

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

In the Matter of the Accusation Against:

ADAM ALEXANDER, Respondent

Agency Case No. 2-437554747

OAH No. 2023100306

PROPOSED DECISION

Administrative Law Judge Coren D. Wong, Office of Administrative Hearings, State of California, heard this matter by videoconference on January 29 and 31, 2024, from Sacramento, California.

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

Respondent Adam Alexander represented himself.

Evidence was received, the record closed, and the matter submitted for decision on January 31, 2024.

FACTUAL FINDINGS

Jurisdictional Matters

1. The Commission issued respondent a preliminary career technical education teaching credential on March 7, 2018, which expired three years later. The Commission issued him another preliminary career technical education teaching credential on March 31, 2020, which expired the following year. The expiration of a credential does not deprive the Commission of jurisdiction to discipline the credential. (Ed. Code, § 44440, subd. (b).)

2. The Commission issued respondent a clear career technical education teaching credential on August 27, 2020. The credential includes authorizations to teach in the following industries: (1) arts, media, and entertainment; and (2) information and communication technologies. The credential expires September 1, 2025, unless renewed.

3. The Commission issued respondent a certificate of clearance on February 21, 2018. The certificate expired March 1, 2023, and has not been renewed. The term "credential" includes "a credential, certificate, life document, life diploma, permit, certificate of clearance, or waiver issued by the commission." (Ed. Code, § 44002.)

4. Complainant, solely in her official capacity, authorized the filing of the Accusation on a date not established by the evidence but no later than September 1, 2023. The Accusation seeks to revoke respondent's credentials based on his unprofessional conduct, evident unfitness for service, immoral conduct, and acts of moral turpitude when making inappropriate comments to other adults and filing a false online bullying complaint against another teacher.

Relevant Background

5. Respondent entered a Contract for Non-Tenured Certificated Employment with the Kerman Unified School District (District) on August 3, 2021 (Contract). He was hired "to fill a non-tenure track probationary opening on the [District's] certificated staff" at the beginning of the 2021/2022 school year. His employment continued until the earliest of the following: (1) notice of non-reemployment; (2) notice of termination due to reduction of services; (3) termination for cause; (4) loss or surrender of any credential required for employment; or (5) any other termination authorized by law.

6. Respondent taught CTE Computer Applications at Kerman High School. On May 18, 2022, he tendered his resignation from the District, effective at the end of the 2021/2022 school year. The District's governing board ratified respondent's resignation at its June 16, 2022 meeting. Prior to the Contract, respondent worked for the District as an information and technology network administrator.

7. Respondent's son was in seventh grade during the 2021/2022 school year. He played on an Amateur Athletic Union (AAU) basketball team. AAU is an amateur basketball league that governs club and travel basketball teams, as opposed to teams affiliated with schools. Tyler Morgan coached the team.

8. Mr. Morgan has taught U.S. History at Kerman High School for the last four years. He is also the head coach for the school's boys' basketball team. Mr. Morgan knew respondent as a work colleague and his son's basketball coach.

Alleged Misconduct

MARCH 26, 2022 INCIDENT

9. Respondent watched his son's AAU basketball game in Dinuba, California, on March 26, 2022. After the game, respondent began yelling at Mr. Morgan about the way he was coaching during the game. Respondent told Mr. Morgan he was a terrible coach and called him a "stupid asshole." Respondent then approached Mr. Morgan's father and yelled at him about the same issues. Mr. Morgan's father was able to calm respondent, and respondent eventually left. Other players and their families were present during respondent's interactions with Mr. Morgan and his father.

10. At hearing, Mr. Morgan clarified that he could not hear respondent's conversation with his father on March 26, 2022. However, Mr. Morgan saw the two of them talking to each other, could tell from their body language that they were arguing, and their voices were raised.

APRIL 30, 2022 INCIDENT

11. Respondent and his son's mother attended their son's AAU basketball game on April 30, 2022. After the game, respondent's son's mother approached Mr. Morgan aggressively and yelled profanities at him. She accused him of calling her son a liar and telling him he was a waste of space. Respondent was not part of the interaction.

