

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

In the Matter of the First Amended Accusation Against:

JEFFREY COLLINS SCOTT, Respondent

Agency Case No. 2-441310505

OAH No. 2024050936

PROPOSED DECISION

Patrice De Guzman Huber, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on November 18, 2024, from Sacramento, California.

Phillip L. Arthur, Deputy Attorney General, represented complainant Mary Vixie Sandy, Ed.D., Executive Director of the California Commission on Teacher Credentialing (Commission), State of California.

Matthew R. Chevedden, Esq., represented respondent Jeffrey Collins Scott, who appeared.

Evidence was received, the record closed, and the matter submitted for decision on November 18, 2024.

FACTUAL FINDINGS

Teaching Credentials

1. On August 13, 1992, the Commission issued respondent a Certificate of Clearance. It expired on September 1, 1997.

2. On August 3, 1993, the Commission issued respondent a Preliminary Five-Year Multiple Subject Teaching Credential. It expired on September 1, 1998.

3. On October 12, 1998, the Commission issued respondent an Emergency Long Term Multiple Subject Teaching Permit. It expired on November 1, 2000.

4. On June 28, 2000, the Commission issued respondent a Clear Multiple Subject Teaching Credential (credential). The credential will expire on July 1, 2025, unless renewed.

5. On January 17, 2008, the Commission issued respondent a Clear Crosscultural Language and Academic Development Certificate (certificate). The certificate does not expire.

First Amended Accusation

6. On May 9, 2024, complainant, in her official capacity, signed and thereafter filed an Accusation seeking to revoke all of respondent's credentials, certificates, and authorizations. The Accusation alleges cause for discipline based on unprofessional conduct, immoral conduct, evident unfitness for service, and acts involving moral turpitude, pursuant to Education Code sections 44421 and 44345, subdivision (e). (All statutory references are to the Education Code unless otherwise stated.)

Generally, complainant alleges that respondent was convicted in December 2022 of possession of cannabis on school grounds. Complainant also alleges that he provided cannabis to a former student who was then an adult. In aggravation, complainant alleges respondent's conduct involved bad faith, dishonesty, or other violation of the laws governing educators and significantly harmed a child entrusted to his care, the public, or the educational system.

7. At hearing, complainant moved to amend paragraph 12 in the Accusation to correct the criminal case number indicted from "22CR1697" to "22CR1657." Respondent did not object, and the ALJ granted the motion. As amended, the pleading shall be considered and hereinto referred as the First Amended Accusation (FAA).

8. Respondent timely filed a Notice of Defense to the original Accusation and requested a hearing. Respondent's Notice of Defense was deemed responsive to the FAA. (Gov. Code, § 11506, subd. (c).) The matter was set for an evidentiary hearing before an ALJ of the OAH pursuant to section 44246 and Government Code section 11500 et seq.

Criminal Conviction and Misconduct

9. On December 2, 2022, in El Dorado County Superior Court, Case No. 22CR1657, respondent was convicted on a no contest plea of violating Health and Safety Code section 11357, subdivision (c)(1), possession of not more than 28.5 grams of cannabis on school grounds, a misdemeanor. The court stayed imposition of sentence and placed respondent on one year of summary probation. The terms and conditions of probation required respondent to serve community service hours and pay fines, fees, and restitution. The circumstances underlying his conviction occurred

on a date between December 2021 and February 2022. On that unspecified date, respondent possessed not more than 28.5 grams of cannabis in his vehicle, which was parked on school grounds.

10. In December 2023, in a meeting with the Commission's Committee of Credentials, respondent admitted that on the unspecified date he possessed cannabis in his vehicle on school grounds, he offered and provided cannabis to a former student, who was by then an adult (Jane Doe).

Respondent's Evidence

11. Respondent testified. He has been teaching for over 30 years. He was inspired to become an educator by his mother and aunt, both of whom were also teachers. Respondent loves teaching and has dedicated his career to educating students. He intends to retire in May 2025.

