 25, 2022 conference memorandum informs Estrada that failure to make immediate and sustained improvement in her performance may lead to the issuance of a Below Standard Evaluation or discipline such as a Notice of Unsatisfactory Service and/or Act, or Notice of Suspension, or both, and dismissal from the District.

241. Based on Benitez's April 25, 2022 conference memorandum the District alleges specific charges against Estrada, which the Commissioners resolve as follows.

242. The District alleges in Charge 104, on April 1, 2022, Estrada did not plan and prepare materials for her lesson in advance, as follows:

- a. At approximately 1:18 p.m. students were waiting to begin instruction as Estrada prepared materials by setting up her computer and walking to and from her desk. A keyboard was being projected on the overhead.
- b. Estrada followed the video as it played, pausing, and working out the problems on her own and with limited interaction with the students. There was no evidence of scaffolding or differentiation planned throughout the lesson.

- c. Estrada gave an assignment to answer problems C and D with 14 minutes left in the day.

243. The preponderance of the evidence does not support Charge 104. Estrada did not have to prepare materials for the April 1, 2022 lesson Benitez observed. Estrada's laptop was setup for students' viewing of the Eureka Math video on Model 4, Lesson 18, titled Multiplying Multi-Digit Decimal Factors. Estrada testified, "I chose to use the video because according to math training, I can use a visual for students to access the information." Estrada did not consider the video "too advanced" for her students. The video includes differentiation for all students to access information. The video projects a transcribed text of the video instructor's statements, including use of academic language, for students to write in their journals. The video instructor directs when the video should be paused for Estrada to model problem solving and for students to write responses. At hearing Benitez admitted Estrada's showing of the video is a type of scaffolding. Students were not limited to 14 minutes to answer problems C and D when, as Estrada testified, two instructional days were required to complete the lesson.

244. The District alleges in Charge 105, on April 1, 2022, Estrada did not introduce the objective, topic, or standard to give the students a context for their learning and establish rigorous goals for them, as follows.

- a. Prior to the video beginning, Estrada stated using words to the effect of: "We are going to continue. Remember yesterday, you learned how to write out the decimals. Thirty-two over a hundred. Now they are starting with the decimal."

- b. When the video began, the audio was low, and the introduction could not be heard. After 55 seconds, Estrada turned up the audio, but did not restart the video for students to hear the objective.

245. The preponderance of the evidence does not support Charge 105. On April 1, 2022, Estrada provided her students with the relevant math standards prior to the lunch recess preceding Benitez's observation. At the beginning of the video, the video instructor communicated learning objectives to students. At hearing, Benitez admitted he did not know how Estrada began the math lesson because his observation started during the middle of the lesson. Benitez further admitted no student told him they were unable to hear the video's audio. Benitez assumed students could not hear the video because he could not hear the video's audio.

246. The District alleges in Charge 106, on April 1, 2022, Estrada did not engage students and use strategies to generate participation when she:

- a. Worked out a problem on her own for the class without allowing input from any of the students.
 - i. She stated using words to the effect of: "So again, yesterday, just for review so if you were absent." Estrada turned off the projector and pulled up the screen and stated using words to the effect of: "This is one of the problems, we did yesterday."
 - ii. She completed the following problem on the board: $\frac{1}{4} \times \frac{25}{25} = \frac{25}{100} = .25$. There was no interaction with the students who were absent or

present. At the end, a student corrected Estrada by stating, using words to the effect of: "The answer should be tenths, not tens."

- b. She answered her own questions instead of guiding students to understand the content using words to the effect of: "What is a reasonable product?" No student responded. "More or less. It does not have to be exact." "A whole number." "The other one was 6." "What would this one be? More or less." "The whole number is 3 and this is one." "We did 3 and 4." No student responded.

247. The preponderance of the evidence does not support Charge 106. At hearing, Benitez contended Estrada "just solved the problem for students" rather than modeled how to solve the problem through an interactive step-by-step process. However, Estrada's statements recounted in subdivision (b) of Charge 106, if accurate, suggest an interactive step-by-step process. Benitez testified "students followed along." Estrada's credible testimony how she modelled problem solving on the white board coupled with supporting documentation rebutted Benitez's contention. (See Exh. RX1139 [B1565].) Neither party presented evidence regarding the claim that a student corrected Estrada.

248. The District alleges in Charge 107, on April 1, 2022, Estrada did not provide rigor and she worked through the multiplication problem dismissing students' multiplication ability, as follows:

- a. Estrada paused the video when she video prompted the class to solve " 32×21 " She stated, using words to the effect of: "Ok. We'll do it together. Thumbs up if you

have the answer.” There were 10 thumbs up. Estrada did not call on any of the students who had their thumbs up so they could lead the class in solving the problem. Estrada stated, using words to the effect of: “Anybody needs help. I know some of us don’t know the multiplication, so we’ll go over it.” Estrada called on Genesis, “What is 2×1 ?” Estrada continued to work out the problem using basic multiplication (3×1 , 2×2 , 3×2).

249. The preponderance of the evidence does not support Charge 107. At hearing, Benitez admitted Estrada asked for a showing of “thumbs up” to check for understanding. Benitez testified he understood Estrada was “generalizing” if, as reported, she stated, “I know some of us don’t know the multiplication” Benitez admitted he did not know how many students, if any, actually did not know multiplication.