12. Lee Ness is a teacher at Kerman High School. Prior to becoming a teacher, he was the school's resource officer. He knows Mr. Morgan as a fellow teacher, the school's boys' basketball coach, and a coach of an AAU basketball team.

Mr. Ness first met respondent when Mr. Ness was Kerman High School's resource officer.

13. Mr. Ness attended the April 30, 2022 basketball game. He was sitting in the bleachers when respondent's son's mother confronted Mr. Morgan after the game. He saw their interaction, but he could not hear what was being said. At some point, Mr. Ness saw respondent approach from the area where his son's mother and Mr. Morgan were talking. Respondent sat in the bleachers next to him. Respondent made the comment that he wanted to punch Mr. Morgan "in the mother fuckin [*sic*] face."

MAY 11, 2022 INCIDENT

14. Phil Suson is a retired teacher who taught at Kerman High School for 15 years. He knows respondent because they worked in the same department before Mr. Suson retired.

15. Mr. Suson was on Kerman High School's campus delivering trophies on May 11, 2022. Respondent saw him, approached, and immediately began "bad mouthing" Mr. Morgan. Mr. Suson asked what was going on, and respondent explained Mr. Morgan was a "shitty coach" and he wanted to "kick his ass." Mr. Suson walked away "flabbergasted." He sent an email reporting the incident to Matthew Toews, the school's principal.

MAY 12, 2022 INCIDENT

16. David Rico is one of Mr. Morgan's assistant basketball coaches for Kerman High School's boys' basketball team. He and Mr. Morgan were running an "open gym" for students to play basketball after school on May 12, 2022.

17. While students were present, respondent “stormed in the gym” and began yelling at Mr. Morgan, “You and me outside, right now, mother fucker! Let’s go, mother fucker!”

18. Respondent’s outburst caused Mr. Morgan to fear for his students’, Mr. Rico’s, and his safety. Mr. Morgan told respondent he could not talk to him that way in front of others. Respondent replied that he was “off the clock” and could do whatever he wanted. He then proceeded to yell “you mother fucker, let’s go!” three or four times.

19. Mr. Morgan repeatedly tried to calm respondent, convince him to leave the gym, and tell him his behavior was inappropriate. Respondent accused Mr. Morgan of kicking respondent’s son off the AAU basketball team. Mr. Morgan told respondent he did not know what he was talking about, and he had done no such thing. Respondent eventually “stormed out” of the gym.

20. Mr. Morgan reported the incident to Kerman High School’s administration because it occurred on campus and involved another teacher. Additionally, he felt uncomfortable being on campus with respondent.

MAY 16, 2022 MEETING

21. Mr. Toews has been Kerman High School’s principal for five years. He knows respondent, Mr. Morgan, and Mr. Suson because each teaches or taught at Kerman High School while he was the principal.

22. Mr. Toews first learned about the May 12, 2022 incident when Kerman High School’s athletic director reported it to him the following weekend. He was aware of the prior verbal altercations between respondent and Mr. Morgan, but he did not

initiate an investigation when he learned about them because they occurred off campus, during a non-school function, and on the weekend.

23. Mr. Toews met with Mr. Morgan on May 16, 2022, at 7:30 a.m. to discuss the incident with respondent that occurred four days prior. He met with respondent 30 minutes later. The meeting with respondent ended, and respondent left Mr. Toews's office "at or before" 8:30 a.m.

MAY 16, 2022 ONLINE BULLYING REPORT

24. The District has a link on its website for reporting bullying. When a user clicks the link, he is redirected to a website where he can input the details of his complaint and submit it online. Kerman High School has the same link on its website.

25. On May 16, 2022, at 9:22 a.m., Kerman High School received an online complaint alleging sexual harassment against Mr. Morgan. The complaint alleged "Mr. Morgan was roaming the room and was staring at my breasts, then licked his lips." This purportedly occurred "in class" on "May 10, 2022," at "12:00 a.m." The complaint identified the author as "Anonymous" and provided no telephone number. It identified the alleged victim as "Female Students in his class." It identified witnesses as "Multiple students [who] are aware of his disgusting habits."

