

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS AND THE
COMMISSION ON PROFESSIONAL COMPETENCE FOR THE
WILLIAM S. HART UNION HIGH SCHOOL DISTRICT
STATE OF CALIFORNIA**

In the Matter of the Dismissal of:

ERIKA HALLEN,

a Permanent Certificated Employee,

Respondent.

OAH No. 2020040554

DECISION

The Commission on Professional Competence (Commission) heard this matter by videoconference on May 25 through 28 and June 1 through 4, 24, 25, 29 and 30, 2021.¹ The Commission consists of Nicholas Abruzzo, Los Angeles County Office of Education; Maria Jackson, El Grove Unified School District; and Administrative Law Judge Laurie Pearlman, Office of Administrative Hearings (OAH), State of California, who presided.

¹ The hearing was conducted remotely due to the COVID-19 pandemic.

Barrett K. Green, Michelle M. Holmes, and James A. Becerra, Attorneys at Law, represented complainant William S. Hart Union High School District (District).

Tamra M. Smith, Attorney at Law, represented Erika Hallen (respondent).

Oral and documentary evidence was presented. Motions were argued and ruled upon at hearing for the reasons stated in the record. The record was left open until August 2, 2021, for the filing of Respondent's brief regarding admission of prior statements (marked for identification as Exhibit 552), the District's closing brief (marked for identification as Exhibit 75), and a request for a protective order sealing confidential records.

A protective order was issued, as requested. To protect the identify of students and minors, the court reporter was ordered to use students' and minors' first names and last initials when preparing the transcript. That practice has been followed in this decision except student J ■■■ B. is referred to as JC.

The case was submitted for decision on August 2, 2021. The Commission thereafter conducted its deliberations in executive session.

SUMMARY

The District seeks to dismiss respondent, a math teacher at a continuation high school, based on allegations that she inappropriately crossed the boundary between her professional role as a teacher and that of a friend or confidant of the students she was assigned to instruct, despite repeated warnings and admonitions; was dishonest regarding several instances of alleged misconduct; was dishonest and deceptive in the District's investigation of her alleged misconduct; harbored and assisted two minors

who were on the run and allowed them and other students to stay at her home; acted questionably in fostering 17-year-old student G■■■ C.; and aided, abetted, facilitated, encouraged, or condoned G■■■ C.'s assault of student JC.

Respondent asserts that the District has brought a baseless case against her in retaliation for being a whistleblower relating to actions by the school's former principal. She contends that she is an excellent teacher and dedicated running coach who was an asset to the District's students because she listened to them, respected them, related to them, and inspired them.

While the District failed to produce sufficient evidence to establish certain charges, the Commission concludes that there is sufficient cause to terminate respondent's employment, and the factors set forth in *Morrison v. State Board of Education* (1969) 1 Cal.3d 214 (*Morrison*) demonstrate Respondent is unfit to teach. Therefore, Respondent's dismissal is upheld.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Respondent is a certificated, permanent employee of the District and, at all times relevant, was assigned as a math teacher at Bowman High School (Bowman), a continuation school. Continuation schools provide a high school diploma program for students aged 16 to 18 who have not graduated from high school, are required to attend school, and are at risk of not completing their education. Students who attend Bowman are considered at-risk for various reasons including low self-esteem, distress, anxiety, grief, substance abuse, contact with the criminal justice system, lack of motivation, family issues, or a disconnect from education causing a secondary issue of

credit deficiency. Bowman serves approximately 400 students, a majority of whom are socioeconomically-disadvantaged, in the foster care system, homeless, or students with disabilities.

2. The District issued a Preliminary Notice of Possible Dismissal and Statement of Charges against respondent, dated August 28, 2019. On January 15, 2020, a Statement of Charges against respondent alleging factual and legal grounds for termination of her employment with the District was signed by Michael Vierra, Ph.D., the District's Assistant Superintendent of Human Resources. In February 2020, the District's five-member Governing Board considered and approved the recommendation to dismiss.

3. On March 5, 2020, Respondent timely requested a hearing and this matter ensued. All jurisdictional requirements have been met.

Education Code Provisions Alleged as Causes for Termination

4. As grounds for dismissal, the District alleges that respondent demonstrated:

a. Immoral conduct, under Education Code (Code) section 44932, subdivision (a)(1);

b. Dishonesty, under Code section 44932, subdivision (a)(4);

c. Evident unfitness for service, under Code section 44932, subdivision (a)(6); and

d. 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, under Code section 44932, subdivision (a)(8).

Statement of Charges

5. In its Statement of Charges, the District alleges that:
 - a. On February 12, 2018, you had a discussion with a Hart District student regarding your personal life, including your personal problems and issues in your life. This occurred during a break in class while other students were present. The other students heard what you said and reported the matter to Administration because they were concerned that you sounded depressed and that you might be suicidal. The student with whom you shared your feelings was at the time in a very fragile state because he and his three siblings, his parents, and grandmother were renting a living room in a house that they were living in. The student's family had moved to a safe haven home because the father was allegedly abusing his mother.
 - b. On May 3, 2018, you shared with your class that you were having a bad day and discussed with the class some issues you were having with your son. Instead of providing instruction during the class, you assigned students independent work that afternoon. This resulted in three students coming up to the office: two of the students were roughhousing, and the third student had an earring

accidently ripped out of his ear. Another student started yelling and ran out of the class; this student was found in the health office hyperventilating. You did not call the office or warn Administration that any of this was happening. On or about that same day, the Principal and AP had a conversation with you about professionalism and appropriateness of boundaries. It was discussed with you that it is inappropriate for you to be sharing your personal issues with your students. It was recommended that if you are having a "bad day," you should take the day off to address the issues rather than let your emotions affect your professional responsibilities as a teacher. You were reminded about boundaries and that students should not be on a friendly level with you, where you would be talking to them about personal problems.

c. In or about May 17, 2018, you were observed leaving campus during your preparation period. In your car was student A.C. A.C. was 18 years old at the time and was expected to graduate that day from Bowman. You and A.C. were observed returning to school separately approximately twenty to thirty minutes later. A.C. was coming up the hill by foot, as you pulled in through the driveway. You were interviewed by Principal Robin Geissler and then-Assistant

Principal Eran Zeevi² regarding the matter. You admitted to taking A.C. to his house, claiming that you did this so that A.C. could get his notes that he needed to graduate. You knew it was wrong to be alone with A.C., and that is why you dropped him off down the street before you arrived at school. You said it was, an “idiotic mistake” that you made. Principal Geissler and AP Zeevi reminded you about your duties and responsibilities as a teacher, including the importance of boundaries between teachers and students, and admonished you about how inappropriate your conduct was. You were sent home for the remainder of the day.

d. Thereafter, at a meeting held in September 2018, (now-Principal) Eran Zeevi expressed to you his concern that there had been a pattern of behavior where you get emotionally involved with students from the campus (including having students call you “Mom”), and of you getting immersed in students’ personal lives. Principal Zeevi directed you to be more aware of what you are doing and how it is perceived.

² Eran Zeevi began working for the District in 2006. He served as Assistant Principal at Bowman from 2012 to 2018 under Principal Geissler. Zeevi served as Bowman’s Principal from 2018 until his resignation in December 2020.

e. On October 4, 2018, the Bowman registrar received a call from a former student asking for you. The Registrar told the caller that school was finished for the day and the Registrar did not know if you were available. The Registrar checked your classroom by phone and went back to the phone call to inform the caller that you were not in your classroom. When the Registrar asked the caller for a message to leave you, the caller hung up. The Registrar looked up the caller's number and it turned out to be a former student (S.D.) who left Bowman in February 2017 and had been a drug user on a drug contract.

f. On October 11, 2018, you allowed students to play Uno and Playdough during intervention, when you were supposed to be providing them instruction in math. Attached as Exhibit 3 is an October 11, 2018 email to you from Principal Zeevi regarding this matter.

g. During the 2018-19 school year, you allowed a minor (T.W.) to stay at your house while she was on the run and with a warrant out for her arrest for having robbed the house of T.W.'s Grandmother. You also allowed another minor (B.T.) to stay at your house during the same time frame. B.T. had allegedly assisted T.W. in robbing the house of T.W.'s Grandmother. A court later ordered that T.W. have no further contact with B.T.

Not only did you harbor these on-the-run minors at your house, you met T.W.'s sister at school to obtain clothes for T.W. so that she could remain on the run.

h. You also wore a t-shirt to school, promoting B.T.'s rap logo, consisting of a ski mask with holes cut out. You were observed at school embracing a female student (who was also wearing the t-shirt) and posing for a photo. You were also observed standing next to another student, texting with each other and sharing items from your phone, as though you were personal friends, and not teacher/student.

i. During the 2018-19 school year, you repeatedly intruded into the personal lives of your students. Students reported this to their counselors ("Erika needs to not be in our damn business," is what they said).

j. During the 2018-19 school year, you repeatedly told students about your own personal issues and involved them with your problems.

k. During the 2018-19 school year, you foster-parented a 17-year-old student (G.C.) under questionable circumstances, and this student was apparently taken away from you for cause. After you began fostering G.C., you arranged for him to attend a traditional District high school (Golden Valley), rather than Bowman because you were

teaching at Bowman. G.C. later failed all of his classes at Golden Valley. G.C. was later taken away from you and you were apparently ordered by the Department of Children and Family Services to have no further contact with him. Nevertheless, you took G.C. to Court on December 28, 2018 in response to a warrant for his arrest, and convinced the judge to permit G.C. to live with you, with the Court apparently not knowing the directive from DCFS. Once GC's probationary officer and DCFS found out, G.C. was subpoenaed back into court with a recommendation to detain him. G.C. was later taken away from you again and placed in a group home.