250. The District alleges in Charge 108, on April 1, 2022, Estrada did not teach and reinforce the term, placeholder, when most students did not understand the term, as follows:

- a. When referencing the term “placeholder,” Estrada stated using words to the effect of: “What is that one word we use?” Students shouted answers: “simplifying,” “revamp,” “you put the zero,” “you carry the zero,” etc.
- b. Estrada stated using words to the effect of: “We are not dividing.” A student stated, “Placeholder.” Estrada stated using words to the effect of: “Thank you” and moved on

without ever clarifying for the students what the term meant.

251. The preponderance of the evidence does not support Charge 108. Estrada responded to students' incorrect responses by asking them to think about the question she asked. Estrada engaged students in a think pair share activity, after which students provided an answer demonstrating their understanding of placeholder in multiplication.

252. The District alleges in Charge 109, on April 1, 2022, Estrada did not check for student understanding and gave limited opportunities for all students to demonstrate their understanding of multiplying fractions, as follows:

- a. During a pause in the video, Estrada stated using words to the effect of: "What happens to the unit 10×10 . If you know the answer give me thumbs up." Ten students gave a thumbs up.
- b. Estrada stated using words to the effect of: "Ok. R [REDACTED] I know you know this." Student R [REDACTED] responded in a soft tone. Estrada said using words to the effect of: "Oh, a hundred. Do we agree with him?" "Any disagree with him. So, we agree. The same thing is going to happen here."
- c. Estrada did not pause to ensure that the remaining students understood the concept before moving on with the math problem.

- d. When reviewing a problem, Estrada said using words to the effect of: "What is this one called? Can someone tell me. D [REDACTED]?" D [REDACTED] paused. Estrada pointed to the answer using words to the effect of "Right here." D [REDACTED] responded, "Unit form." Estrada replied, "Beautiful."

253. The preponderance of the evidence does not support Charge 109. Estrada asked for a showing of "thumbs up" to check for understanding. Benitez admitted Estrada employed prompting as an additional strategy to check for understanding as well as to generate participation in the classroom. Benitez further admitted not hearing the substance of R [REDACTED]'s answer to Estrada.

254. The District alleges in Charge 110, on April 1, 2022, Estrada did not provide support to the student who was absent the day prior so that the student could complete the assigned task, as follows:

- a. During a pause in the video, Estrada stated using words to the effect of: "If you know how, would you write the decimals in a hundred? We are writing the decimal." "Let me walk around."
- b. Estrada approached a student and said using words to the effect of: "I know you were absent yesterday. I will work with you." Estrada walked away from the student needing help, leaving them to wait eight to 10 minutes until she returned.

255. The preponderance of the evidence does not support Charge 110. The credible evidence established Estrada walked around the classroom for eight to 10

minutes to monitor newcomers and students receiving RSP services. As noted in Benitez's post-observation conference memorandum, Estrada returned to the student, whom she recognized needed support.

256. The District alleges in Charge 111, on April 1, 2022, Estrada did not adequately provide appropriate instruction and did not pace the activities, as follows:

- a. Estrada said using words to the effect of: "Ok. We are going to work this out." A student stated, "I did this already." Other students nodded their heads.
- b. Estrada did not adjust the lesson and moved onto the next portion. Estrada pulled up the screen and said using words to the effect of: "You are taking your notes; make sure you have fraction form and unit form. It is going to come up on the test." A different student stated, "I did it already Ms. Estrada." She ignored the student.
- c. When the video concluded, a student responded aloud using words to the effect of: "Yes, this is easy." Estrada responded using words to the effect of: "Try to do this one. Go ahead to page 231." "It looks like you are getting the lesson."

257. The preponderance of the evidence does not support Charge 111. Benitez opined the pace of the instruction "should have been slower," "slowed down and taught step-by-step." Benitez further opined about reteaching missed steps and hitting "an 80 percent mark" to determine "the majority learned the lesson and move

forward.” Benitez’s post-observation conference memorandum reporting students’ purported responses stating and celebrating their successful completion of assigned math problems or activities support the reasonable inference Estrada provided students with appropriate instructions and satisfactorily paced the instruction related to the Eureka Math video on Model 4, Lesson 18, titled Multiplying Multi-Digit Decimal Factors.

258. The District alleges in Charge 112, on April 1, 2022, Estrada did not give clear expectations and instructions to the class during independent practice time, as follows:

- a. To begin, Estrada stated to the class using words to the effect of: “We are going to do C and D.” “Let me walk around to see if we are doing it.” Eight students started working and the other students were unsure of what to do and looking around. A student asked, “What do we do when we are done?” Estrada replied to the class using words to the effect of: “I am going to have you check it. If you don’t have it correct you need to go back.” The instruction “go back” was never clarified.
- b. Eight minutes into independent practice time, Estrada stated to the class using words to the effect of: “How comfortable do you feel doing it? I know you know it. If you get them all correct you can move on to the next one.” Estrada did not clarify the context of “next one.” Estrada continued by stating words to the effect of: “You can do ST Math while you are waiting. Estrada did not

clarify the context of “waiting” for students. A student asked, “This is all you have to do?”

- c. Estrada replied aloud to the class using words to the effect of: “You are only doing one so finish up.” Estrada proceeded to give an unsure follow up response by stating using words to the effect of: “I believe we did B already, so we are doing C and D.” “Some of us don’t know our multiplication so you are only checking right here.”
- d. Without stating how a student would “fix” an error, Estrada stated using words to the effect of: “If you have any errors, you need to go back and work on it.” “If you get it wrong, then you need to fix it.”
- e. After these exchanges, Estrada wrote on the board the directions: *Must Do: Page 231 and May Do: ST Math.*

259. The preponderance of the evidence does not support Charge 112. The evidence offered at hearing did not address with specificity the itemized allegations.