26. Mr. Toews explained that the complaint was received during passing period. After being notified of the complaint, he contacted the District's information technology services department and requested an investigation into the source of the complaint because no author or alleged victim was identified. As a mandated reporter of sexual abuse, he wanted to know if there was an actual victim or student "in crisis."

27. Matthew Jones is the District's information and technology manager. He was assigned to investigate the source of the bullying report. Mr. Jones explained that an online bullying report is automatically timestamped by the District's computer network when it is submitted. He searched the network for all "traffic" to the website that hosts the online bullying report one hour before and after the complaint was received. The only traffic during that two-hour window originated from a computer in respondent's classroom that was logged into his account. Therefore, Mr. Jones concluded the online bullying report was submitted from respondent's computer.

Respondent's Evidence

RESPONDENT'S CORRESPONDENCE TO THE COMMISSION

28. On December 23, 2022, respondent sent correspondence to the Commission explaining, "The circumstance that has led me before you today is a low point in my life, in which I have learned tremendously since my resignation from the Kerman Unified School District in May." He attributed his misconduct to his failure to keep his "personal life" separate from his "business life." He expressed regret and remorse over his misconduct and described steps he has taken to avoid reoccurrence of any misconduct, such as no longer bringing his children to work.

29. Respondent described not being allowed to watch his students who were seniors walk during graduation ceremonies in 2022 as heartbreaking and "traumatizing." He also described the experience as "a lesson learned by myself." He acknowledged "letting [his students] down," and said the lesson "was truly life changing to me." He described helping others at his new school by providing graphic design and technological diagnostic services to staff and administrators. He also

helped several students in crisis, including convincing one not to use the weapon the student had brought to school.

30. Three months after his initial correspondence, respondent sent correspondence to the Commission that took on a different tone. He criticized the process of the Commission gathering witness statements and investigating him without sharing those statements or the progress of the investigation with him until it was completed. He described the witness statements as hearsay, false, and defamatory.

31. Respondent denied all wrongdoing. He also wrote:

I would also like to express my sincere apologies for intermixing my personal and business life. I understand that my actions were not in compliance with the standards set forth by the Commission, and I take full responsibility for my mistakes. I assure you that it was never my intention to compromise the integrity of the Commission or the teaching profession in any way. I deeply regret my actions and the impact they have had.

Respondent did not specify: (1) how he allowed his personal and business life to intermix; (2) what the consequences of having done so were; (3) the mistakes for which he took full responsibility; (4) how he may have compromised the Commission's or teaching profession's integrity; or (5) the actions he regretted.

32. Respondent explained he could not have sent the anonymous bullying incident report because he "was pulled from duty to speak with the principal at the

time the report was made by the student. As such, I was not in the room and could not have submitted the report.”

RESPONDENT’S TESTIMONY

33. Respondent denied all wrongdoing alleged in the Accusation. He explained Mr. Morgan engaged in behavior while coaching the March AAU basketball game that he did not appreciate. Specifically, respondent described Mr. Morgan getting in respondent’s son’s face and yelling at him after making a layup. He described Mr. Morgan’s face as turning “bright red.” Respondent also said Mr. Morgan was “crawling on the ground in disgust” because his team was losing.

34. Respondent waited for Mr. Morgan to release the players after the game and then approached and asked if Mr. Morgan did not like him. Mr. Morgan “blew him off,” and respondent walked away. On his way out of the gym, respondent saw Mr. Morgan’s father, shook his hand, and asked to discuss Mr. Morgan’s behavior with him. Mr. Morgan’s father agreed, and respondent described Mr. Morgan’s behavior during the game. Mr. Morgan’s father agreed the behavior described was inappropriate and said he would talk to his son. Respondent and Mr. Morgan’s father shook hands, and respondent went to his car “to take a breather.”

35. Respondent returned to the gym for the second game that day. He had no further interactions with Mr. Morgan or Mr. Morgan’s father. After the game, respondent and his son were eating at Taco Bell when Mr. Morgan called, apologized, and told respondent he was a “good guy” and he had no problems with him.

36. On April 30, 2022, Mr. Morgan purportedly pulled respondent’s son off the court and told him he was “a waste of space” during the AAU basketball game. Respondent’s son ran to his mother and grandmother in tears and told them what

Mr. Morgan had supposedly said. Respondent did not overhear Mr. Morgan's statement to his son or his son's subsequent conversation with his mother and grandmother.