I. During the 2018-19 school year, you took in S.Z., a graduate of Bowman, to live with you. You then posted on social media in September 2018 how beautiful S.Z. is and how much you love her, and that this 19-year-old young lady completes you, as follows: To my beautiful (symbol) on her 19th birthday. I (love symbol) you more than words can say. In many ways, you saved me. You have given me so many incredible gifts. S■■■■, without you my life would not be complete (heart symbol) Our love has fueled my passion and purpose - I give you all the credit for helping me discover my greatest gift (100 symbol) You are and will always be my hero. You (sic) talents are never-ending. Creative, beautiful, visionary but most if (sic) all you can

laugh at yourself (laughing symbol) Not to mention you are an amazing trail runner!!

m. You posted on social media on or about September 4, 2018, that several Bowman students are your “sons from another mother.” One student is a transgender student who identifies as a boy. These students in turn referred to you as “Mom.” Your post included the following: You girls make my life sweeter (emojis) I cherish everyday - to my sons from another (emoji) you are the stars in my sky and I’m blessed just to know you.

n. With respect to your students, you posted on social media on or about June 4, 2018 that you “Miss my Babygirl” and “The Plug,” as follows: I (heart symbol) running into my favorite students!! (symbol) Glad it’s (symbol) Summer Break (symbol) Miss my Babygirl and The Plug!!!

o. Thereafter, during the 2018-19 school year you were placed on paid administrative leave pending the District’s investigation of allegations of misconduct against you. Despite your placement on paid leave, and repeated admonishments that you maintain a professional and nonsocial relationship with your students, you continued to socialize with students, including Hart District students. You allowed 18-year-old student B.T. to live with you in your house; you also allowed Bowman student T.W. to stay at

your house periodically; and you have socialized (including going shopping) with current Bowman student S.H.

p. I met with you during the 2018-19 school year to investigate some of the allegations contained in this Notice. When I met with you, you were dishonest in some of your responses regarding your relationship with current and former students.

q. You aided and abetted, facilitated, condoned, and/or encouraged student G.C. to assault student J.C.

As a teacher, you are responsible for modeling proper behavior for young, impressionable students. You are supposed to protect students from harassing conduct. Your behavior as described above reflects that, to the contrary, you have exploited your authority in order to cultivate social or perhaps romantic relationships with vulnerable students.

Your conduct evinces a betrayal of the trust placed in you to care for and educate the children of the community.

Your conduct may also constitute sexual harassment, in violation of Education Code section 200 et seq., California Code of Regulations, Title 5, section 4915 et seq., District Board Policies and regulations as identified above, and is in contravention of the California Standards for the Teaching Profession.

When asked about the above-described incidents, you were dishonest about the facts, and the nature of your relationship with the students involved.

(Ex. 56.)

Respondent's Failure to Maintain a Professional Relationship with Students

6. Respondent worked at Bowman as a math teacher. She held two preliminary credentials: a single subject credential in foundational level mathematics that expired in April 2020 and a multiple subject credential that expired in December 2019. Because respondent was on administrative leave, she did not complete induction or clear her preliminary credentials.

7. Respondent began working for the District as a substitute teacher in August 2013, worked in a long-term substitute teacher assignment during the 2016-2017 school year, was a probationary teacher at Bowman during the 2017-2018 school year, and was hired to teach at Bowman during the 2018-2019 school year. The District placed her on paid administrative leave effective November 29, 2018.

8. Bowman's mission is:

to forge strong, positive connections with students so they can achieve independence, build confidence, and gain academic knowledge. . . . Bowman creates a trusting, caring environment Positive relationships are the core of Bowman's success. We acknowledge that growth occurs when individuals feel safe, respected, and appreciated.

Bowman creates a culture that values people and connections, making it a unique, accepting, academic environment for students to succeed on many levels.

(Exhibit 507.)

9. To this end, Bowman's students and teachers are encouraged to connect on a personal level and Bowman students call all teachers and counselors by their first names. Some students took this to the next level by addressing respondent as "mom." While respondent did not discourage students from doing so, the evidence presented did not establish that respondent requested or encouraged them to call her "mom."

FEBRUARY 12, 2018 INCIDENT

10. On February 12, 2018, a student informed then-Assistant Principal Eran Zeevi that respondent had shared information about her teaching career and personal life with a student. Another student overheard the conversation and reported to Administration that respondent had seemed depressed and suicidal and that he was concerned for respondent's safety. Zeevi testified at the administrative hearing and was also deposed prior to the hearing.

11. Zeevi held a meeting with respondent on February 12, 2018, at which Nina Zamora was present. Zamora testified at the administrative hearing. She first met respondent when they were teenagers. Zamora, a math teacher, provided mentoring and support as respondent's Peer Assistance and Review (PAR) consulting teacher. Zamora became the Assistant Principal at Bowman in Fall 2017 and has been the Principal at Bowman since December 2020.

12. During the meeting, Zeevi asked respondent whether she had shared personal information with students. Respondent admitted that during break-time she had told a student that she was struggling financially, could not afford to purchase an item her son wanted, and was concerned she was not a good mother.

13. Zeevi reminded respondent of the importance of boundaries and professionalism. He told respondent that teachers should not share their personal problems with students because Bowman students are often fragile and students should not be considered friends or confidants. Respondent agreed and apologized, stating that she was seeing a therapist and it would not happen again. Zeevi felt that respondent understood the concerns about professionalism and boundaries. He offered respondent the opportunity to teach an early morning intervention math class to earn additional income and respondent agreed to do so.

MAY 3, 2018 INCIDENT

14. On May 3, 2018, respondent told her class that she was shocked and upset because she had just learned that her 11-year-old son had been assaulted at his school by a substitute teacher. During this class period, three students engaged in misconduct. Jose A. and Omari B. roughhoused; the back of Jose A.'s earring was pushed into his earlobe; and Oliva W. called Omari B. names. Olivia W. ran out of the classroom in tears and was sent to the front office by campus security. None of these students testified at the administrative hearing.

15. Respondent did not inform Administration of her students' misconduct. When Administration learned that all three students were from respondent's class, she was called into the office to discuss the matter. During the meeting with then-Principal Geissler and Zeevi, respondent was informed again of the importance of professional

behavior and that it was not appropriate for her to share personal issues with students. At the meeting, respondent acknowledged her responsibility for the student misconduct and for sharing personal issues with students. She stated that she should have taken the rest of the day off after learning of the assault.

MAY 17, 2018 INCIDENT

16. Campus Supervisor Desmond Carter, science teacher Shonna August, and student A■■■■ C. testified at the administrative hearing. On May 17, 2018, August told A■■■■ C. in the early morning that he needed to turn in some paperwork by the end of the day to graduate. A■■■■ C. had left the paperwork at home and did not want to take the bus home to get it because the bus trip would take about one hour each way. A■■■■ C. returned with the assignment about one hour later. When August asked A■■■■ C. how he had retrieved the paperwork from his home so quickly, he told her he "took a Lyft" (Administrative Hearing Transcript (Hearing Tr.), 1189:9 – 1191:9.)

17. A■■■■ C. was not truthful in his response. Respondent had driven student A■■■■ C. to his home and back to Bowman in her personal car to pick up the assignment. She did so without informing Administration and without first obtaining District authorization. This was contrary to training received in Orientation. Campus supervisors, who are responsible for student safety at Bowman, reported the incident to Administration.

18. A■■■■ C. was not respondent's student that semester. He was present in respondent's classroom immediately before she drove him home. Respondent's classroom was next to the rear parking lot where her car was parked. Rather than walk with respondent to the rear parking lot, A■■■■ C. walked off campus to be picked up. Respondent then drove off-campus to pick up A■■■■ C. and drive him home. Upon

their return, respondent let A■■■■ C. out of her car off-campus and then drove to the parking lot and parked. Respondent's conduct indicates that she was aware that driving A■■■■ C. in her vehicle without District authorization was contrary to District policy and she was acting deceptively in an attempt to avoid detection.

19. When Zeevi and Geissler met with respondent on May 23, 2018, to discuss the May 17, 2018 incident, respondent acknowledged she had made an "idiotic mistake" in driving A■■■■ C. in her car without authorization from the District. Geissler and Zeevi reminded respondent about her duties and responsibilities as a teacher, including the importance of professionalism and maintaining boundaries between teachers and students. They admonished her for driving the student without District authorization and sent respondent home for the remainder of the day.

SEPTEMBER 17, 2018 MEETING

20. On September 17, 2018, then-Principal Zeevi met with respondent. Zamora and teachers' union representative Michael Coombe were also in attendance. Zeevi expressed his concern that respondent was engaging in a pattern of behavior by becoming emotionally involved with students from the campus (including having students call her "mom") and getting immersed in students' personal lives. Zeevi directed respondent to be more aware of her actions and how they are perceived.

21. During the September 17, 2018 meeting, Zeevi also discussed respondent's plan to foster then 17-year-old G■■■■ C. who had been in respondent's class at Bowman in 2016 and had attended Bowman during the 2017-2018 school year. G■■■■ C. had lived in many foster homes over the years. He had previously been fostered for three months by Kathy Reiche, a teacher who taught at another high

school in the District. Reiche testified at the administrative hearing. She and her husband had fostered and adopted two other children prior to fostering G■■■ C.

22. Other Bowman teachers had told union representative Coombe that they were uncomfortable with respondent's plan to foster G■■■ C. In May 2018, G■■■ C. had entered a drug rehabilitation program. At the time of the September 17 meeting, G■■■ C. was a run-away, there was a warrant out for his arrest, and respondent had sent her own young son to live with his grandparents.

23. Zeevi told respondent that she should be aware of how a single woman taking a former student who was a 17-year-old male into her home might be perceived. He cautioned respondent that if G■■■ C. made accusations against her in the future, it could harm her career.

24. Respondent chose to proceed with fostering G■■■ C. and the Los Angeles County Department of Children and Family Services (DCFS) placed him in her home on September 19, 2018.