260. The District alleges in Charge 113, on April 1, 2022, Estrada did not reinforce the classroom rules and redirect students’ off-task behaviors. According to the allegations in Charge 113, Estrada did not redirect the following behaviors:

- a. Throughout the lesson, student G [REDACTED] would speak out of turn resulting in other students interrupting to

shout out answers in order to compete for attention.

Estrada allowed him to continue to shout out.

- b. During independent practice time, students were talking and getting out of their seats. Four students were trying to figure out how to get the correct answer and how to check their answers, while five students visited their friends for an answer. Several students retrieved their computers in random fashion with little redirection from Estrada.

261. The preponderance of the evidence does not support Charge 113. As noted in Benitez's post-observation conference memorandum, Estrada reinforced classroom rules when students talked out of turn by stating, "Please use wait time to allow others to participate." Estrada additionally, directed students' attention to the whiteboard on which a written wait-time reminder appears. (See Exh. Rx1143 [B1582-B1584].) Student G [REDACTED] repeatedly raised his hand to share an answer but he did not speak out of turn. During independent time, students were given an opportunity to do ST Math, an online program, which required them to get up and retrieve their computers.

262. The District alleges in Charge 114, on April 1, 2022, Estrada willfully refused to comply with the directives, provided to her orally during conferences held on November 14, 2019, December 11, 2019, February 7, 2020, January 15, 2021, April 23, 2021, November 15, 2021, December 16, 2021, and February 18, 2022, and in writing in conference memoranda dated November 15, 2019, December 12, 2019, February 11, 2020, January 15, 2021, April 26, 2021, November 15, 2021, December 16, 2021 and February 18, 2022, to deliver standards-based lessons with appropriate

learning activities; differentiate learning activities to meet the diverse needs of students assigned to her class roster to provide them with equal access to the curriculum; clearly communicate the instructional purpose of all lessons and activities and review it at the end; develop, teach, and reinforce an effective classroom behavior plan; consistently monitor and respond appropriately to students' off-task and disruptive behaviors; implement strategies to support understanding and avoid reading through material without further discussing content with students; set expectations and create a rubric for student participation and engagement; create a reward system to encourage student participation and promote classroom expectations; address student behavior in a timely manner; and ensure instructional time is effectively utilized and refrain having students wait; and implement recommendations and feedback.

263. The preponderance of the evidence does not support Charge 114. Based on the Commissioners' resolution of the allegations in Charges 104 through 113, Estrada complied with the directives provided to her orally during conferences held on November 14, 2019, December 11, 2019, February 7, 2020, November 15, 2021, December 16, 2021, and February 18, 2022, and in writing in conference memoranda dated November 15, 2019, December 12, 2019, and February 11, 2020, November 15, 2021, December 16, 2021, and February 18, 2022.

2021/2022 Academic Year Below Standard Evaluation

264. On May 6, 2022, Benitez issued a Below Standard Evaluation to Estrada for the 2021/2022 academic year. (See Exh. 39.)

2022/2023 Academic Year

JANUARY 25, 2023 FORMAL CLASSROOM OBSERVATION

265. On a date not established by the evidence, Martin convened a pre-observation planning conference with Estrada.

266. On January 25, 2023, between 8:20 a.m. and 9:40 a.m., Martin conducted a formal observation of Estrada teaching an ELA activity on Cultivating Natural Resources to 19 students. The substance of Martin's observation are reflected in the allegations of Charge 115.

267. On February 27, 2023, Martin convened a post-observation conference, at which time she discussed her observations of Estrada's lesson planning and preparation, delivery of instruction, and management of the classroom environment. Martin subsequently prepared a February 27, 2023 conference memorandum containing her observations and Estrada's statement that she would provide a written response. Martin informed Estrada she may respond in writing by March 6, 2023.

268. The February 27, 2023 conference memorandum contains a list of assistance and guidance, including for Estrada to plan and prepare materials in advance of each lesson to reduce the loss of instructional time; deliver the lesson as indicated by the description of LEAP2 in the *LAUSD Master Plan* pages 35-37; limit the focus of the lesson an focus on the lesson objectives; clearly state the lesson objectives at the beginning of the lesson to provide students a context for learning; open and close the lesson by reviewing the purpose to the activity and give students and opportunity to explain their learnings to each other; provide clear directions to students so that they clearly understand expectations; establish and include clear routines, procedures, and expectations; check for understanding using random

selection (equity sticks) and open-ended questions throughout the lesson; deliver standards-based lessons that include rigorous instruction to challenge students and elicit their thinking; reflect on your practices and utilize feedback from previous conferences; implement strategies that support EL students according to their EL levels; teach and reinforce the strategies that will aid in student participation; pace each lesson to ensure coverage of all necessary material over the course of the day; provide closure to each activity before going on to the next activity and check for understanding; and develop student centered learning.

269. The February 27, 2023 conference memorandum informs Estrada that failure to make immediate and sustained improvement in her performance may lead to the issuance of a Below Standard Evaluation or discipline such as a Notice of Unsatisfactory Service and/or Act, or Notice of Suspension, or both, and dismissal from the District.

270. Based on Martin's February 27, 2023 conference memorandum the District alleges specific charges against Estrada, which the Commissioners resolve as follows.

271. The District alleges in Charge 115, on January 25, 2023, the following occurred in Estrada's classroom:

- a. At approximately 8:20 a.m. Martin entered the classroom. All 19 students on Estrada's roster were present. Students were seated at their desks in groups of five or six. Displayed on the whiteboard were various teacher-created anchor charts. The charts were titled Student Objectives; Essential Question; Unit Objectives;

Vocabulary words; Self-Evaluate, Reflect and Close the Lesson; Collaborative Conversations; Students Share Activity; Observation Checklist for Collaborative Conversation; Prior Knowledge; Circle map titled "Items made with corn" and images of natural resources.