37. It was respondent's understanding that his son's mother confronted Mr. Morgan over the alleged statement to their son. Respondent was not present for the confrontation, and he disclaimed all responsibility for his son's mother's conduct. He admitted being upset when he sat next to Mr. Ness in the bleachers because "I'm a human and a parent." He denied threatening Mr. Morgan.

38. Respondent spoke to Mr. Suson "to vent" about Mr. Morgan on May 11, 2022. The assistant principal was also present during the conversation. Respondent never cursed or threatened Mr. Morgan during the conversation.

39. On May 12, 2022, respondent's son walked into his father's classroom in tears because his AAU basketball teammates were making fun of him for getting kicked off the team. Respondent was "perplexed" because he had received a notification on his cell phone the night before that his access as a parent to the team's cell phone application was "removed." He told his son to wait in the classroom while he spoke with Mr. Morgan in the gym.

40. Respondent entered the gym as "a parent" and shouted out, "Hey, Mr. Morgan, we need to talk." He then asked to talk to Mr. Morgan outside. He raised his voice to get Mr. Morgan's attention because the air conditioning unit in the gym was on and was very loud.

41. Respondent asked Mr. Morgan about losing access to the team's cell phone application and his son being kicked off the team. Mr. Morgan said he did not

know what respondent was talking about. Respondent threw his hands up and left the gym. He never cursed during the interaction.

42. Respondent characterized May 16, 2022, as the day he was officially “dismissed” from his employment with the District. Mr. Toews called him into a meeting at 8:00 that morning. Mr. Toews said there was a “situation,” and he wanted to hear respondent’s side of the story. He did not say who reported the situation or that he had already spoken with Mr. Morgan. Mr. Toews ultimately told respondent the allegations against him were proven true.

43. Respondent adamantly denied submitting the anonymous online bullying report. Although he admitted to being “bummed out” after meeting with Mr. Toews, he said he was not so upset that he wanted to defame Mr. Morgan. Respondent was in the restroom in the administration building when the report was submitted.

44. Respondent posited he could not have submitted the report based on his background knowledge of computers. There was “no way” he would not have used a virtual private network if he wanted to submit a false complaint. Alternatively, he would have submitted it using his personal computer so it could not be traced.

45. Additionally, respondent explained he made it well known that his classroom was a “safe space” for all students. Additionally, he was the senior class advisor for the 2021/2022 school year. Therefore, there constantly were several students in his classroom. He had multiple computers and left them logged in to his work account throughout the day. He speculated that one of his students submitted the report using a computer in his classroom. Indeed, respondent said a teacher told him a student had approached that teacher in confidence and explained she may have

been involved in the anonymous complaint. Respondent reported the student's name to school administration at the time, but he could not recall it at hearing.

46. Lastly, respondent was extremely critical of the District for not producing video footage from Kerman High School's security cameras. According to him, the campus has numerous video cameras that record video and audio 24 hours a day. He was adamant that video footage of his conversation with Mr. Morgan in the gym would have shown he did not behave as alleged in the Accusation. He also insisted video footage from the area around his classroom would have proven he was not in his classroom when the anonymous bullying complaint was submitted. Respondent has never seen any such video footage, and he presented no evidence that it ever existed.

CHARACTER REFERENCES

47. Respondent submitted several character reference letters. None of the authors described the extent, if any, of his or her knowledge of the misconduct alleged in the Accusation. (See, e.g., *Seide v. Com. of Bar Examiners of the State Bar of Cal.* (1989) 49 Cal.3d 933, 940 [a witness's evaluation of another's good character carries less weight if the witness is unaware of the person's prior misconduct].) Indeed, several of the letters predated the issuance of the Accusation. Others were written in the context of recommending respondent for a job.

Analysis

CREDIBILITY OF WITNESSES

Respondent

48. Respondent claimed at hearing he was “dismissed” as a teacher with the District during his meeting with Mr. Toews before school on May 16, 2022. However, his correspondence to the District’s superintendent two days later established otherwise:

Please accept this letter as notice of my resignation from Kerman Unified School [District] effective July 31, 2022. Therefore, this means I will not be renewing my contract for the next school year.