OCTOBER 4, 2018 TELEPHONE CALL

25. On October 4, 2018, the Bowman registrar received a telephone call from Samuel D., a former student who had attended Bowman during the 2017-2018 school year. Samuel D. asked to speak with respondent. School had finished for the day. When the registrar determined that respondent was not in her classroom and asked the caller for a message, Samuel D. hung up. Samuel D. testified at the administrative hearing and established he made the telephone call to respondent because he wanted to return an algebra book he had borrowed from her when he was a student.

OCTOBER 11, 2018 INCIDENT

26. On October 11, 2018, as a reward, respondent allowed her students to play Uno and Playdough during an early-morning intervention math class she taught. Bowman students voluntarily chose to attend intervention classes for extra credit. When he became aware of this, Zeevi advised respondent to restrict rewards such as this to the last five minutes of class and she complied with this directive.

STUDENTS T ■ W. AND B ■ T.

27A. B ■ T. was a Bowman student in respondent's class during the 2017-2018 school year. T ■ W. was a Bowman student in respondent's class during the 2018-2019 school year. T ■ W. testified at the administrative hearing.

27B. In September 2018, respondent learned via a Facebook posting that T ■ W. was a "runaway" and that there was a warrant out for her arrest because B ■ T. and T ■ W. allegedly had broken into, and stolen items from, the home of T ■ W.'s grandmother. At the time T ■ W. was on the run, respondent followed T ■ W. on Instagram. Respondent knew T ■ W. was 17 years old, pregnant, and was B ■ T.'s girlfriend.

28. T ■ W.'s mother called Bowman and reported to Zeevi that her daughter was staying with B ■ T. at respondent's home while they were on the run. However, the District failed to present sufficient evidence to establish that respondent allowed minor T ■ W. to stay at her house while she and B ■ T. were on the run from law enforcement.

29. B ■ T., a friend of G ■ C., stayed overnight at respondent's home five to 10 times on unspecified dates between September and December 2018, after she

began fostering G■■■ C. B■■■ T. was no longer a Bowman student at this time. While this encompasses the period when B■■■ T. was subject to an outstanding arrest warrant, the District did not present sufficient evidence to establish that he stayed overnight at respondent's home while on the run.

30. While T■■■ W. was on the run, G■■■ C. asked respondent to meet T■■■ W.'s sister at Valencia High School to pick up T■■■ W.'s purse. Respondent did so and then gave the purse to G■■■ C. Respondent did not contact law enforcement, the District, or T■■■ W.'s parents about this request. The purse was a 12 by 10-inch backpack-style purse. A few days later, T■■■ W. retrieved the purse from respondent's home after turning herself in to authorities.

31. After B■■■ T. left Bowman, he and respondent became co-owners of Break-In Entertainment, a rap music venture. Respondent represented to others that she was B■■■ T's "music manager." Respondent wore a tee shirt to school, promoting Break-In Entertainment. The logo consists of a ski mask with holes cut out. Respondent posed for a photo at school in which she is embracing a female student who is wearing the same tee shirt. Respondent was also observed at Bowman standing next to another student; they were texting with each other and sharing items from their cell phones.

Alleged Repeated Intrusions Into Students' Personal Lives and Involvement In Respondent's Personal Issues

32. Respondent and each of the students who testified at the hearing denied that respondent repeatedly intruded into the personal lives of her students or repeatedly told students about, and involved them in, her own personal issues.

Accordingly, the District failed to present sufficient evidence to establish that respondent did so.

FOSTERING OF G■■■ C.

33. Despite the concerns raised by Zeevi and some of respondent's colleagues, respondent took G■■■ C. in as a foster child during the 2018-2019 school year. DCFS Social Worker Randolph M. Gracia testified at the administrative hearing. He was G■■■ C.'s caseworker for six months to one year, before retiring in March 2019. Gracia recognized that a single woman with a child taking in a 17-year-old boy "could create problems." Nevertheless, DCFS vetted and approved G■■■ C.'s placement with respondent after considering Zeevi's input.

34. Respondent arranged for G■■■ C. to attend a traditional District high school (Golden Valley), rather than Bowman to avoid any conflict due to respondent being a teacher at Bowman. G■■■ C. failed all his classes at Golden Valley.

35. In late November 2019, Bowman student JC told Zeevi that G■■■ C.'s fraternal twin brother M■■■ C. had stated that respondent and G■■■ C. were in an intimate relationship. Zeevi immediately reported this information to DCFS. M■■■ C., who testified at the administrative hearing, denied telling anyone that respondent and G■■■ C. were in an intimate relationship and respondent denied this assertion. The District failed to present sufficient evidence to establish that respondent and G■■■ C. had an intimate relationship.

36. On November 29, 2018, a Deputy Sheriff and DCFS representatives came to respondent's home. Respondent was asked whether she was having a sexual relationship with G■■■ C., if she allowed students to stay at her house, and if she had

given G■■■ C. a ride the prior week to assault Bowman student JC. Although respondent denied these assertions, G■■■ C. was removed from respondent's home.

37. Respondent drove G■■■ C. to a court appearance on December 28, 2018, following his arrest for an alleged robbery in June 2018. The court permitted G■■■ C. to return to respondent's home. On June 3, 2019, G■■■ C. was taken into custody and placed in a group home. He later was sentenced to serve time in jail.

38. In January 2020, DCFS placed G■■■ C. with respondent as a non-minor dependent and he continues to reside in respondent's home. According to Gracia, DCFS saw no evidence of a sexual or inappropriate relationship between respondent and G■■■ C. DCFS was not concerned about G■■■ C.'s placement although ammunition, a loaded weapon, and drugs had been found in his bedroom at respondent's residence during the execution of a search warrant. Respondent contended at the hearing that the District was behind the search warrant. However, the District established that the Santa Clarita Sheriff's Department obtained and executed the search warrant based on alleged criminal behavior by G■■■ C. and B■■■ T. in Santa Clarita, California, disproving respondent's assertion.

RESPONDENT'S SOCIAL MEDIA POSTS

39. When respondent was teaching at Bowman, her Instagram account was not private, and she allowed "everyone" to have access. (5/17/21 Hallen Deposition (Hallen Depo.), 24:12 – 25:2.) Respondent also advertised her Instagram account on her homepage for students.

40. Zamora was on the executive board of the teachers' union. The union emphasized the importance of teachers maintaining a private Instagram account and

recommended that teachers who wish to be on social media maintain both a professional account students may access and a private account for personal posts.

41. S█████ Z. attended Bowman during the 2016-2017 school year. She graduated in May 2017. She did not testify at the administrative hearing. In October and November 2017, S█████ Z. lived with respondent. Respondent posted the following on social media in September 2018:

To my beautiful (symbol) on her 19th birthday. I (love symbol) you more than words can say. In many ways, you saved me. You have given me so many incredible gifts. S█████, without you my life would not be complete (heart symbol) Our love has fueled my passion and purpose - I give you all the credit for helping me discover my greatest gift (100 symbol) You are and will always be my hero. You (sic) talents are never-ending. Creative, beautiful, visionary but most if (sic) all you can laugh at yourself (laughing symbol) Not to mention you are an amazing trail runner!!

(Ex. 10.)

///

///

///

///

///

42. On September 4, 2018, respondent posted on social media that several Bowman students are her “sons from another mother.” (Exhs. 7 & 20.) These students referred to respondent as “mom.” One of respondent’s posts stated:

You girls make my life sweeter (emojis) I cherish everyday -
to my sons from another (emoji) you are the stars in my sky
and I’m blessed just to know you.

(Ex. 7.)

43. On June 4, 2018, respondent referred to two of her students on social media, stating: “Miss my Babygirl and The Plug!!!” (Ex. 14.) Respondent also posted a sign in her classroom proclaiming, “my name is: Erika the Plug.” (Ex. 8.) A “plug” can be slang terminology for a drug dealer.

SOCIALIZING WITH STUDENTS

44. During the 2018-2019 school year, respondent was placed on paid administrative leave pending the District’s investigation of allegations of misconduct. The District alleged, but failed to establish, that respondent socialized with current Bowman students during that time period.

Evidentiary Issues Regarding the Assault on Student JC

45. The District alleges that respondent aided and abetted, facilitated, condoned, and/or encouraged her foster son, G■■■■ C., to assault student JC.

46. JC conveyed a contemporaneous, consistent, and detailed account of the November 26, 2018, assault to his father, to Zeevi, and to Sergeant Jason A. Viger with

the Los Angeles County Sheriff's Department (Assault Notes, Ex. 47; Sheriff Report, Ex. 71.) Sergeant Viger testified at the administrative hearing.

47. During separate interviews soon after the assault, JC provided details of the assault to Sergeant Viger and Zeevi. He identified G■■■■ C. as his attacker and respondent as the driver who saw the assault. JC stated to them that respondent sped off after the assault with G■■■■ C. and another man in the car.

JC'S STATEMENT TO SHERIFF'S DEPARTMENT

48. On December 2, 2018, Sergeant Viger interviewed JC in person about the assault. He observed bruising and abrasions on JC's face. JC provided a detailed account and identified G■■■■ C. as his attacker and respondent as the driver. Sergeant Viger memorialized this interview in a Sheriff Incident Report. (Ex. 71.)

49. At the time of the interview JC did not appear to be under the influence of drugs or alcohol. Sergeant Viger observed the following about JC. He was: "Shaken. Scared. Intimidated." (Sergeant Viger, Hearing Tr., 1525:22-24.) "[I]t was fairly obvious he was in fear of the person that assaulted him, shaken [*sic*]. And this was days after the event. Intimidated by the people involved." (Sergeant Viger, Hearing Tr., 1528:22 – 1529:3.)

JC'S STATEMENT TO ZEEVI

50. In November 2018, JC's father contacted Cindy Takamoto, a Bowman social worker, about the assault on JC (who was then a Bowman student), and the social worker reported the matter to Zeevi. In Fall 2018, G■■■■ C.'s brother, M■■■■ C., was living with his friend JC in Agua Dulce at the home of JC's father. Both M■■■■ C. and JC were Bowman students during the 2018-2019 school year.