- b. Martin observed pods of tables closest to the front of the classroom without students assigned to it.
- c. The lesson began with Estrada saying to the students: "You would be doing a lesson on natural resources."
- d. Estrada checked to ensure students had the materials needed and provided directions to students for them to write their names and date on their papers.
- e. Estrada asked students individually if they needed pencils and provided them with a pencil.
- f. Estrada read word by word what was included on the posters Student Objectives; Essential Question; Unit Objectives; Vocabulary words; Self-Evaluate, Reflect and Close the Lesson; Collaborative Conversations; Students Share Activity; Observation Checklist for Collaborative Conversation.
- g. Estrada reminded a student in Spanish that he was absent and would need to follow along.

- h. Estrada then shared experiences of times when Estrada had eaten corn and talked about items that contain corn syrup.
- i. At approximately 8:40 a.m. while students sat at their seats, Estrada directed students to write two items that contain corn on their circle map where the time allotted to complete task was unclear.
- j. At 8:50 a.m. Estrada then asked for students to volunteer to share what they wrote on their circle map.
- k. At 9:00 a.m. students were grouped into groups of three or four where the task was to visit four stations located in different areas of the classroom that contained a plastic bin with items that contained corn. The students had to write on their circle maps the names of the items that contained corn that were inside the plastic bin. When that activity was completed, Estrada asked the students to go back to their seats and to volunteer to share what they wrote on their circle map. Estrada then set up the computer to play a video from the curriculum provided, Cultivating Natural Resources. Once the video ended, Estrada directed students to meet in their groups again where they will each had assigned roles, would be engaging in a group discussion and would complete a teacher created handout.

272. The preponderance of the evidence supports Charge 115. Martin's un rebutted testimony established the narrated events, as alleged, occurred during the January 25, 2023 observation.

273. The District alleges in Charge 116, on January 25, 2023, Estrada failed to follow recommendations, despite having been provided with assistance, guidance and directives to do so by Martin. According to the allegations in Charge 115, Estrada:

- a. Failed to incorporate a strategy where students were randomly selected to participate rather than to volunteer. Throughout the lesson Estrada chose volunteers to share. Estrada said in Spanish to a student who raised his hand to share "Hay que dar oportunidad a otros de participar, tu ya participaste" [We have to give an opportunity for others to participate. You have already participated.]
- b. Failed to reflect and plan for supporting the fourteen (14) LTEL's [Long-Term English Language Learners] in her classroom. Estrada stated during a prior meeting she would include strategies to support them in her lesson.
- c. Failed to incorporate strategies that support how children learn. Estrada's classroom is comprised of English Learner levels 1-3 where LEAP2 (Language and Literacy in English Acceleration Program, formally SEI) is the elementary instructional master plan program for her classroom. Instead Estrada:

- i. Throughout the delivery of the lesson, continuously translated the content and directions of the lesson from English to Spanish which caused the lesson to be prolonged.
- d. In the area of Classroom Environment:
 - i. Estrada failed to establish a culture for learning with high expectations for learning and achievement.
 - ii. Estrada regularly called on students who volunteered their responses, instead of putting systems in place that would allow all student to share their thinking.
 - iii. Estrada regularly called on students who volunteered their responses, and did not allow all students to share, especially if they had not raised their hands to volunteer.
 - iv. Estrada failed to establish a culture for learning with a suited physical environment conducive to student learning. Specifically, Estrada:
 - a) Had a pod of tables closet to the front of the classroom without students assigned to it. The pod of tables was utilized for instructional materials.

274. The preponderance of the evidence does not support Charge 116. Estrada's unrebutted testimony established Martin and Estrada discussed during a pre-observation conference the use of popsicle sticks to randomly call on students. Martin asked Estrada to include the use of popsicle sticks in the lesson and Estrada responded stating she "did not want to put students on the spot." Estrada explained to Martin her belief, based on the literature (see exhibit RX1208), that random cold calling heightened the affective filter of students acquiring a second language. Estrada testified, "She (meaning Martin) said she knew there are different ways of involving students." Martin's hearing testimony extolling the benefits of random selection over a heightened affective filter underscored a difference of opinion between Martin and Estrada, who did not believe Martin's suggested use of popsicle sticks was a directive. At hearing, Martin acknowledged the District valued a positive environment where students can share without making mistakes. Estrada's statement telling a volunteering student who already participated that he had to give others the same opportunity suggests Estrada incorporated a strategy for inclusion in the classroom discussion. Estrada credibly testified she provided English-to-Spanish and English-to-Russian translation of particular words, such as "sun," "air," "water," "wood," "oil," and "plants," to support students whose primary languages are Spanish or Russian but did not translate the entire lesson, thus prolonging the lesson. At hearing, Martin admitted the Language and Literacy Acceleration Program (LEAP) permits language translation for EL students when needed. (See Exh. RX1227.) Estrada supported LTEL students in her classroom with strategies from *Suggested Differentiated Instructional Strategies & Scaffolds*, including pre-teaching academic vocabulary, using sentence frames, providing realia for hands-on learning, creating circle maps, and participating in assigned heterogeneous groupings. Students rotated among several pods of tables on

which instructional materials were displayed. At hearing, Martin admitted she did not know but assumed pods of tables were unassigned for student group activities.