This resignation will be an opportunity to allow me to advance my career and it would be absurd to not capitalize on this opportunity to move forward and to grow professionally and personally through my many talents in the job market.

Thank you again for the opportunity to work within the Kerman Unified School District.

You can call me at [redacted] if you have any questions or concerns regarding this resignation.

49. Gordon Pacheco, the District's Assistant Superintendent Personnel, acknowledged receipt of respondent's letter of resignation the following day. The District's governing board ratified respondent's resignation the following month.

50. Additionally, respondent explained he returned to his classroom to prepare for the day after meeting with Mr. Toews. It defies all credibility that respondent would be allowed to return to the classroom to prepare to receive his students for the day if he had been terminated.

51. Respondent previously told the Commission he could not have sent the anonymous bullying complaint because he "was pulled from duty to speak with the principal at the time the report was made by the student. As such, I was not in the room and could not have submitted the report."

52. The evidence established the report was submitted at 9:22 a.m. Respondent admitted at hearing that his meeting with Mr. Toews ended around 8:30 a.m. because respondent needed to be in his classroom by the "first bell." Mr. Toews provided a similar rationale for his recollection that respondent left his office "at or before" 8:30 a.m. The hearing testimony was more persuasive than respondent's correspondence to the Commission.

53. Lastly, respondent provided contradictory theories as to who submitted the anonymous complaint. On the one hand, he explained his classroom was a "safe space" for all students, he was the senior class advisor, and there constantly were students in his classroom, any one of whom could have used one of his computers which were left logged in to his account throughout the day. On the other hand, respondent said a teacher identified a student involved with submitting the complaint,

respondent provided the student's name to school administration, but he could not recall her name at hearing.

54. For the reasons discussed above, respondent was not a credible witness. His testimony was not believed to the extent it was not corroborated by other credible evidence.

Other Witnesses

55. Messrs. Morgan, Ness, Suson, Toews, and Jones each testified in a straightforward manner without any signs of bias or untoward motive. Mr. Rico's witness statement supplemented or explained Mr. Morgan's testimony describing respondent's behavior in Kerman High School's gym. There was no credible evidence any of the witnesses had an interest in the outcome of this matter. All six witnesses were credible.

ALLEGATIONS PROVEN

56. The clear and convincing evidence established respondent approached Mr. Morgan after an AAU basketball game in March 2022 and began yelling at him that he was a terrible coach and a "stupid asshole." Other families and children witnessed respondent's outburst. The following month, respondent told Mr. Ness he wanted to punch Mr. Morgan "in the mother fuckin [*sic*] face" after another basketball game.

57. The clear and convincing evidence established respondent made similar threats of violence against Mr. Morgan during a May 2022 conversation with Mr. Suson. Respondent approached Mr. Suson at Kerman High School and began talking poorly about Mr. Morgan. Mr. Suson asked what was going on, and respondent

replied that Mr. Morgan was a “shitty coach” and he wanted to “kick his ass.” The following day, respondent barged into Kerman High School’s gym while students were playing basketball, demanded Mr. Morgan go outside to talk, and called him a “mother fucker” multiple times. Mr. Morgan feared for his students’, assistant coach’s, and own safety.

58. Lastly, the clear and convincing evidence established respondent submitted the false anonymous online bullying report. Mr. Jones’s testimony about tracing the complaint back to a computer logged into respondent’s account and located in his classroom was undisputed, persuasive, and credible.

59. Respondent’s speculation that a student submitted the complaint from one of the computers in his classroom was tantamount to an affirmative defense, which he had the burden of proving. (See, e.g., *Seltzer v. Barnes* (2010) 182 Cal.App.4th 953, 969 [the party asserting an affirmative defense bears the burden of proof].) His testimony was the sole evidence supporting his theory. As previously discussed, respondent’s uncorroborated testimony was not credible.

60. Respondent’s argument that he would have known how to hide his identity if he wanted to submit a false complaint was premised on the assumption that he was thinking clearly and rationally when he submitted the complaint. He presented no credible evidence of such mindset, and the evidence of his behavior during the preceding two months suggested otherwise.