12. Since 2016, respondent has been teaching math at Independence High School (IHS), a continuation high school in the El Dorado Union High School District (EDUHSD). Respondent taught at IHS years before and returned in 2016 after teaching elsewhere. As a continuation school, the student population at IHS comprise those who are at-risk of failing to graduate from high school. Respondent finds it rewarding to serve this student population, especially because he himself graduated from IHS.

13. Respondent admitted his misconduct. He was a teacher at IHS when he possessed the cannabis in his vehicle that was parked on school grounds and offered cannabis to Jane Doe. Respondent explained he had forgotten about the cannabis in his vehicle, and he did not intend to bring it to school. Respondent also explained, when he and Jane Doe saw each other in the parking lot after school, they began chatting. During their conversation, the topic of cannabis arose, which reminded

respondent he had cannabis in his vehicle. At hearing, respondent admitted he did not think critically before offering Jane Doe the cannabis. He later learned Jane Doe shared the cannabis with her younger sister, who was then a current student at IHS.

14. Respondent was forthcoming about his misconduct with IHS and EDUHSD. He explained to them the poor choices he made which resulted in his misconduct and conviction. In January 2023, EDUHSD assistant superintendent Tony Deville determined a letter of reprimand sufficiently addressed respondent's misconduct. He continued to teach at IHS without interruption.

15. Respondent acknowledged his wrongdoing and expressed remorse for his actions. Although respondent had no control over Jane Doe's actions after he shared the cannabis with her, he expressed remorse that "an incredibly stupid thing that [he] did" resulted in a current student's access to cannabis. Respondent is embarrassed and ashamed of his misconduct and poor judgment. He worries his reputation with students or other teachers has suffered due to his "stupid" decisions. However, he contends his poor judgment in this instance is not representative of his character, given his otherwise unblemished teaching career of over 30 years. Respondent has not engaged in similar misconduct prior or subsequent to the incident at issue.

Analysis

16. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, the California Supreme Court concluded that a teaching credential cannot be disciplined for unprofessional conduct, immoral conduct, or conduct involving moral turpitude "unless that conduct indicates that the [teacher] is unfit to teach." (*Id.* at p. 229.) The Court outlined factors to consider when determining whether a teacher's conduct

demonstrates unfitness to teach. These factors have been codified in California Code of Regulations, title 5, section 80302, subdivision (a):

- (1) the likelihood that the conduct may have adversely affected students or fellow teachers, and the degree of such adversity anticipated;
- (2) the proximity or remoteness in time of the conduct;
- (3) the types of credentials held or sought by the person involved;
- (4) any extenuating or aggravating circumstances surrounding the conduct;
- (5) the praiseworthiness or blameworthiness of the motives resulting in the conduct;
- (6) the likelihood of recurrence of the questioned conduct;
- (7) the extent to which disciplinary action may have an adverse impact or chilling effect upon the constitutional rights of the person involved, or other teachers; and
- (8) the publicity or notoriety given to the conduct.

LIKELIHOOD OF ADVERSE EFFECTS ON STUDENTS OR FELLOW TEACHERS

17. Beyond providing substantive instruction, a teacher also serves as a role model, whose words and actions are likely to be followed by students who are still learning their roles in the community and how to conduct themselves appropriately.

To that end, respondent's conduct or reputation should not interfere with his ability, or the community's confidence in his ability, to serve as a role model or earn his students' respect. (*San Diego Unified School Dist. v. Com. on Professional Competence* (2011) 194 Cal.App.4th 1454, 1463-1464; *Broney v. Cal. Com. on Teacher Credentialing* (2010) 184 Cal.App.4th 462, 477.)

18. Here, although respondent's sharing of the cannabis with Jane Doe resulted in a current student's access, there is no evidence respondent's misconduct and conviction was well-known or publicized among the student body or other teachers at IHS. Relatedly, there is also no evidence respondent's misconduct and conviction or reputation interfered with his ability, or the community's confidence in his ability, to serve as a role model for his students. To the contrary, EDUHSD continued to entrust the education of its students to respondent. Nevertheless, there is a likelihood of adverse effects on students and fellow teachers because respondent's conduct bears on his credibility as an educator and role model.