275. The District alleges in Charge 117, on January 25, 2023, Estrada failed to establish routines for management of routines, transitions, and management of materials. Charge 117 specifically alleges:

- a. Instead of incorporating procedures that would support the distribution of materials, Estrada asked students if they had all their materials. Estrada then asked students individually if they needed pencils and provided them with a pencil.
- b. Estrada had only one student distribute paper to each of the students which resulted in the loss of instructional time. Incorporating classroom jobs such as a table monitor will support in saving instructional time during distribution of classroom materials.
- c. When prompting students to stop from rotating to the next station Estrada said, "5, 4, 3, 2, 1." However, students continued to talk, and she continued with the lesson while all students continued to talk. Estrada then counted again "5, 4, 3, 2, 1" and all students were still not ready to continue.

276. The preponderance of the evidence does not support Charge 117, with the exception of subparagraph(a). As set forth in Factual Finding 271, Estrada asked students individually if they needed pencils and provided them with a pencil as a check

to ensure students had the necessary materials. The student distributing paper was the assigned paper monitor for the classroom. Estrada counted 5, 4, 3, 2, 1 to signal when students should rotate to the next station or pod. Students were expected to engage in discussions about the items they encountered.

277. The District alleges in Charge 118, on January 25, 2023, Estrada failed to communicate the purpose of the lesson to establish learning goals for the students. The specific allegations are as follows:

At the beginning of the lesson, Estrada introduced nine anchor charts that were posted, one of them which included the objectives, I will be able to:

- i. Connect the Essential Question to information I already know.
- ii. Work with a group to ask questions and think ideas.
- iii. Play a specific role in a group discussion.

Instead, Estrada simply read over the chart that had the objective written on it and did not present it in a way that the students could easily reference it since it was mixed in with other information.

278. The preponderance of the evidence does not support Charge 118. Samples of student work establish students were able to reference the stated objectives set forth in subparagraphs i, ii, and iii. (See Exh. RX1170 [B1871-B1902].)

279. The District alleges in Charge 119, on January 25, 2023, Estrada failed to deliver a lesson with a defined structure and with appropriate pacing. Specifically, Charge 119 alleges Estrada delivered a lesson from the District provided curriculum, *Benchmark* that indicated the lesson would be 15-20 minutes in length. Estrada's delivery of the lesson lasted 1 hour and 20 minutes, as follows:

- a. The first 20 minutes of the lesson were dense with information where Estrada read student objectives, essential questions, unit objectives, vocabulary words, collaborative conversation roles, sentence frames, and an observation checklist for collaborative conversation. This information should have been introduced at different times throughout the lesson.
- b. Estrada charted and displayed nine anchor charts on the white board. Estrada presented and read the anchor charts to the students.
- c. Students were not provided with time to make connections or demonstrate understanding.

280. The preponderance of the evidence does not support Charge 119. Martin was present in Estrada's classroom when students were engaged in a collaborative activity. Samples of student work establish students were able to make connections or demonstrate understanding of the lesson and activity. (See Exh. RX1170 [B1871-B1902].) At hearing, Martin testified, "The corn lesson was rushed. . . . Students added items on a circle map then had to write. . . . [Estrada] should have allowed for conversations to reflect, reinforce, and review." The gist of Martin's testimony

contradicted the implicit claim that Estrada used an inordinate amount of instructional time for a lesson requiring 15 to 20 minutes. Martin's testimony that the lesson was rushed is therefore not credited.

281. The District alleges in Charge 120, on January 25, 2023, Estrada did not provide students with an opportunity to engage in constructed collaborative discussions to increase their English Language oral skills. The specific allegations are as follows:

- a. Estrada read through a total of nine charts while the students sat quietly at their seats. Although Estrada asked students to read after her, Estrada ended up reading the majority of the information aloud to the class.
- b. After Estrada read out aloud from the nine anchor charts, she then wrote two items that contain corn on the circle map. Without giving an opportunity to discuss items that contain corn to improve their English oral language skills, Estrada simply asked them to complete the same activity individually.
- c. Without giving the student an opportunity to share with a partner what they included on their circle map, Estrada asked the class to look at items in plastic bins located around the classroom. Estrada then instructed the students to add the names of the items onto their maps. The students then rotated to four additional plastic bins

and repeated the process. Again, without giving the students an opportunity to share what they had written on their maps with a partner, Estrada put the class into groups and asked them to complete a teacher created handout with fill in the blank statements. The fill in the blanks would be items from the red plastic bins that contain corn.

- d. After the groups completed the teacher created handout, Estrada called a group to share with the class; however, even though Estrada told the students that each member would have to share only one student did so.

282. The preponderance of the evidence does not support Charge 120. Martin was present in Estrada's classroom when students were engaged in the gallery walk rotating from one pod to another to identify items containing corn and then collaborating in their pre-assigned groups about their discovery. As established in Factual Finding 271, Martin observed Estrada providing opportunities for students to share with their partner or within their preassigned groups their ideas and what they wrote on circle maps. The resulting samples of student work rebut the allegation students were not provided an opportunity to engage in constructed collaborative discussions to increase their English Language oral skills. (See Exh. RX1170 [B1871-B1902; B1905-B1907].) The assignment called for each preassigned group's designated director to take turn reporting to the entire class.