ALLEGATIONS UNPROVEN

61. Complainant did not produce clear and convincing evidence respondent approached Mr. Morgan’s father after an AAU basketball game in March 2022 and yelled at him. Mr. Morgan and respondent were the only witnesses who testified about

that allegation. Mr. Morgan admitted he could not hear the substance of his father's and respondent's conversation. Although respondent's description of the conversation was not credible, such lack of credibility does not constitute evidence in support of the allegation. (See *Hutchinson v. Contractors' State License Bd.* (1956) 143 Cal.App.2d 628, 632–633 [rejecting evidence of the negative of an issue does not constitute evidence of the affirmative of that issue].)

62. Although complainant produced evidence respondent's son's mother aggressively confronted Mr. Morgan and yelled profanities after the game in April 2022, such evidence is irrelevant. Complainant produced no evidence of respondent's involvement in that inappropriate conduct. Nor did she produce any evidence respondent was responsible for such conduct.

FITNESS TO TEACH

63. The Commission may take adverse action against a credential only when the underlying conduct demonstrates an unfitness to teach. (See *Broney v. Cal. Com. on Teacher Credentialing* (2010) 184 Cal.App.4th 462, 473.) The California Supreme Court has delineated factors for determining whether misconduct demonstrates an unfitness to teach. (See *Morrison v. State Bd. of Education* (1969) 1 Cal.3d 214, 229–230 [analyzing former Ed. Code, § 13202, predecessor to Ed. Code, § 44421].) The Commission adopted the *Morrison* factors by enacting California Code of Regulations, title 5, section 80302. "Only the pertinent *Morrison* factors need to be analyzed." (*Broney, supra*, 184 Cal.App.4th at p. 476.)

Likelihood of Adverse Effect

64. Mr. Suson was "flabbergasted" by respondent's threat against Mr. Morgan. Mr. Morgan was concerned for his students', assistant coach's, and own

safety during respondent's outburst in the gym. Mr. Morgan reported the incident because he no longer felt safe on the same campus as respondent. Respondent's misconduct adversely affected students and other teachers. (See Cal. Code Regs., tit. 5, § 80302, subd. (a)(1).)

65. Additionally, students are impressionable, and many try to emulate their teachers. Therefore, it is essential that a teacher's behavior be beyond reproach, and he be capable of exercising sound judgment. He must be even-tempered. Respondent's conduct in general did not meet these standards. It is irrelevant that no students testified to being adversely affected by respondent's conduct. The likelihood of an adverse impact is sufficient. (*Broney, supra*, 184 Cal.App.4th at p. 477 [the applicable *Morrison* criterion analyzes the likelihood of, not the actual, adverse impact].)

Proximity or Remoteness in Time

66. Respondent engaged in his misconduct less than two years ago. (See Cal. Code Regs., tit. 5, § 80302, subd. (a)(2).) Such misconduct was not too remote in time to warrant discipline. (See, e.g., *Broney, supra*, 184 Cal.App.4th at p. 477 [misconduct that occurred six years before the administrative hearing "was not remote in time"].)

Type of Credential

67. Respondent holds a valid clear career technical education teaching credential. (See Cal. Code Regs., tit. 5, § 80302, subd. (a)(3).) He is authorized to teach arts, media, entertainment, and information and communication technologies "in grades 12 and below, and in classes organized primarily for adults, including services to English learners in specially designed content instruction delivered in English, in career technical, trade or vocational courses which shall be part of a program of career

technical, trade or vocational education.” (Cal. Code Regs., tit. 5, § 80034.2, subd. (c)(2).) He also “may, with his . . . consent, serve as a substitute in grades 12 and below, and in classes organized primarily for adults, in technical, trade or vocational courses.” (Cal. Code Regs., tit. 5, § 80034.5, subd. (a).) As such, respondent could be assigned to teach younger students who are more impressionable and less able to distinguish between appropriate and inappropriate behavior.