51. On November 28, 2018, Zeevi and social worker Takamoto initiated a telephone call to JC's father, who provided them with an overview of the November 26, 2018 assault. JC's father then put his son on the telephone and JC provided a detailed account of the assault which was consistent with the account he had given to Sergeant Viger. JC again identified G■■■■ C. as the person who assaulted him and respondent as the driver of the car.

52. Zeevi took notes during the telephone call. During the call, JC stated:

JC went to look for M■■■■ C. after JC's father demanded that M■■■■ C. move out. There is only one plaza in Agua Dulce. As JC was walking, G■■■■ showed up in a car driven by "the lady he lives with" who has "short curly hair" and "wears flats." She was driving a gray four-door car with license plate 3XLY066 [6XLV066 is the correct license plate number for respondent's gray Audi.] G■■■■ and another "bigger man" got out of the car. The "bigger man" did not participate in the assault. G■■■■ C. hit JC in the nose, driving JC's nose ring into his septum. JC fell to the ground, but G■■■■ C. kept hitting him. The "gray car was across the street and saw the whole thing." The car slowed down and came by JC as he was on elevated ground higher up. G■■■■ C. was "throwing up gang signs" and JC saw the woman driving. G■■■■ told JC to "call the Feds and see what happens." M■■■■ C. told JC that G■■■■ C. and respondent are in an intimate relationship. JC saw respondent talking to M■■■■ C. (Ex. 47.)

JC'S DEPOSITION TESTIMONY

53. The District deposed JC on April 21, 2021. At his deposition, JC admitted he had been assaulted in Agua Dulce, but claimed he did not recall who assaulted him or who drove the car. (JC Depo., 8:20 – 9:5, 14:22 – 15:1, 24:15-23.)

///

54. At his deposition, JC asserted:

- He had never seen respondent before his deposition. (JC Depo., 8:20 – 9:5.)
- He did not know whether respondent was a teacher at Bowman. (JC Depo., 8:20 – 9:5.)
- When asked to recount the details of the assault, JC could not recall anything that happened. (JC Depo., 13:23 – 14:9.)
- He did not recall the name of the person who assaulted him. (JC Depo., 14:5-6.)
- He did not know who assaulted him. (JC Depo., 20:10-12.)
- He did not get a look at the driver or assailant. (JC Depo., 14:7-9.)
- He did not recall a call with the District about the assault or recall providing the District with information about the assault. (JC Depo., 32:10-14, 27:23 – 28:4.)
- He did not recall whether he remembered a license plate. (JC Depo., 37:24 – 38:5.)
- He did not recall conveying a license plate to the District. (JC Depo., 32:15-17.)
- He did not recall the color of the car. (JC Depo., 34:17-19.)
- He did not recall whether a woman was driving or what she looked like. (JC Depo., 36:9-19.)

- He did not see the car. (JC Depo., 54:17-23.)
- He never called the police. (JC Depo., 24:15-23.)
- He does not know anything about who assaulted him. (JC Depo., 24:15-23.)

55. During his deposition, JC acknowledged that he would have had a better recollection of the assault closer to the time that it occurred. (JC Depo., 34:22 – 34:24, 52:14 – 53:4.)

56. During his deposition, JC specifically requested that the “message should be passed on” that he never contacted law enforcement about the assault, and he harbors no animosity for any participants at the deposition. Respondent attended the deposition. (JC Depo., 16:16-22, 20:21:2- 28.)

57. Respondent’s counsel cross-examined JC at his deposition. He was provided an opportunity to explain the prior inconsistent statements he had made to Sergeant Viger and the District but professed a total inability to recall anything other than the fact that he had been assaulted. JC’s asserted total failure of recollection at his deposition constitutes a denial of all the particulars of the assault which JC had conveyed to Zeevi and Sergeant Viger.

JC’S FAILURE TO APPEAR AT THE HEARING

58. Despite exercising reasonable diligence, the District was unable to procure JC’s attendance as a witness at the hearing. The District served JC with a subpoena to appear, as well as an Order to Appear issued by the ALJ. However, JC refused to testify at the hearing. Respondent’s counsel conveyed the message that JC, who has suffered a felony conviction, would rather go to jail than testify at the hearing.

59. Accordingly, the ALJ made a finding that JC's failure to appear at the hearing despite the District's efforts to secure his attendance rendered him an unavailable witness within the meaning of the California Code of Civil Procedure. Accordingly, JC's sworn deposition testimony could be used in lieu of his sworn testimony at the hearing. (ALJ Ruling, Hearing Tr., 1493:14 – 1497:12.)

60. At the hearing, both respondent and the District introduced excerpts of JC's videotaped deposition testimony. This enabled the panel members to observe JC's demeanor at the deposition to assist them in assessing the credibility of his claimed inability to remember any details of the assault. JC was evasive and fearful at his deposition.

ANALYSIS

61. The District asserts that Zeevi's notes and his related testimony, as well as the Sheriff's Incident Report and Sergeant Viger's related testimony, are admissible not only as administrative hearsay³ over respondent's hearsay objection, but also are admissible for the truth of the matter as prior inconsistent statements by JC to Zeevi and Sergeant Viger.

³ The term "administrative hearsay" is a shorthand reference to the provisions of Government Code section 11513, subdivision (d), to the effect that hearsay evidence that is objected to, and is not otherwise admissible, may be used to supplement or explain other evidence but may not, by itself, support a finding. It may be combined with other evidence to provide substantial evidence sufficient to support a finding. (*Komizu v. Gourley* (2002) 103 Cal.App.4th 1001.)

62. A prior inconsistent statement is admissible not only to impeach credibility but also to prove the truth of the matters asserted therein. A statement made by a witness is not made inadmissible by the hearsay rule if the statement is inconsistent with the witness's testimony at the hearing and the witness was given the opportunity to explain or deny the inconsistent statement. (Evid. Code, §§ 770, 1235.)

63. In *People v Green* (1971) 3 Cal.3d 981, 989-91, on remand from the United States Supreme Court decision in *California v. Green* (1969) 399 U.S. 149, 165-169, the California Supreme Court held that so long as a defendant is accorded the opportunity to cross-examine a relevant witness, the witness's prior inconsistent statement is admissible over the hearsay rule to prove what the witness previously observed and conveyed. This is referred to as the "Greening" of a witness.

64. In *Green*, an individual was convicted of furnishing marijuana to a minor chiefly based upon the minor's prior inconsistent statements made at the preliminary hearing and to a police officer. These statements were admitted under Evidence Code section 1235 to prove the truth of the matters asserted therein. The *Green* court found that the minor's testimony at trial, in which he stated that he could not recall who had provided the marijuana to him, was materially inconsistent with his previous preliminary hearing testimony and his out-of-court statement to the police officer, in both of which he specifically named defendant as his supplier. Accordingly, the court ruled that the minor's two prior statements were properly admitted for the truth of the matter stated to establish that defendant was the supplier, pursuant to Evidence Code section 1235.

65. JC failed to appear as a witness at the hearing despite the District's diligent efforts to secure his appearance. As a result, he was deemed to be an unavailable witness. Respondent's counsel cross-examined JC at his deposition and JC

had the opportunity to explain or deny his prior inconsistent statements. Both parties used excerpts of JC's deposition testimony at the hearing.

66. At a hearing, deposition testimony can be used against any party who was present or represented at the taking of the deposition as though the deponent were present and testifying as a witness at the hearing so long as the deponent is absent from the hearing and the proponent of the evidence has exercised reasonable diligence but is unable to procure the deponent's attendance by the court's process. (Code Civ. Proc., § 2025.620.)

67. Because JC was an unavailable witness, JC's deposition testimony introduced at the hearing has the same effect as if he had been physically present to testify at the hearing.

68. At his deposition, JC claimed he could recall very little about the assault. "A witness's professed failure of recollection can constitute an implied denial of the events described in earlier statements, rendering them inconsistent with the witness' testimony." (*Seibert v. City of San Jose* (2016) 247 Cal. App. 4th 1027, 1063; *People v. Ledesma* (*Ledesma*) (2006) 39 Cal. 4th 641, 710 (holding no "explicit finding is required" as to which statements are inconsistent and how).)

69. It was quite clear that, at his deposition, JC was fearful of retaliation. His failure to recollect any details of the assault, despite having provided a detailed account to Sergeant Viger and Zeevi, was evasive and untruthful. "As long as there is a reasonable basis in the record for concluding that the witness's 'I don't remember' statements are evasive and untruthful, admission of his or her prior statements is proper." (*Ledesma, supra*, 39 Cal.4th at 711.) The Court noted that "[i]nconsistency in effect, rather than contradiction in express terms, is the test for admitting a witness'

prior statement, and the same principle governs the case of the forgetful witness [citations omitted].” (*Green, supra*, 3 Cal.3d at 988.)

70. In *People v. Rodriguez* (2014) 58 Cal.4th 587, 633, the California Supreme Court noted that a witness’ “total inability to recall” statements to police “narrowed the practical scope of cross-examination.” Nevertheless, the court admitted the witness’ prior inconsistent statements precisely because the “repeated ‘I don’t recall’ claims” provided a reasonable basis for the court to conclude the testimony was evasive.

71. In *People v. Sanchez* (2019) 7 Cal.5th 14, 68, the court noted that “[v]ictims of domestic violence sometimes try to minimize the events later.” This is also true for victims of gang violence.

72. As the Court noted in *People v. Cuevas* (1995) 12 Cal.4th 252:

“[A]n out-of-court identification generally has greater probative value than an in-court identification, even when the identifying witness does not confirm the out-of-court identification: ‘[T]he [out-of-court] identification has greater probative value than an identification made in the courtroom after the suggestions of others and the circumstances of the trial may have intervened to create a fancied recognition in the witness’ mind. [Citations.] The failure of the witness to repeat the [out-of-court] identification in court does not destroy its probative value [Citations].’”