PROXIMITY OR REMOTENESS IN TIME

19. Respondent's conduct occurred in 2019. It is relatively remote in time, in light of respondent's overall character and otherwise discipline-free teaching history. (See *Brandt v. Fox* (1979) 90 Cal.App.3d 737, 747.)

TYPES OF CREDENTIALS HELD

20. Respondent holds a Clear Multiple Subject Teaching Credential and a Clear Crosscultural Language and Academic Development Certificate. His credential and certificate require teaching competence. Further, respondent's credential allows him to teach 12th grade and below, including preschool and in classes organized primarily for adults. With his credential, he may interact with students of all ages, for

whom he has to model appropriate behavior and good judgment. Therefore, his ability to engage in professional conduct and model appropriate behavior to students of varying ages, experiences, and learning abilities is important in light of his credential.

EXTENUATING OR AGGRAVATING CIRCUMSTANCES

21. Neither the Education Code nor the applicable regulations specify what constitutes "extenuating circumstances." However, California Code of Regulations, title 5, section 80300, subdivision (m), defines "mitigating factor" as "an event or circumstance which demonstrates that the public, school children and the profession would be adequately protected by a more lenient degree of adverse action or no adverse action whatsoever."

22. Respondent's licensure and criminal history is a mitigating factor. In over 30 years of teaching, this is the first time respondent has been disciplined. This is also the only conviction in respondent's criminal record. Respondent's poor judgment, misconduct, and conviction appear to be an aberration in an otherwise upstanding teaching career and law-abiding life.

23. The circumstances surrounding respondent's misconduct are also mitigating to an extent. Respondent's testimony regarding the circumstances was credible due to his demeanor and honesty. (Evid. Code, § 780.) Respondent admitted the cannabis he shared with Jane Doe was eventually accessed by a current student. Although this detail was not alleged by complainant in the FAA, and although it reflected poorly on him, respondent volunteered the information and was forthcoming in doing so. As a result, his testimony is given great weight.

24. Regarding the circumstances surrounding his misconduct, respondent explained he forgot about the cannabis in his vehicle on that unspecified date. He did

not deliberately bring the cannabis to school grounds. Because the cannabis remained in the vehicle and was not inside the classroom, no students had ready access to it. Respondent's lack of bad faith and the location of the cannabis on school grounds are mitigating. However, their mitigating value is diminished to an extent by respondent's subsequent actions. When, while chatting with Jane Doe in the school parking lot, he recalled the cannabis in his vehicle, respondent decided to bring the cannabis out in the open to share it with Jane Doe.

25. Nevertheless, it is mitigating that respondent's decision to share the cannabis appears to be a lapse in judgment when he failed to think critically about the potential ramifications. Respondent's misconduct, although serious, did not stem from bad faith or a desire to cause harm to students. Further mitigating is respondent's remorse and his candor about his wrongdoing and shame.

26. California Code of Regulations, title 5, section 80300, subdivision (b), lists aggravating factors, the presence of which indicate a greater degree of discipline is necessary to protect students and the teaching profession. Complainant alleges the following aggravating factors: (1) misconduct surrounded or followed by bad faith, dishonesty, or other violation of the laws governing educators; and (2) significant harm to a child entrusted to the care of a credential holder, the public, or the educational system. (*Id.* at subds. (b)(2), & (4).) However, complainant did not produce evidence of either factor.

PRAISEWORTHINESS OR BLAMEWORTHINESS OF MOTIVES RESULTING IN MISCONDUCT

27. Respondent's conduct is blameworthy. He committed a crime relating to possession of a controlled substance specifically on school grounds. Moreover, he

offered and provided the controlled substance to Jane Doe while on school grounds. Respondent's failure to think critically and his lapse in judgment resulted in a current student's access to cannabis.