Praiseworthiness or Blameworthiness

68. Respondent attributed his outbursts after the two AAU basketball games to his concerns about the effects Mr. Morgan’s coaching style had on the players and his concern for his son’s well-being. (See Cal. Code Regs., tit. 5, § 80302, subd. (a)(5).) He attributed his behavior in the gym to his confusion and concern about his son being kicked off his AAU basketball team. Though respondent’s concerns for the well-being of children and his desire to advocate for his son may be laudable, the methods he chose to express his concerns and advocate for his son were not.

Likelihood of Recurrence

69. Respondent demonstrated no insight into his misconduct. (See Cal. Code Regs., tit. 5, § 80302, subd. (a)(6).) Therefore, there is a greater likelihood of recurrence. (See *Singh v. Davi* (2012) 211 Cal.App.4th 141, 149 [describing a change in attitude as “[a]rguably the most important in predicting future conduct . . .”]; see also, *Seide v. Com. of Bar Examiners of the State Bar of Cal.* (1989) 49 Cal.3d 933, 940 [“Fully acknowledging the wrongfulness of his actions is an essential step towards rehabilitation”].)

Adverse Impact or Chilling Effect

70. A public school teacher has no constitutional right to employment, and his conduct is subject to reasonable supervision and restriction to ensure it does not negatively impact his performance or the teaching profession. (*Bd. of Education of the City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 556, overruled on different grounds by *Bekiaris v. Bd. of Education of the City of Modesto* (1972) 6 Cal.3d 575, 587, fn. 7 [the executive power to hire and fire is not absolute].) Additionally, threats of violence are not protected speech and fall outside the First Amendment's protection. (See *In re M.S.* (1995) 10 Cal.4th 698, 714.) Given the nature and extent of respondent's misconduct, disciplining his credentials does not adversely impact or have a chilling effect on his constitutional rights. (See Cal. Code Regs., tit. 5, § 80302, subd. (a)(7).)

LEGAL CONCLUSIONS

Applicable Burden/Standard of Proof

1. Complainant has the burden of proving the grounds for discipline alleged in the Accusation by clear and convincing evidence to a reasonable certainty. (*Daniels v. Dept. of Motor Vehicles* (1983) 33 Cal.3d 532, 536 [an administrative agency seeking to discipline a license has the burden of proving the grounds for discipline alleged in the accusation]; see *Gardner v. Com. on Professional Competence* (1985) 164 Cal.App.3d 1036, 1039–1040 [recognizing that the clear and convincing evidence standard applies to disciplining a teaching credential].) "The courts have defined clear and convincing evidence as evidence which is so clear as to leave no substantial doubt and as sufficiently strong to command the unhesitating assent of every reasonable mind [citations]. It has been said that a preponderance calls for probability, while clear

and convincing proof demands a *high probability* [citations]." (*In re Terry D.* (1978) 83 Cal.App.3d 890, 899; italics original.)

Applicable Law

2. The California Supreme Court has recognized that the terms "immoral conduct" and "unprofessional conduct" substantially overlap one another and that conduct which constitutes one, often includes the other. (See *Morrison v. State Bd. of Education, supra*, 1 Cal.3d 214, 221, fn. 9.) "Unprofessional conduct" includes "'that which violates the rules or 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, supra*, 41 Cal.2d 546, 553, quoting 66 Corpus Juris, p. 55.) In describing what constitutes "immoral conduct" within the context of the Education Code, the court in *Bd. of Education of San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, said:

In *Orloff v. Los Angeles Turf Club*, 36 Cal.2d 734, at page 740 [227 P.2d 449], the Supreme Court quotes with approval the following statement from Words and Phrases, permanent edition, volume 20, pages 159-160: "The term 'immoral' has been defined generally as that which is hostile to the welfare of the general public and contrary to good morals. Immorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable members of the

community, and as an inconsiderate attitude toward good order and the public welfare.”

3. The court in *San Diego Unified School Dist. v. Com. on Professional Competence* (2011) 194 Cal.App.4th 1454, said the following about the definition of immoral or unprofessional conduct:

Moreover, the 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.]

(*Id.*, at p. 1466.)