73. The *Cuevas* court noted that a witness’s out-of-court identification is bolstered by factors such as the testimony of the law enforcement officer to whom the

statement was made and evidence that the witness's failure to confirm the identification arises from fear or intimidation. In this matter, Sergeant Viger testified at the hearing and JC's demeanor when speaking to Sergeant Viger and at the deposition suggests his claimed forgetfulness was driven by fear and intimidation.

74. Respondent asserts that the Greening evidence should be disallowed because JC did not testify at the hearing, and his deposition testimony in lieu of testimony at the hearing cannot be used as a basis for Greening; respondent did not have the Sheriff's Incident Report at the time of the JC deposition and therefore had no opportunity to question JC about the contents of the Sheriff's Incident Report; and JC was not confronted about his prior inconsistent statements at his deposition. These arguments are not persuasive.

75A. As discussed above, as an unavailable witness, JC's deposition testimony could be used as if he were testifying at the hearing. In addition, respondent had ample opportunity to cross-examine JC about the assault at his deposition, whether through her own knowledge of the events, through her own investigation and communications with JC, by deposing Zeevi, or by procuring the Sheriff's Incident Report and Zeevi's notes on the assault.

75B. The District established that:

- Respondent spoke with the DCFS on two occasions, at which time she was provided all the details of the assault. (5/11/21 Hallen Depo, 56:12-13, 20-25; Hallen Hearing Tr., 969:2-13, 970:24 – 971:2, 978:22 – 979:13, 1026:16-25.)
- The Sheriff spoke with respondent and G■■■■ C. about the assault. (Ex. 48; 372: 7-22; *see also* Hallen Hearing Tr., 973:16 – 974:18.)

- Respondent spoke with G■■■■ C. about the details of the assault. (Hallen Hearing Tr., 978:22 – 981:7.)
- The District timely disclosed Zeevi's notes on the assault prior to JC's deposition. (See Ex. 47.)
- Respondent examined Zeevi at his deposition about his notes on the assault. (Complainant's Counsel, Hearing Tr., 16:24 – 18:2.)
- The District produced the Sheriff's Incident Report shortly after obtaining it via subpoena. (Complainant's Counsel, Hearing Tr., 1509:7-9.)
- Respondent requested and obtained police records relating to this matter. (Ex. 537.)
- The Sheriff's Incident Report was equally available to both parties. (ALJ Ruling, 1510:15 – 1512:7.)
- The contents of the Zeevi notes and Sheriff's Incident Report are consistent. (Sheriff Report, Ex. 71, Assault Notes, Ex. 47.)
- Respondent's counsel spoke by telephone with JC prior to his deposition. (JC Depo., 49:21 – 49:25.)
- Respondent examined JC at deposition and communicated with JC during the hearing. (Respondent's Counsel, 15:9-14.)

76. Cross-examination can be effective in shedding light on the reliability and veracity of an out-of-court identification. Respondent had a full opportunity to question JC at his deposition as to the circumstances surrounding his prior statement

to Sergeant Viger and the District. Respondent was able to elicit from JC an explanation for the inconsistencies in his prior statements and his subsequent inability to recall any details of the assault. Through such questioning, the panel could assess the credibility of JC's deposition testimony in comparison to his earlier detailed accounts to Sergeant Viger and Zeevi.

77. JC explained his inconsistent statements at his deposition by asserting that he had suffered physical injuries during the assault that could have impaired his ability to recall details from that time period. He also claimed that he had been using controlled substances during the time period of the assault. However, while this might be a viable explanation for a failure to recall any details of the assault, it would not explain why JC initially was able to provide a detailed account to Sergeant Viger and Zeevi immediately after the assault but was unable to recall any details of the assault later, at the time of his deposition. Therefore, JC's explanation for his claimed failure to recall any details of the assault was not convincing.

78. The panel found JC's detailed, out-of-court statements to Sergeant Viger and Zeevi to be credible. JC's prior inconsistent statements to Sergeant Viger and Zeevi are admissible as exceptions to the hearsay rule as prior inconsistent statements to prove the truth of the matters asserted by JC to Sergeant Viger and Zeevi.

79. Even if JC's statements to Sergeant Viger and Zeevi were admitted solely as administrative hearsay, JC's out-of-court statements supplement and explain respondent's and other's accounts of what transpired on the date of the assault. Respondent testified that she drove G■■■■ C. to and from Agua Dulce on the date and time of the assault and that G■■■■ C. got out of the car in the area where JC was walking. In addition, M■■■■ C. testified that G■■■■ C. admitted to him that JC and G■■■■

C. had an "altercation" and "something went down" between G■■■■ C. and JC that might have related to M■■■■ C. (M■■■■ C., Hearing Tr., 888:7 – 889:4, 889:23-25.)

Details of Assault on JC

80. In Fall 2018, M■■■■ C. was homeless and was staying overnight three to four times per week with JC at the home of JC's father in Agua Dulce, California. JC's father testified at the administrative hearing but was a reluctant witness. JC's father wanted M■■■■ C. and JC to find employment and move into an apartment in Santa Clarita. JC got angry and announced that he did not want to do that, and JC's father then told M■■■■ C. that he could no longer stay in his home.

81. M■■■■ C. told G■■■■ C. what had transpired. G■■■■ C. "was not happy" that his brother had to move out of JC's father's house. (M■■■■ C., Hearing Tr., 888:7 – 889:4, 889:23-25.) M■■■■ C. never spoke to JC again after that day and has "blocked" JC.

82. On November 26, 2018, the day of the assault, respondent attended a funeral for a former District student in La Crescenta, California. The funeral began at noon and lasted approximately one hour. G■■■■ C. did not know the student who had died. He waited in respondent's car, a silver Audi, while respondent attended the funeral.

83. When the funeral ended, respondent drove G■■■■ C. to Agua Dulce, a one-hour drive. Respondent testified that they went to Agua Dulce for G■■■■ C. to give \$40 to M■■■■ C. However, this assertion is questionable in that M■■■■ C. had a debit card and an app on his cellphone to electronically receive money.

84. Agua Dulce is a small town with only one main street. M■■■■ C. told G■■■■ C. to meet him at Sweetwater Farms Market, which was "one long block" from the home of JC's father. M■■■■ C. waited for G■■■■ C. and respondent in front of the market with all his "bags." Respondent claims that, somehow, they failed to find him. M■■■■ C. saw respondent's car "coming and leaving," but respondent and G■■■■ C. did not see him. M■■■■ C. later obtained the \$40 from G■■■■ C. when respondent drove back to Agua Dulce one or two hours later.

85. Thirty minutes after M■■■■ C. left JC's house on November 26, 2018, JC walked southbound on Agua Dulce Canyon Road to find M■■■■ C. At approximately 2:30 p.m., JC was approached by a silver, four-door vehicle. JC identified the license plate as "3XLY066." The license plate for respondent's gray Audi is 6XLV066. JC stated that the vehicle was driven by an adult white female with short curly hair whom he identified as the Bowman teacher who lives with G■■■■ C.

86. G■■■■ C. exited the front right passenger door, approached JC, and in an angry tone asked where M■■■■ C. was. G■■■■ C. hit JC 15 to 20 times in the head and chest, JC's nose ring was ripped from his nose, G■■■■ C. kicked JC, and JC fell to the ground. After assaulting JC, G■■■■ C. ran back into the vehicle, got in the car, and said "go, go, go." JC stated that the car was across the street and saw the whole thing. (Exhs. 71 & 47.) Respondent then drove away. JC called 911.

Dishonesty

87. In November and December 2018, DCFS provided respondent with "all the details about what had happened with JC" including that "G■■■■ was accused of assaulting JC and that it happened in Agua Dulce." (5.11.21 Hallen Depo., 56:12-13, 20-25; Hallen, Hearing Tr., 969:2-13, 970:24 – 971:2, 978:22 – 979:13, 1026:16-25.)

Respondent then told the DCFS “exactly what happened, but [the DCFS Supervisor] did not believe [her] at all.” (Hallen, Hearing Tr., 979:8-23.) Respondent also discussed with G■■■ C. all the “details” of what DCFS had told her. (Hallen, Hearing Tr., 978:22 – 981:7.) Los Angeles County Sheriff’s Deputies Stowers and Maxcy interviewed respondent and G■■■ C. soon after the assault and told Zamora that their “stories did not match and their relationship seemed ‘odd and inappropriate’.” (Ex. 49.)

88. Dr. Vierra subsequently met with respondent on January 24, 2019, regarding the allegations of possible misconduct. The District asserts that respondent was dishonest in that she: denied knowing who JC is; denied that G■■■ C. had hit JC; denied knowing whether G■■■ C. had been in a fight with any person in the prior year; and denied knowing that there had been a warrant out for T■■■ W.’s arrest at any time. Respondent admitted at the hearing that she did know about the outstanding arrest warrant before T■■■ W. turned herself in to authorities.

89. At the meeting with Dr. Vierra, respondent also denied using words to the effect that S■■■ Z. “completes” her or that she had posted that she “can’t describe [her] love” for S■■■ Z, despite the fact that respondent had posted these sentiments on social media. (Exs. 10,16, & 52.)

90. Respondent represented to Dr. Vierra that she did not follow students on Instagram until they had graduated. However, respondent’s Instagram account reflected that she did follow several current students, including T■■■ W.

Respondent’s Evidence

91. Respondent was a highly effective math teacher and valued coach for the Santa Clarita SOAR running club which prepares individuals to participate in the Los Angeles Marathon. Respondent asserts she was loved by Bowman students and

exemplified the Bowman vision by forming strong, positive connections with her students. She describes herself as a very nurturing person who embraced the challenge of helping students with their academic and personal issues. Respondent asserts that she listened to students and tried to show them through words and deeds that she cares and that they can trust her.