LIKELIHOOD OF RECURRENCE

28. The likelihood of recurrence is minimal. Respondent's misconduct is an isolated incident in over three decades of teaching, and his conviction is the only one in his record. He was remorseful and forthcoming about his misconduct, conviction, and poor judgment. He testified credibly that similar conduct will not recur.

ADVERSE IMPACT OR CHILLING EFFECT

29. There is no evidence discipline would adversely impact or chill respondent or any other teacher in the free exercise of their constitutional rights.

PUBLICITY OR NOTORIETY OF MISCONDUCT

30. Although respondent worries about his reputation, there is no evidence his conduct was publicized or notorious.

CONCLUSION

31. Respondent's possession of not more than 28.5 grams of cannabis on school grounds and providing cannabis to Jane Doe while on school grounds comprise conduct that was unprofessional and unbecoming of a teacher. However, respondent's conduct does not rise to the level of immorality. His actions were not based on dishonesty. Respondent's credible explanation for his conduct and subsequent remorse and concern for his reputation are inconsistent with the willful, shameless, and moral indifference to respectable public opinion that marks immoral conduct.

32. Relatedly, respondent's conduct does not rise to the level of moral turpitude. Violating Health and Safety Code section 11357, subdivision (c)(1), is not specifically a crime of moral turpitude. Even so, respondent's crime was not based on dishonesty, a lack of modesty, or a lack of good morals. Instead, respondent failed to think critically and to exercise good judgment.

33. Although respondent's explanation for his conduct does not rise to the level of a legal excuse for his crime, it bears on the Commission's mandate to protect the public. The reasons for respondent's misconduct and crime do not indicate an evident unfitness to teach. There is no evidence showing respondent is unsuitable to teach due to a defect in his temperament or to an irremediable character trait. To the contrary, the evidence demonstrates respondent's misconduct and crime are outliers in his otherwise law-abiding life and career. He expressed remorse and has not engaged in similar misconduct. Relatedly, EDUHSD believes in respondent's fitness to teach as it has continued to entrust the education of its students to him. The evidence does not establish respondent is unable to safely practice as an educator.

34. When all the evidence is considered in light of the *Morrison* factors, respondent has demonstrated he can perform his duties as a teacher in a manner consistent with the protection of the public, students, and the profession. In light of his unprofessional conduct, the Commission may privately admonish, publicly reprove, revoke, or suspend his teaching credential. Here, in weighing the evidence, a more lenient degree of discipline would adequately protect the public, and a public reproof is appropriate. A public reproof would serve the interests of public protection by constituting prior discipline that can be considered in the event respondent engages in future misconduct. Furthermore, a public reproof balances the Commission's

interest in regulating its licensees in consideration of the mitigating factors. Thus, respondent should be publicly reprovved.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant has the burden of proving the allegations in the Accusation by clear and convincing evidence to a reasonable certainty. (*Gardner v. Com. on Professional Competence* (1985) 164 Cal.App.3d 1035.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Brooks* (2008) 169 Cal.App.4th 176, 190.)

Applicable Law

2. Pursuant to the Education Code, commencing with section 44000, and California Code of Regulations, title 5, commencing with section 80000, the Commission is responsible for credentialing teachers in public schools in California, including taking adverse action against applicants and credential holders.

3. The Commission may privately admonish, publicly reprove, revoke, or suspend a credential for immoral or unprofessional conduct, evident unfitness of service, or any cause that would warrant denial of an application, such as an act involving moral turpitude. (Ed. Code, §§ 44345, subd. (e), & 44421.)

4. The California Supreme Court has recognized that the terms "immoral conduct" and "unprofessional conduct" substantially overlap one another and conduct that constitutes one often includes the other. (*Morrison, supra*, 1 Cal.3d 214, 221,

fn. 9.) "Unprofessional conduct" includes "that which violates the rules of ethical code of a profession or such conduct which is unbecoming a member of a profession in good standing." (*Bd. of Education of the City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 553, internal quotations omitted.) Additionally, in *San Diego Unified School District v. Commission on Professional Competence*, *supra*, 194 Cal.App.4th at page 1466, the court explained:

[T]he definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, upon whom are imposed "responsibilities and limitations on freedom of action which do not exist in regard to other callings." [Citation.]