283. The District alleges in Charge 121, on January 25, 2023, Estrada failed to incorporate the use of academic language and/or constructive conversation skills that support EL students in further developing language. Instead, Charge 121 alleges,

- a. Estrada said, "E [REDACTED] I will start with you." E [REDACTED] responded with a one-word response, "Skittles." Estrada then said, "Read it, can you read it . . . Okay, alright . . . can you say it louder." Estrada waited and then she told the class she had not provided sentence frames for them to reference. Estrada then retrieved the sentence frames from another area of the class and placed it onto the whiteboard.
- b. Estrada said, "J [REDACTED] you gave me popcorn, can you give me a new one . . . have you participated? J [REDACTED] then responded with another one-word response, "Jiffy."
- c. Estrada did not allow either of these students to expand their oral English language vocabulary by providing sentence stems or encouraging and reminding them to respond using complete sentences.

284. The preponderance of the evidence does not support Charge 121. Martin testified Estrada "didn't model academic language in the lesson." However, the purported dialogue between Estrada and student E [REDACTED], as reported by Martin, is incomplete. Ellipses suggest E [REDACTED] responded to Estrada but his responses are omitted, thus precluding an accurate determination regarding E [REDACTED]'s use of complete sentences or academic language. Notably, Estrada retrieved sentence frames from

another area of the classroom. One of the charts Martin observed in the classroom is titled *Prior knowledge* and contains sentence frames to assist students with their response to a query about items containing corn. (See Exh. 1170 [B1907].) Neither party offered testimony or other evidence in connection with student J [REDACTED]'s response.

285. The District alleges in Charge 122, on January 25, 2023, Estrada failed to incorporate questions that challenge students and elicit higher level thinking. According to the allegations in Charge 122, Estrada asked several low-level recall questions that only required one-word or short phrase responses, as follows:

- a. When introducing the circle map, Estrada asked: "What items are made of corn?"
- b. When writing in the circle map, Estrada asked, "What is something you have eaten at home that contains corn?"
- c. When speaking to a student Estrada said, "Que tiene maiz?" [What contains corn?]
- d. When reviewing items found in a red bin Estrada said, "What was an item that surprised you that was in the bin?"

286. The preponderance of the evidence does not support Charge 122. The questions Estrada posed were intended for students to draw on their prior knowledge. Neither party's evidence addressed the absence or presence of students' level of thinking.

287. The District alleges in Charge 123, on January 25, 2023, Estrada failed to establish discussion techniques and strategies to generate student participation, when she called on specific students without utilizing a random selector strategy or any other engagement strategy, as follows:

- a. During the lesson students volunteered or Estrada selected a student to share causing the same students to volunteer multiple times. Estrada said, "If you participated, don't participate anymore, we want to be fair."
- b. When asking students what items contain corn Estrada called on student C [REDACTED] without giving others an opportunity to volunteer.
- c. When asking students what items contain corn Estrada immediately called on student J [REDACTED] without giving the other students an opportunity to share their response.
- d. When asking students what items contain corn Estrada called on Student T [REDACTED], but he did not respond and instead remained quiet. Estrada then had him repeat the sentence after her.
- e. Estrada asked a student who raised his hand "?Ya participaste?" ["Have you already participated?"] The student then said, "Yo solo quiero preguntarle algo." ["I just want to ask you something."] Estrada then told the student "Ahora no, espera." ["Not now, wait."]

- f. Estrada said "One minute, you want to be facing the person, do eye contact. You share one item that was corn. So, you want to be sharing." "Make sure all people participate."

288. The preponderance of the evidence does not support Charge 123. Evidence offered at hearing did not establish student C [REDACTED], J [REDACTED], or T [REDACTED] as volunteering students. The evidence suggests Estrada randomly called on these three students. Evidence offered at hearing also did not establish other students were deprived of an opportunity to participate as a result of Estrada calling on these three students. The evidence suggests Estrada was utilizing an "engagement strategy" to prompt T [REDACTED]'s participation when he remained silent and she instructed him to repeat the unspecified sentence.

289. The District alleges in Charge 124, on January 25, 2023, Estrada failed to deliver standards-based lessons that included rigorous instruction to challenge the students and elicit their thinking, as follows:

- a. Students completed a circle map with the items that contain corn, some items Estrada provided for them. Estrada said, "Write two things on your circle map that contain corn."
- b. Estrada provided a worksheet where students had the task of filling in the blanks.
- c. When students shared items that contain corn that they wrote on their circle map, students gave one-word answers, such as "Corn," "tortilla," "chips."

290. The preponderance of the evidence does not support Charge 124. Martin credibly testified the circle map activity she observed is a DLK 1 activity used for gathering background information. However, Estrada's instruction in connection with the Cultivating Natural Resources lesson required additional instructional days, which Martin did not observe. Consequently, Martin had no opportunity to determine whether Estrada delivered a standards-based lesson on Cultivating Natural Resources.

291. On May 8, 2023, Martin issued a Below Standard Evaluation to Estrada for the 2021/2022 academic year. (Exh. 46.)

292. The Accusation alleges, on page 72, line 24, Estrada did not meet her PAR goals during the 2019/2020 and 2020/2021 school years. The PAR Program is not intended to replace or supplant the evaluation procedures of Article X of the Collective Bargaining Agreement. Additionally, the outcome of a teacher's participation in PAR is not a precondition for any disciplinary action. (See Exh. RX 1192 at pp. 71-77 [B2354-B2359].) Consequently, the Commissioners make no factual findings in connection with PAR services provided to Estrada.

LEGAL CONCLUSIONS

Standard and Burden of Proof

1. The District has the burden of proving by a preponderance of evidence cause exists pursuant to Education Code sections 44932 and 44939 to dismiss Estrada from the District. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1038-1039.)