92. These assertions were supported by 10 former Bowman students who testified at the administrative hearing. No student testified that respondent had intruded into their personal lives or had shared too much information about her own life and problems.

93. Respondent concedes that some of the allegations against her are true but asserts that they do not warrant discipline. She offers explanations and justifications for her actions and asserts that the District did not give her sufficient notice as to what she had done wrong or the opportunity to improve.

94. Respondent admits that she drove A■■■■ C. home without District authorization; allowed her students to play games during class on one occasion; wore a tee-shirt with the Break-In Records logo, posted on social media as alleged; used the nicknames alleged for students and referred to herself as "E■■■■ the Plug"; was addressed as "mom" by some of her students; chose to foster G■■■■ C.; picked up T■■■■ W.'s purse when respondent knew there was a warrant out for her arrest; and allowed S■■■■ Z. and B■■■■ T. to stay at her home overnight at certain times after they had left Bowman.

95. Respondent admits that there may have been minor discrepancies in the responses she gave to Dr. Vierra, but denies that she was intentionally dishonest with him or others.

96. Respondent admits that she drove G■■■ C. to and from Agua Dulce at the date and time of the assault on JC, but denies any knowledge of, or role in, the assault. She did not discuss the assault with G■■■ C. because she "did not want to know."

97. The District does not dispute that respondent was a "strong teacher," but asserts that she lacks the ability to exercise sound judgment in her role as an educator, minimized her misconduct, was dishonest and attempted to cover up her actions, and failed to demonstrate she has gained insight into her behavior.

WHISTLEBLOWER DEFENSE

98. Respondent asserts that the District is seeking her dismissal because she is a "whistleblower" who faced retaliation by Zeevi after she came into possession of a 44-second video taken with a cellphone involving Zeevi and another person engaged in sexual acts (Video) (Ex. 501). Zeevi's voice is heard but his face is not seen in the Video.

99. On December 4, 2018, respondent contacted the Los Angeles County Sheriff's Department and met with Deputy Tom Drake, a school resource officer assigned to the District. Respondent provided the Video to Deputy Drake, claiming she had received it via an anonymous text message. Deputy Drake discussed the Video with Zeevi who was "dumbfounded" as to how a student would have gotten the Video since the Grindr dating app is for adults only.

///

///

///

100. In May 2020, respondent submitted a declaration to the California Commission on Teacher Credentialing (CTC), asserting that Zeevi had knowingly sent the Video to a Bowman student. In her declaration, respondent states:

I did not engage in any misconduct; rather, the District falsely accused me in order to discredit me because I reported my principal's sexual misconduct toward an underage student.

(Ex 4.)

101. Bowman teachers Jamie Herrington and Shonna August testified at the administrative hearing. On March 30, 2018, they attended a happy hour after school at a restaurant with respondent and seven other Bowman teachers. Respondent held up her phone to show the Video to everyone at the table and told them that a student had sent her the Video. August testified that she does "not understand how a student would feel comfortable sending something like that to a teacher."

102. Respondent "excitedly" told the teachers at the happy hour that two underage students, including Omari B., had been "trying to set [Zeevi] up" and had successfully tricked Zeevi into responding to them on Grindr. Respondent told them that Zeevi sent the Video to a student because they "catfished" Zeevi into believing that he was sending the Video to an adult on the dating app. Herrington asked respondent why she was keeping the Video, and respondent replied, "in case I need it someday." (Herrington, Hearing Tr., 1160:17 – 1165:12; August, Hearing Tr., 1190:17 – 1194:9.) Herrington advised respondent that it was "not appropriate" to "encourage" this behavior by the students.

103. At the hearing, respondent denied that she ever said anything about students “catfishing” Zeevi and claimed she had never heard anything about students obtaining the Video in that way. This assertion was not convincing in light of the credible, detailed testimony of teachers August and Herrington and her own shifting narrative as to when and how she obtained the Video.

104A. At various times, respondent claimed the Video was sent to her iPhone from a blocked number, a number she did not recognize, or from a student. She initially claimed she had not told anyone about the Video until December 2018 when she reported it to Deputy Drake. However, after teachers August and Herrington testified, respondent admitted that she had shown the Video to others on March 30, 2018.

104B. Respondent also provided conflicting information as to when she first received the Video. In December 2018, she told Dr. Vierra she received it in September 2018. In May 2020 and May 2021, respondent claimed she received the Video in May 2018. At the hearing, after August and Herrington’s testimony, respondent admitted she received the video on March 30, 2018.

105. Respondent asserted that Zeevi had knowingly sent the Video to underage student Omari B. When Dr. Vierra interviewed Omari B. in September 2020 about the Video, Omari B. claimed “he did not know what [Dr. Vierra] was talking about” and stated that it was not true that Zeevi had sent the Video to him.

106. Respondent’s whistleblower claim was not persuasive. Respondent’s attempt to deflect attention from her own misconduct by shifting the focus to Zeevi reflects poorly on her. Respondent did not act as a good role model when she tacitly condoned the students’ actions in deceiving Zeevi and then attempted to use the

Video for her own benefit. Her conduct in regard to the Video establishes that respondent has a propensity for dishonesty, lacks good judgment, and has failed to accept responsibility for her own actions.

FAILURE TO MAINTAIN PROFESSIONAL BOUNDARIES WITH STUDENTS

107. Respondent admits that she referred to some of her students as “fambam [family]” and “sons from another mother” and used nicknames for students including “Babygirl” and “the Plug.” She also admitted that she called individual students “beautiful” and told certain students that she loves them. Respondent allowed students to call her “mom” even after she was counseled against doing so on May 23, 2018. Respondent continues to believe her conduct was appropriate. (Ex. 13; 5/17/21 Hallen Depo., 71:5-14.)

108. At the hearing, respondent denied knowing that the terms “the plug” or “the bag chaser” might have drug connotations or that references like “gang gang” are inappropriate despite having completed a course on gangs at the University of LaVerne.

109. Respondent insists that Bowman teachers were “encouraged to call the kids by their nicknames if they wanted us to.” (Hallen Depo., 73:21 – 74:6, 76:2 – 77:11.)

110. Zamora credibly testified that while a nickname such as “Danny” for “Daniel” would be perfectly acceptable, nicknames such as the Plug or the Bag Chaser are improper because they reference drug or gang terminology or encourage a level of informality that is outside the scope of a student-teacher relationship.

111. Respondent never asked students to call her “Mom.” However, respondent does not believe it is inappropriate for students to do so.

112. When asked what respondent would do differently if she were allowed to return to teach at the District, respondent stated, "I don't even know." She testified that she does not know "how to be a different person," is "a nice and kind person" and does "not know what to do with that."

113. Herrington confirmed that District policy forbids allowing students to friend teachers on social media unless the teacher maintains a separate professional social media account.

114. Respondent testified that she was unaware of the District's social media policy. When respondent was asked whether she would do anything differently as to social media if she returned to the District, she replied, "I guess I just don't have it; then, I don't have to worry about it." (Hallen, Hearing Tr., 1547:19-26.) Respondent did not indicate that she would maintain separate professional social media accounts accessible to students and private accounts to which students would not be privy, in accordance with District policy.

S ■■■ Z.

115. Respondent maintained a relationship with Bowman graduate S ■■■ Z., as a friend and mentor. S ■■■ Z. was on the SOAR running team respondent coached. After S ■■■ Z. graduated from Bowman in May 2017, she lived with respondent in October and November 2017. S ■■■ Z. was an adult at all times referenced in the Statement of Charges. No District rule or policy precludes District staff from socializing with former students who have reached adulthood.

///

///

DISHONESTY ALLEGATIONS

116. Respondent denied that she was dishonest when she met with Dr. Vierra in January 2019 asserting that her responses to his questions were consistent with her hearing testimony. Respondent had almost no information as to the specific accusations leveled against her when she went into the interview. She asserts that any minor discrepancies in her responses were inadvertent and attributable to her failure to understand the context of the questions posed.

117. Respondent replied “no” when Dr. Vierra asked her whether G■■■ C. at any time hit J■■■ B. Respondent contends that her response was not dishonest as she did not know JC, did not know that “J■■■ B.” is also known as JC, and had no personal knowledge of G■■■ C. getting into a fight or hitting anyone named “J■■■.”

118. On November 29, 2018, the District placed respondent on paid administrative leave and provided written notice she was not to destroy any evidence relating in any way to the conduct at issue. Respondent failed to retain any electronic evidence relating to the charges. She claims that she lost her iPhone after being placed on administrative leave by leaving it on a bench outside a Baskin Robbins; she did not restore her lost iPhone; she does not know whether her iPhone was backed-up; she lost the computers that she had before she was placed on administrative leave; and she deleted her Instagram account right after she was placed on administrative leave, though respondent knew her Instagram account could be made private.

FEBRUARY 12, 2018 INCIDENT

119. Both respondent and student Jaret R. denied that respondent ever “broke down to a student” while discussing her personal life or that she sounded depressed and suicidal in front of students. Zeevi believed that the student involved in the

February 12, 2018 incident was named "Jared" but Zeevi could not recall the student's last name.

120. At the hearing, respondent denied that she had any meeting with Zeevi and Zamora on February 12, 2018. However, Zeevi and Zamora testified that they met with respondent on that date and the meeting was memorialized in the PAR Communication Log (Ex. 72) and counseling memos. At the meeting, respondent acknowledged that students are not teachers' friends or confidantes and told Zeevi and Zamora that she is seeing a mental health therapist.

MAY 3, 2018 INCIDENT

121. On May 3, 2018, respondent was on a telephone call with her son's school which ended as the bell sounded for class to begin. She was upset at learning that a substitute teacher had assaulted her son at his school, but respondent denied that she inappropriately discussed that with the class or provided her students with independent work instead of instruction.

122. During her deposition, respondent testified that she could not remember whether she told students that she was having a "bad day" on May 3, 2018: "I don't know . . . I may have." (5.11.21 Hallen Depo., 191:23 – 192:4.) At hearing, however, respondent denied telling students that she was having a bad day.