5. Immoral conduct is sometimes considered as synonymous with "dishonesty" or a high degree of unfairness. (*Bd. of Education of the San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811.) The court explained in *Palo Verde Unified School District of Riverside v. Hensey* (1970) 9 Cal.App.3d 967, 972:

The term "immoral" has been defined as that which is hostile to the welfare of the general public and contrary to good morals. Immorality includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as 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.

6. Moral turpitude has been defined as “everything done contrary to justice, honesty, modesty[,] or good morals.” (*Rice v. Alcoholic Beverage Appeals Bd.* (1979) 89 Cal.App.3d 30, 36.) It includes any crime or misconduct committed without excuse or any dishonest act not necessarily a crime. (See *Golde v. Fox* (1979) 98 Cal.App.3d 167, 181.)

7. A teacher’s fitness to teach is determined by considering their future classroom performance and overall impact on students. (*Morrison, supra*, 1 Cal.3d at p. 229.) A charge of “evident unfitness for service” requires proof that the teacher is “clearly not fit, not adapted to[,] or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies. [It] 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.” (*Woodland Joint Unified School Dist. v. Com. on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) When considering such a charge, the *Morrison* factors “must be analyzed to determine, as a threshold matter, whether the cited conduct indicates unfitness for service.” (*Id.*, at p. 1445.) Only if the conduct demonstrates an unfitness for service does one proceed to the next step of determining “whether the ‘unfitness’ is ‘evident’; i.e., whether the offensive conduct is caused by a defect in temperament.” (*Ibid.*)

Causes for Discipline

8. Complainant established, by clear and convincing evidence, respondent engaged in unprofessional conduct by possessing not more than 28.5 grams of cannabis on school grounds, resulting in his December 2022 conviction for violating Health and Safety Code section 11357, subdivision (c)(1). Complainant also established, by clear and convincing evidence, respondent engaged in unprofessional conduct by providing cannabis to Jane Doe while on school grounds. Thus, cause

exists to discipline respondent's credentials based on his unprofessional conduct, pursuant to section 44421.

9. Complainant failed to establish, by clear and convincing evidence, respondent demonstrated an evident unfitness for service by possessing not more than 28.5 grams of cannabis on school grounds or providing cannabis to Jane Doe while on school grounds. Thus, cause does not exist to discipline respondent's credentials on the basis of an evident unfitness for service, pursuant to section 44421.

10. Complainant failed to establish, by clear and convincing evidence, respondent engaged in immoral conduct by possessing not more than 28.5 grams of cannabis on school grounds or providing cannabis to Jane Doe while on school grounds. Thus, cause does not exist to discipline respondent's credentials on the basis of immoral conduct, pursuant to section 44421.

11. Complainant failed to establish, by clear and convincing evidence, respondent committed acts involving moral turpitude by possessing not more than 28.5 grams of cannabis on school grounds or providing cannabis to Jane Doe while on school grounds. Thus, cause does not exist to discipline respondent's credentials on the basis of acts of moral turpitude, pursuant to sections 44421 and 44345, subdivision (e).

Appropriate Discipline

12. Discipline for unprofessional conduct can consist of private admonishment, public reproof, suspension of the credential, or revocation of the credential. (Ed. Code, § 44421.) As discussed above, when all the evidence is considered, a public reproof of respondent would adequately protect the public, students, and the profession.

ORDER

Respondent Jeffrey Collins Scott is PUBLICLY REPROVED.

DATE: December 9, 2024

A handwritten signature in blue ink, appearing to read "pdeguzmanhuber".

PATRICE DE GUZMAN HUBER

Administrative Law Judge

Office of Administrative Hearings