2. “‘Preponderance of the evidence means evidence that has more convincing force than that opposed to it.’ [Citations.] . . . [T]he sole focus of the legal definition of ‘preponderance’ in the phrase ‘preponderance of the evidence’ is the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant.” (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325; italics in text.) In meeting the burden of proof by a preponderance of the evidence, the District “must produce substantial evidence, contradicted or un-contradicted, which supports the finding.” (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 339.)

Evaluating Credibility

3. Evidence Code section 780 catalogs several factors for evaluating credibility: the demeanor and manner of the witness while testifying, the character of the testimony, the capacity of the witness to perceive at the time the events occurred, the capacity of the witness to recollect and communicate, the character of the witness for honesty, the existence or nonexistence of bias or other motive, a statement by the witness that is consistent or inconsistent with the testimony, the existence or absence of any fact to which the witness testified, the attitude of the witness toward the proceedings, and admissions of untruthfulness at the proceedings.

4. The carriage, mannerisms, tone of voice and hesitation, eye contact, and facial expressions of a witness are “wordless language,” which, although difficult to describe in such a way that the reader truly understands what warranted believing or disbelieving a witness, were part of the evidence for the Commissioners’ consideration as well as evidence on which factual determinations were made. (See *Dyer v. MacDougall* (2nd. Cir. 1952) 201 F.2d 265, 268-269.)

5. "On the cold record a witness may be clear, concise, direct, unimpeached, uncontradicted—but on a face to face evaluation, so exude insincerity as to render his credibility factor nil. Another witness may fumble, bumble, be unsure, uncertain, contradict himself, and on the basis of a written transcript be hardly worthy of belief. But one who sees, hears and observes him may be convinced of his honesty, his integrity, his reliability." (*Meiner v. Ford Motor Co.* (1971) 17 Cal.App.3d 127, 140.) As observed in *Broadcast Music v. Havana Madrid Restaurant Corp.* (2d. Cir., 1949) 175 F.2d 77, 80, the best and most accurate record or hearing transcript is like a dehydrated peach; it has neither the substance nor the flavor of the fruit before it was dried.

6. In addition, the decisional law acknowledges fact finders, such as the Commissioners, are permitted to "accept part of the testimony of a witness and reject another part even though the latter contradicts the part accepted." (*Stevens v. Parke, Davis & Co.* (1973) 9 Cal.3d 51, 67.) Furthermore, the Commissioners may "reject part of the testimony of a witness, though not directly contradicted, and combine the accepted portions with bits of testimony or inferences from the testimony of other witnesses thus weaving a cloth of truth out of selected material." (*Id.*, at pp. 67-68, quoting from *Neverov v. Caldwell* (1958) 161 Cal.App.2d 762, 777.) The Commissioners may even reject testimony that is not contradicted. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 890.)

7. "Although impeaching evidence in the nature of contradictions or otherwise has been received, it is still the right as well as the duty of the [Commissioners] to determine to what extent [they] believe or disbelieve the testimony. [Citations.] [The Commissioners] may likewise give credence to a witness . . .

[citation] whose testimony contains contradictions or inconsistencies." (*Hansen v. Bear Film Co.* (1946) 28 Cal.2d 154, 184.)

Applicable Law

8. Education Code (Code) section 44932 authorizes the dismissal of a permanent, certificated employee only for certain specified causes including, unprofessional conduct, unsatisfactory performance, evident unfitness for service, and persistent violation of, or refusal to obey, reasonable regulations prescribed by the governing board of the school district employing him or her.

9. Education Code section 44939, subdivision (b), provides a teacher's "willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing school district" is ground for dismissal.

10. As a threshold matter, evaluation of a teacher's alleged misconduct must demonstrate unfitness to teach. Abstract characterization of a teacher's conduct as "unprofessional," for example, is an insufficient basis for discipline. (*Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 235.) A rational connection or nexus must exist between alleged misconduct and competence or ability to teach effectively. The determinative test is whether conduct demonstrates unfitness to teach. (See *Board of Education v. Jack M.* (1977) 19 Cal.3d 691.) Unfitness to teach is a question of ultimate fact. (*Id.* at p. 698, fn. 3.)

11. *Morrison* identifies several relevant factors, formally codified at California Code of Regulations, title 5, section 80302, to determine unfitness to teach. They are as follows: the likelihood the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of adversity anticipated; the

proximity or remoteness in time of the conduct; the type of credential held by the person involved; the extenuating or aggravating circumstances surrounding the conduct; the praiseworthiness or blameworthiness of the motives resulting in the conduct; the likelihood of recurrence of the questioned conduct; 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; and the publicity or notoriety given to the conduct.

12. All *Morrison* factors need not be present to reach a determination regarding (un)fitness to teach. In other words, an item-by-item analysis of each established individual fact is not required. Rather, *Morrison* calls for a comprehensive analysis of the accumulated established facts." (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1457.)

13. Unprofessional conduct is conduct violating the rules or ethical code of a profession or which is unbecoming of a member of a profession in good standing. (*Board of Education v. Swan* (1953) 41 Cal.2d 546, 553.) The conduct in question must indicate unfitness to teach. (*Perez v. Commission on Professional Competence* (1983) 149 Cal.App.3d 1167, 1174.)

14. Evident unfitness for service is established by conduct demonstrating a teacher is "'clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies.'" (*Woodland, supra*, 2 Cal.App.4th at 1444.)

15. Persistent violation of, or refusal to obey, a district's governing board's reasonable regulations requires a "showing of intentional and continual refusal to cooperate." (*San Diego Union High School District v. Commission on Professional*

Competence (1985) 174 Cal.App.3d 1176, 1196.) Such conduct is presumed to render a teacher unfit to teach. (*Morrison, supra*, 1 Cal.3d at pp. 227-230.)