123. Respondent testified at the hearing that she took proper steps to address an incident that occurred in her classroom on May 3, 2018 involving three of her students: Jose A.'s earlobe was bleeding, Omari B. called Olivia W. names, and Olivia W. ran out of the classroom. Respondent testified that the incident was not a "big deal." (Hallen, Hearing Tr., 1266:27 – 1267:12.)

124. However, respondent previously admitted that “[a]fter reflecting I realize I should have taken the rest of the day off” (Response to Letter of Reprimand, Ex. 45, p. 1.) This was consistent with the District’s assertion that respondent was having a bad day and did not properly manage her class after receiving the telephone call about her son.

MAY 17, 2018 INCIDENT

125. Respondent admits that she drove student A■■■■ C. home during the school day to pick up worksheets for his science teacher so he could graduate. Respondent stressed that she drove A■■■■ C. home during her preparation period and she returned in time to teach her next class.

126. Respondent denied that she was trying to avoid detection while transporting A■■■■ C. She claims that she picked A■■■■ C. up off-campus at a nearby driveway because that is where students get picked up, and then dropped him off-campus on their return because he told her to do so. Both Zeevi and August testified that this did not make sense logistically as both respondent’s and August’s classrooms were located close to the rear parking lot.

127. Respondent asserts that she was justified in driving A■■■■ C. home that day because he had the Administration’s permission to leave campus that morning, respondent had his mother’s permission to drive him home to get his worksheets, and she had previously driven him in her car in her role as a SOAR coach.

128. When A■■■■ C. returned with his worksheets, he told August that he “took a Lyft.” Respondent asserts that the evidence presented did not establish he meant “Lyft” the rideshare, as opposed to getting a “lift” in someone’s car.

129. In May 2018 respondent told Geissler and Zeevi she made an “idiotic mistake” in driving A■■■■ C. in her car. (Zeevi, Hearing Tr., 205:2-28.) At the hearing, respondent testified that it was not a mistake to drive the student home without first obtaining authorization from the District. Rather, she stated that her “idiotic mistake” was failing to inform Geissler and Zeevi that she had his mom’s permission to do so. (Hallen, Hearing Tr., 744:22-27.) Only after respondent was issued a Written Reprimand in November 2018, did she produce a handwritten note from A■■■■’s mother, stating that respondent had her permission to drive A■■■■ C. home that day. (Ex. 45.)

OCTOBER 2018 INCIDENT

130. Respondent admitted that she rewarded her students for a period of intense work by allowing her early morning intervention class to play Uno and Playdough on a single occasion on October 11, 2018. She was a new teacher and once Zeevi advised her that such a reward should be limited to the last five minutes of class, rather than an entire class period, respondent thanked him for his feedback and implemented his directive.

CONDUCT REGARDING B■■■■ T.

131. B■■■■ T. is a friend of respondent’s foster son, G■■■■ C. Between September and December 2018, respondent allowed B■■■■ T. to visit G■■■■ C. at her home and he stayed overnight five to 10 times. Respondent notes that no District policy or rule precludes District staff from allowing their children’s minor friends to spend the night. B■■■■ T. was no longer a District student at this time. However, this time frame includes the period when B■■■■ T. was on the run from law enforcement.

132. Respondent admits that she wore a tee-shirt promoting B■■■■ T.’s Break-Records rap logo shortly after the burglary of the home of T■■■■ W.’s grandmother.

Respondent was photographed with a student who was wearing the same shirt. Zamora took the photo and Zeevi included it in the school newsletter, indicating that neither of them saw anything wrong with respondent wearing the tee-shirt. Respondent asserts that she wore B ■■■ T.'s Break-In Records shirt displaying a black ski mask at school to show that she was "supporting students." (5/11/21 Hallen Depo., 10:22 – 14:12.) However, she posted the picture on her Instagram account in October 25, 2018, when B ■■■ T. was no longer a student.

133. In March 2018, respondent posted a photo on Instagram of herself and B ■■■ T. In the photo, he is making a gang sign with his hand.

FOSTERING G ■■■ C.

134. Respondent asserts that fostering G ■■■ C. does not constitute an improper emotional involvement or immersion in students' personal lives. She noted that District employees, including Principal Geissler, were actively involved in trying to secure a foster placement for G ■■■ C. and DCFS approved his placement with her.

135. G ■■■ C. surrendered to authorities on September 19, 2018. Respondent had told him she would accept him as a foster child if he turned himself in. She "decided not to back out on him" despite Zeevi's misgivings and her concern that she would draw the District's ire by fostering G ■■■ C. (Ex. 4.)

136. Respondent asserted that she would have preferred to have G ■■■ C. remain at Bowman where she could better oversee his academic progress. However, the Court ordered DCFS to use its best efforts to assist her to enroll G ■■■ C. at Golden Valley High School. The District preferred to avoid any possible conflict created by having G ■■■ C. attend the same school where respondent was a teacher and it approved G ■■■ C.'s transfer from Bowman to Golden Valley High School.

137. DCFS Social Worker Rene Obando testified at the administrative hearing. In July 2019 he was assigned to be G■■■■ C.'s social worker. Since February 2020, G■■■■ C. has been in a supervised independent living placement (SILP) in respondent's home. In a SILP, DCFS determines only whether G■■■■ C. is physically safe where he is residing. Obando has no safety concerns about G■■■■ C.'s placement with respondent and has no evidence suggesting an inappropriate relationship between G■■■■ C. and respondent. If DCFS had concerns, Obando would not have placed G■■■■ C. with respondent as a nonminor dependent.

ASSAULT ON JC

138. Respondent testified that on November 26, 2018, she attended a student's funeral while G■■■■ C. waited in the car. She then drove to Agua Dulce, approximately one hour away, so that G■■■■ could give M■■■■ \$40.

139. Respondent testified that they did not see M■■■■ C., so they continued to drive around looking for him. According to respondent, G■■■■ opened the car door and jumped out while the car was moving. Respondent then pulled into a strip mall parking lot, looked in her rearview mirror, and "saw no one."

140. When G■■■■ C. returned to the car 60 seconds later, respondent asked him if he had found his brother, M■■■■ C., and G■■■■ C. said "no." Respondent told G■■■■ C. they had to leave so she could get to her 3:30 p.m. therapy appointment. Respondent testified that G■■■■ C. asked her to drive around the shopping center once more, she did so without success, and they then left Agua Dulce. Respondent testified that she drove G■■■■ C. back to Agua Dulce again later that same day and G■■■■ gave M■■■■ \$40 at that time.

141. Respondent's account is not persuasive. It strains credulity that respondent did not inquire what G■■■ C. had seen that induced him to jump out of a moving car or that respondent calmly parked in a strip mall and glanced in her rearview mirror but did not get out of her car to see where G■■■ C. had gone. Respondent offered no explanation as to how G■■■ C. would have found her once she pulled into a strip mall and parked the car.

142. M■■■ C. saw respondent's car coming towards him and then driving away, but he was not able to get their attention. It is not credible that respondent and G■■■ C. did not find M■■■ C. despite the fact that they had arranged to meet him at Sweetwater Farms Market on the single main plaza in town, where he was waiting for them with all his bags.

143. Respondent told DCFS "exactly what happened [in Agua Dulce], but [the DCFS Supervisor] did not believe [her] at all." (Hallen, Hearing Tr., 979:8-23.) Sergeant Viger interviewed respondent and G■■■ C. about the assault. He told Zamora that their stories did not match and their relationship seemed odd and inappropriate.

144. Respondent admits that she drove G■■■ C. to Agua Dulce on the day and time of the assault on JC. Yet she took no action to assist student JC nor did she take any action to cooperate with the District or law enforcement in investigating the assault upon a Bowman student.

145. Respondent never talked to or questioned G■■■ C. about the assault "because it was – all I know is that not everybody is – hold on. Let me think. I guess I didn't want to know." (5.11.21 Hallen Depo., 57:08-17.)

146. At her deposition, respondent stated she does not know what happened to giving M■■■ \$40 because she can't worry about everything (5.11.21 Hallen Depo.,

84:18 – 85:14.) M■■■■ related a more credible version of events at the hearing, testifying: “Well, I left and called [respondent] back. And she came, and then she gave me the money, and then she left . . . She had to leave real quick.” (M■■■■, Hearing Tr., 870:14 – 871:25, 877:26 – 878:17, 884:1-22, 886:25 – 887:4.)

EXECUTION OF SEARCH WARRANT

147. In June 2020, the Los Angeles County Sheriff’s Department executed a search warrant of respondent’s apartment in North Hollywood where she and G■■■■ C. were residing. At the hearing, respondent accused the District of orchestrating the raid on her home by the Sheriff’s Department. However, the search warrant was issued and executed based on conduct unrelated to the District which was alleged by law enforcement to have occurred in the Santa Clarita Valley in April and June 2020.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The District has the burden of proving the charges by a preponderance of the evidence. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1038–1039.) Preponderance of the evidence means “the evidence on one side outweighs, preponderates over, is more than, the evidence on the other side.” (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 325.)

Cause for Termination

2. The governing board of a school district may dismiss a permanent certificated employee if one or more of the causes enumerated in Code sections

44932, subdivision (a), 44939, and 44942 are established by a preponderance of the evidence.

IMMORAL CONDUCT

3. A. Certificated employees are subject to dismissal for immoral conduct pursuant to Code section 44932, subdivision (a)(1).

B. The term "immoral conduct" has been defined to include conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable members of the community, and as an inconsiderate attitude toward good order and the public welfare. (*Board of Ed. of San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811.)