4. And while “conduct constituting ‘evident unfitness for service’ will often constitute ‘unprofessional conduct[,]’ . . . the converse is not true.” (*Woodland Joint Unified School Dist. v. Com. on Professional Competence* (1992) 2 Cal.App.4th 1429, 1445.) “‘Evident unfitness for service’ requires that unfitness for service be attributable to a defect in temperament — a requirement not necessary for a finding of ‘unprofessional conduct.’” (*Ibid.*)

5. The following has been said about the analysis for determining whether conduct constitutes sufficient cause for taking adverse action against a credential:

Goldsmith v. Board of Education, 66 Cal.App. 157, 168 [225 P. 783], quoted in *Board of Education v. Swan*, 41 Cal.2d 546, 553-554 [261 P.2d 261], found that the standards for judging the propriety of a teacher’s conduct, and the extent

to which that conduct may be the basis for the revocation of a credential, involves many aspects." . . . the teacher is entrusted with the custody of children and their high preparation for useful life. His habits, his speech, his good name, his cleanliness, the wisdom and propriety of his unofficial utterances, his associations, all are involved. His ability to inspire children and to govern them, his power as a teacher, and the character for which he stands are matters of major concern in a teacher's selection and retention."

(Moser v. State Bd. of Education (1972) 22 Cal.App.3d 988, 991.)

Cause for Discipline

6. The Commission shall discipline a credential for unprofessional conduct. (Ed. Code, § 44421.) Respondent engaged in unprofessional conduct when he yelled at Mr. Morgan after an AAU basketball game and in Kerman High School's gym, threatened to harm Mr. Morgan, and submitted a false online bullying complaint as discussed in Factual Findings 56 through 60. Such conduct demonstrates an unfitness to teach as explained in Factual Findings 63 through 70. Therefore, cause exists to discipline respondent's credentials pursuant to Education Code section 44421 for such conduct.

7. The Commission shall discipline a credential for immoral conduct. (Ed. Code, § 44421.) Respondent engaged in immoral conduct when he yelled at Mr. Morgan after an AAU basketball game and in Kerman High School's gym, threatened to harm Mr. Morgan, and submitted a false online bullying complaint as discussed in Factual Findings 56 through 60. Such conduct demonstrates an unfitness to teach as

explained in Factual Findings 63 through 70. Therefore, cause exists to discipline respondent's credentials pursuant to Education Code section 44421 for such conduct.

8. The Commission shall discipline a credential "for evident unfitness for service." (Ed. Code, § 44421.) Respondent demonstrated evident unfitness for service when he yelled at Mr. Morgan after an AAU basketball game and in Kerman High School's gym, threatened to harm Mr. Morgan, and submitted a false online bullying complaint as discussed in Factual Findings 56 through 60. Such conduct demonstrates an unfitness to teach as explained in Factual Findings 63 through 70. Therefore, cause exists to discipline his credentials pursuant to Education Code section 44421 for such conduct.

9. The Commission shall discipline a credential if the holder engaged in conduct that would have constituted cause to deny an application for a credential or to renew a credential. (Ed. Code, § 44421.) An application for a credential or to renew a credential may be denied for acts of moral turpitude. (Ed. Code, § 44345, subd. (e).) Respondent engaged in acts of moral turpitude when he yelled at Mr. Morgan after an AAU basketball game and in Kerman High School's gym, threatened to harm Mr. Morgan, and submitted a false online bullying complaint as discussed in Factual Findings 56 through 60. Such conduct demonstrates an unfitness to teach as explained in Factual Findings 63 through 70. Therefore, cause exists to discipline his credentials pursuant to Education Code section 44421 as that statute relates to Education Code section 44345, subdivision (e).

Conclusion

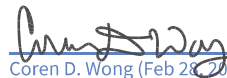
10. Cause exists to discipline respondent's credentials for the reasons explained in Legal Conclusions 6 through 9, individually and collectively. Respondent

did not introduce sufficient evidence of his continued ability to perform the duties and responsibilities of a public school teacher in a manner consistent with public health, safety, and welfare. Therefore, his credentials should be revoked.

ORDER

Respondent Adam Alexander's clear Career Technical Education Teaching Credential and all other credentials, certificates, and authorizations the Commission issued him are REVOKED.

DATE: February 28, 2024


Coren D. Wong (Feb 28, 2024 13:59 PST)

COREN D. WONG

Administrative Law Judge

Office of Administrative Hearings