Discussion

16. The Commissioners considered 124 charges alleging Estrada was ineffectual in her preparation and planning of instructional activities for students, delivery of instruction consistent with the Standards, and maintenance and management of a classroom environment conducive for learning. The District proved nine of the 124 charges by a preponderance of the evidence. These nine proven charges arose from classroom observations conducted in several different academic years.

17. In particular, the District proved Estrada provided students with incorrect answers during a math lesson powers and exponents on September 26, 2019; however, Estrada admitted she erred and re-taught the class, thus demonstrating to students the positive value of admitting to and accepting responsibility for one's conduct (Charge 11; Factual Finding 60); Estrada entered Tahmasebi's classroom without Tahmasebi's knowledge or prior consent; however, in mitigation, Estrada's conduct might be properly understood as an effort to obtain information to improve her classroom performance (Charge 18; Factual Finding 64); Estrada did not model or use correct academic terminology during a math lesson on greatest common factors on January 30, 2020 (Charges 49 and 50; Factual Finding 122); Estrada did not monitor students off-track behaviors on January 30, 2020 (Charge 52; Factual Finding 126); Estrada used MISIS during instructional time on March 3, 2020 (Charge 59; Factual Finding 147); Estrada did not offer assistance to students completing a verb tense work sheet on March 3, 2020 (Charge 60; Factual Finding 149); Estrada did not update the Writing bulletin board on March 3, 2020 (Charge 63; Factual Finding 155); Estrada

did not begin instruction at 8:01 a.m. on February 4, 2022; however, in mitigation, a foot injury affected Estrada's mobility and Estrada needed accommodations for extra time to travel within the Alta California campus (Charge 102; Factual Finding 233); and Estrada delivered instruction on January 25, 2023 as described in Charge 115 (Factual Finding 272).

18. The Commissioners determined these nine proven charges, separately and in the aggregate, are insufficient to demonstrate Estrada is unfit to serve as a teacher or to warrant her dismissal. As indicated above, Estrada's proven conduct at issue in Charges 11, 18, and 102 was either mitigated or excused by extenuating circumstances. Regarding Estrada's proven conduct at issue in Charges 49, 50, 52, 59, 60, and 63, the evidence showed Estrada was able to and took steps to correct her classroom performance, thus demonstrating her commitment to professional growth, development, and improvement. Where remediation has occurred, there is no longer any grounds for dismissal. (See e.g. *Crowl v. Commission on Professional Competence* (1990) 225 Cal.App.3d. 334.)

19. In general, the accumulated credible evidence refuting the 115 unproven charges showed Estrada planned and designed instructional activities using information about the academic capabilities of the students in her classroom to engage them in learning. Estrada incorporated District-approved techniques and practices to differentiate instructional activities for newcomers and student with special education classifications. Estrada demonstrated knowledge and understanding acquired through training about EL students' learning processes, and she deployed her training to support EL students in a classroom environment supportive of risk-taking. Notwithstanding one proven instance of unmonitored off-track behavior, the overall scheme of Estrada's classroom included clear expectations and consequences for

students' behavior. Anecdotal evidence provided by several parents and students suggests Estrada's practice of partnering with parents to encourage their active participation in their children's academic progress and success. In sum, the preponderance of the credible evidence showed Estrada reflected on and strived to comply with and implement directives Victorio, Benitez, and Martin provided to her orally during conferences and in written conference memoranda. (See Factual Findings 102, 130, 157, 182, 209, 235 and 263.)

20. The Commission has broad discretion to determine whether discipline is warranted. (*Fontana Unified School Dist. V. Burman (Fontana)* (1988) 45 Cal.3d. 208, 220-222.) "The Commission has board discretion in determining what constitutes unfitness to teach . . . , and whether dismissal or suspension is the appropriate sanction. [Citing *Fontana, supra*, 45 Cal.3d at pp. 220-222.] "[A] disciplinary discharge often involves complex facts and may require a sensitive evaluation of the nature and seriousness of the misconduct and whether it warrants the grave sanction of dismissal." [Citation.]" (*Cal. Teachers Assn. v. State of Cal.* (1999) 20 Cal.4th 327, 342-344.) The Commissioners unanimously agree the nine proven charges do not support dismissal of Estrada from the District given the totality of the credible evidence in the record.

21. No cause exists for the dismissal of Estrada pursuant to Code section 44932, subdivision (a)(2), for unprofessional conduct.

22. No cause exists for dismissal of Estrada pursuant to Code section 44932, subdivision (a)(5), for unsatisfactory performance.

23. No cause exists for dismissal of Estrada pursuant to Code section 44932, subdivision (a)(6), for evident unfitness for service.


24. No cause for dismissal of Estrada pursuant to Code section 44932, subdivision (a)(8), for persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for government of public schools by the State Board of Education or by the District.

25. No cause exists for dismissal of Estrada pursuant to Code section 44939, for willful refusal to perform regular assignments without reasonable cause.

ORDER

The Accusation against Yamila Estrada is Dismissed.

DATE: 06/19/2024


Jacqueline Tyler (Jun 19, 2024 17:55 PDT)

JACQUELINE TYLER

Commissioner

DATE: 06/19/2024


Stephanie Cobb (Jun 19, 2024 17:58 PDT)

STEPHANIE R. COBB

Commissioner

DATE: 06/19/2024



JENNIFER M. RUSSELL

Senior Administrative Law Judge

Office of Administrative Hearings