C. In this case, the District established by a preponderance of the evidence that Respondent engaged in immoral conduct pursuant to Code section 44932, subdivision (a)(1) by facilitating and/or condoning her foster son's assault on JC. JC provided a consistent and detailed account of the attack to law enforcement and the District close to the time of the event. Respondent's version of events was not credible or persuasive. The District presented sufficient evidence to establish that Greg C. had motive and opportunity to carry out the assault and that respondent aided, abetted, facilitated, or condoned the assault. She admitted that she drove Greg. C. to and from Agua Dulce at the date and time in question and took no action to intervene in the assault, assist JC during or after the assault, or cooperate in any way with the District or law enforcement in their investigation of the incident. Respondent engaged in similar immoral conduct by retrieving Toni W.'s purse when respondent knew she

was on the run from law enforcement, rather than alerting Toni W's family, the District, or law enforcement. (Factual Findings 6-146.)

DISHONESTY

4. A. Certificated employees are subject to dismissal for dishonesty pursuant to Code section 44932, subdivision (a)(4).

B. The word dishonesty is not defined in this part of the Education Code. However, when examining use of the word in teacher discipline cases under the prior statutory framework, the California Supreme Court noted that "[a]n approved definition of dishonesty connotes a disposition to deceive." (*Midway School Dist. of Kern County v. Griffeth* (1946) 29 Cal.2d 13, 18.)

C. In this case, the District established by a preponderance of the evidence that Respondent acted with dishonesty pursuant to Code section 44932, subdivision (a)(4). Respondent was deceptive in connection with driving A [REDACTED] C. in her car and as to the assault on JC. She provided dishonest statements in her interview with Dr. Vierra in January 2019 and failed to preserve evidence despite instructions to do so. Her actions connote a disposition to deceive. (Factual Findings 6-146.)

EVIDENT UNFITNESS FOR SERVICE

5. A. Certificated employees are subject to dismissal for evident unfitness for service pursuant to Code section 44932, subdivision (a)(6).

B. "Evident unfitness for service" means clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies. (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444 (*Woodland*).) "'Evident unfitness for

service' connotes a fixed character trait, presumably not remediable merely on receipt of notice that one's conduct fails to meet the expectations of the employing school district." (*Ibid.*)

C. In this case, the District established by a preponderance of the evidence that Respondent is evidently unfit for service pursuant to Code section 44932, subdivision (a)(6). Respondent's misconduct is the result of a fixed character trait and her actions are part of a larger pattern. Despite counseling, respondent has had continued difficulty maintaining a professional relationship with students. She aided and abetted T ■■■ W. and G ■■■ C., or facilitated or condoned their actions, when they were the subjects of criminal investigations. While some of respondent's mistakes can be attributed to her relative inexperience in teaching at the time these events occurred, respondent minimized her misconduct, failed to take responsibility for her actions, placed blame on others, and characterized herself as a wronged whistleblower. She fails to show insight into her misconduct and has not demonstrated a willingness or capability to remedy her mistakes. Accordingly, the Commission concludes it is highly likely that Respondent will repeat her misconduct in the future.⁴ (Factual Findings 6-146.)

PERSISTENT VIOLATION OF SCHOOL LAWS

6. A. Certificated employees are subject to dismissal for persistent violation of, or refusal to obey, the school laws of the state or reasonable regulations prescribed

⁴ As explained below, the Commission also analyzed the factors set forth in the case of *Morrison, supra*, 1 Cal.3d at 227–230 in determining whether respondent is fit for service as a teacher for purposes of Code section 44932, subdivision (a)(6).

for the government of the public schools by the State Board of Education or by the governing board of the school district employing her, pursuant to Code section 44932, subdivision (a)(8).

B. Cause for dismissal may be based on the violation of school rules or district policies. (*San Dieguito Union High School Dist. v. Commission On Professional Competence* (1985) 174 Cal.App.3d 1176, 1180–1181.) However, there must be a “showing of intentional and continual refusal to cooperate.” (*Id.* At p. 1196.) The violation must be persistent or “motivated by an attitude of continuous insubordination.” (*Governing Board of the Oakdale Union School Dist. v. Seaman* (1972) 28 Cal.App.3d 77, 81-82.) Isolated events or incidents involving an issue unresolved over a period of time are generally not considered persistent. (*Bourland v. Commission On Professional Competence* (1985) 174 Cal.App.3d 317.)

C. In this case, the District did not establish by a preponderance of the evidence that respondent has persistently violated District rules or policies pursuant to Code section 44932, subdivision (a)(8). Respondent violated District policy in regard to social media postings and driving a student in her car without the Administration’s authorization. However, this misconduct involved isolated events over a period of time and the District failed to establish that it counseled respondent as to her social media posts before she was placed on administrative leave. Under these circumstances, it cannot be concluded that respondent was insubordinate or persistently violated District rules or policies. (Factual Findings 6-146.)

Analysis of the *Morrison* Factors

7. A. In deciding whether cause for dismissal exists under the amorphous concepts of immoral conduct, dishonesty, and evident unfitness for service, it also

must be established that a teacher's misconduct relates to her fitness, within the meaning of *Morrison, supra*, 1 Cal.3d at 227–230. The *Morrison* analysis does not apply to a cause for dismissal of persistent violation of school rules, laws or policies, because this cause, by definition, has a direct nexus with teaching. (*Id.*, pp. 227-230.)

B. As noted above, the Commission considered the *Morrison* factors in determining whether respondent is fit to serve as a teacher within the meaning of Code section 44932, subdivision (a)(6). That analysis is discussed below. However, not all *Morrison* factors need be present for the *Morrison* test to be satisfied. (*Governing Board v. Haar* (1994) 28 Cal.App.4th 369.) Moreover, the *Morrison* analysis need not be conducted on each individual fact established, but rather can be applied to the accumulated facts established collectively. (*Woodland, supra*, 2 Cal.App.4th at p. 1457.) Here, it is concluded that the *Morrison* factors demonstrate respondent is not fit to serve as a teacher. (Factual Findings 6-147.)

C. The District presented sufficient evidence to establish that respondent inappropriately crossed the boundary between her professional role as a teacher and that of a friend or confidant of the students she was assigned to instruct, despite repeated warnings and admonitions; was deceptive when driving student A ■■■ C. in her car without District approval; assisted T ■■■ W. while knowing the student was wanted by law enforcement; and facilitated or condoned G ■■■ C.'s assault of student JC.

i. The likelihood the conduct may adversely affect students or fellow teachers. Respondent's failure to maintain a professional relationship with students had an adverse impact in that it impaired her ability to serve as an educator and role model. Her failure to exercise sound judgment by condoning or facilitating G ■■■ C.'s assault on JC adversely impacted student JC. Similarly, respondent's lack of sound

judgment was demonstrated by her willingness to help T■■■ W., a pregnant minor, remain on the run from law enforcement by picking up her purse, rather than attempting to persuade T■■■ W. to turn herself in to authorities. Taking an action that could assist T■■■ W. to remain on the run, rather than alerting law enforcement, the student's parents, or the District, was contrary to student T■■■ W.'s interests.

ii. The degree of such adversity. JC was physically injured and T■■■ W. could have been seriously impacted by remaining on the run.

iii. The proximity or remoteness in time of the conduct. Respondent's misconduct is relatively recent. It occurred during the 2017-2018 and 2018-2019 school years. Respondent was placed on administrative leave two days after the November 26, 2018, assault on JC.

iv. The type of teaching certificate held by the party involved. Respondent held two preliminary credentials: a single subject credential in foundational level mathematics that expired in April 2020 and a multiple subject credential that expired in December 2019.

v. The existence of extenuating or aggravating circumstances, if any, surrounding the conduct. Respondent established that there were extenuating circumstances to explain why she crossed the boundary between respondent's professional role as a teacher and that of a friend or confidant to Bowman's students. Respondent was a relatively new teacher, wanted to be supportive of and establish good rapport with her students, and Bowman encouraged a certain level of informality between students and teachers. In aggravation, respondent acted deceptively in regard to transporting A■■■ C. in her car and condoned or facilitated the actions of T■■■ W. and G■■■ C. in situations involving allegations of criminal conduct.

vi. The praiseworthiness or blameworthiness of the motives resulting in the conduct. Respondent's motivation to form strong, positive connections with Greg C. and her students, and to help them with academic and personal issues, is praiseworthy. Yet respondent acted deceptively, and she facilitated or condoned the actions of students involved in alleged criminal behavior. Such conduct is blameworthy and demonstrates a troubling lack of judgment.

vii. The likelihood of recurrence of the questioned conduct. It is highly likely respondent will repeat her misconduct. She does not appear to have gained insight into what she did wrong and has not accepted responsibility for her actions. Instead, she continues to claim that the District brought a baseless case against her in retaliation for being a whistleblower as to the school's former principal.

viii. The extent discipline may cause adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers. This factor does not apply.

Disposition


8. A. "The Commission has broad discretion in determining what constitutes unfitness to teach . . . , and whether dismissal or suspension is the appropriate sanction." (*California Teachers Ass'n v. State of California* (1999) 20 Cal.4th 327, 343–344.) Thus, even where cause for dismissal has been established, the Commission still has broad discretion to determine whether such discipline is actually warranted. (*Fontana Unified School Dist. v. Burman* (1988) 45 Cal.3d 208, 222.)

B. In this case, legal cause for termination was established pursuant to Code section 44932. Therefore, termination is warranted. (Factual Findings 1-62; Legal Conclusions 1-7.)


ORDER

Respondent Erika Hallen is dismissed as a permanent certificated employee of the William S. Hart Union High School District.


DATE: 09/30/2021


Nicholas Abruzzo (Sep 30, 2021 15:18 PDT)
NICHOLAS ABRUZZO
Commissioner

DATE: 10/03/2021


Maria M. Jackson (Oct 3, 2021 18:57 PDT)
MARIA JACKSON
Commissioner

DATE: 10/04/2021


Laurie Pearlman (Oct 4, 2021 23:58 PDT)
LAURIE PEARLMAN
Commissioner
Administrative Law Judge
Office of Administrative Hearings