

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

**In the Matter of the Second Amended Accusation Against:**

**JOSHUA ZAREK TAYLOR, Respondent**

**Agency Case No. 2-322369896**

**OAH No. 2023040579**

**PROPOSED DECISION**

Sean Gavin, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on October 23 through 26, 2023, from Sacramento, California.

Stephanie Alamo-Latif, Deputy Attorney General, represented Mary Vixie Sandy, Ed.D. (complainant), Executive Director of the California Commission on Teacher Credentialing (Commission).

Jonathan Turner, Attorney at Law, represented Joshua Zarek Taylor (respondent), who was present throughout the hearing.

Evidence was received and the hearing concluded on October 26, 2023. The record was held open for complainant to file a First Amended Accusation. Complainant did so, and the record closed. Thereafter, complaint moved to reopen the record to file a Second Amended Accusation to correct an omission in the First Amended

Accusation. Respondent did not oppose the request. The record was reopened and complainant filed a Second Amended Accusation. The First Amended Accusation, request to reopen the record, and Second Amended Accusation were marked as Exhibits 29 through 31, respectively, and admitted. The record closed and the matter was submitted for decision on November 3, 2023.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On June 1, 2009, the Commission issued respondent a Clear Multiple Subject Teaching Credential, which will expire on July 1, 2024, unless renewed.

2. Respondent previously held an Emergency 30-day Substitute Teaching Permit, issued on February 7, 2003, which expired on June 1, 2005. Respondent also previously held a Preliminary Multiple Subject Teaching Credential, issued on August 26, 2005, which expired on September 1, 2010.

3. On November 3, 2023, complainant, acting in her official capacity, filed the Second Amended Accusation (Accusation) against respondent. Complainant seeks to revoke all credentials, certificates, and authorizations issued to respondent, based on his alleged unprofessional conduct, immoral conduct, evident unfitness for service, and commission of acts involving moral turpitude while working as a teacher at Walter E. Woodward Elementary School (Woodward), in the Manteca Unified School District (the District). The Accusation alleged respondent was tardy to work several times between August 2018 and February 2021, was unfit to teach on two days in November 2020 and February 2021, and had suspicious and unauthorized items in his pockets and desk in February and June 2021.

4. Respondent filed a Notice of Defense. This hearing followed.

## **Complainant's Evidence**

### **RESPONDENT'S TARDINESS**

5. In the 2018-2019 school year, respondent taught fourth grade at Woodward. Classes started at 8:30 a.m. Woodward required teachers to open their classrooms by 8:15 a.m. to greet students and prepare to begin teaching at 8:30 a.m.

6. As of September 2018, Christine Benson was Woodward's Vice Principal. On September 19, 2018, she gave respondent a letter of warning for being late to work. She identified four days between August 23 and September 18 on which respondent did not open his classroom by 8:15 a.m. She explained "[t]his negatively impacts your students as it is impossible that you could be ready to greet students for the day and be prepared to teach when you are walking into class with them as the bell rings." She also noted respondent's "tardiness sets a very poor example for your students." She concluded her letter, "I am directing you to arrive to work within the parameters of your contract and by at least 8:15 a.m. each day."

7. As of January 2020, Sherrie Jamero was Woodward's Principal. On January 10, 2020, she gave respondent a letter of reprimand for failing to attend the full day of a staff development training known as "EdCon." In the letter, she noted she and Ms. Benson worked the sign-in desk for teachers between 7:30 a.m. and 8:00 a.m. When respondent had not signed in, they stayed until 8:30 a.m., but respondent did not arrive by then. Ms. Jamero emailed respondent to ask why he had neither signed in nor entered his absence in Frontline, the District's attendance management platform. Respondent did not reply. Ms. Jamero did not see or hear from him until he arrived a few minutes after the afternoon session started at 12:30 p.m. When Ms.

Jamero asked respondent if he attended the morning keynote speaker session, respondent replied he "caught the tail end of it."

8. In her letter, Ms. Jamero noted she and Ms. Benson met with respondent in August 2019 to review Woodward's expectation that respondent would arrive to work on time. Based on his ongoing tardiness, Ms. Jamero notified him that, starting January 13, 2020, he was to sign in at the school office when he arrived each morning.

9. Between January 13 and March 13, 2020, respondent signed in at Woodward's front office each day he arrived at work. He signed in late on 22 of the 36 school days during that period.

10. In the 2020-2021 school year, respondent taught sixth grade at Woodward. Classes started at 8:00 a.m. Due to COVID-19 restrictions, Woodward held classes virtually. Woodward required teachers to be on campus by 7:45 a.m. to prepare to begin teaching by 8:00 a.m. The first day of school was August 6, 2020.

11. As of July 2020, Sandy del Mundo was Woodward's new Vice Principal. On July 31, 2020, she sent respondent an email to introduce herself and to remind him of his responsibility to be on time. She wrote, in relevant part, "It is your professional responsibility to ensure that you are prepared for instruction by 8:00 a.m. on Thursday, August 6th." She continued, "If you are not able to attend or complete your professional responsibilities, please make sure you enter in your leave in Frontline."

12. On August 6, 2020, Ms. del Mundo gave respondent a letter of reprimand for being late to work that day. She wrote, in relevant part, "You failed to be on campus by 7:45 a.m. on August 6, 2020. You started your on-line session at 8:03 a.m." She also noted parents contacted the administration on August 5 and 6 to complain respondent had not communicated with them about how their children could access

class information. She explained respondent's tardiness was an ongoing problem that violated the teachers' collective bargaining agreement. She further wrote:

Failing to communicate with parents impacts their families' schedules and understanding of the educational process. Your tardiness impacts the instructional program of your students. During distance learning, the expectation is that students will be logged on and ready to learn at 8:00 a.m. It is the teacher's professional obligation and responsibility to be ready to start class at 8:00 a.m. It is important to ensure that students start with a positive note at the beginning of the school year.

13. Based on respondent's tardiness, Ms. del Mundo notified him that, from August 7 through October 9, 2020, he was to "report immediately to the office by 7:45 a.m. each morning," where he would sign in with his arrival time. He signed in late on at least 20 of the 41 school days during that period. (Many of the entries are illegible).

14. On November 5, 2020, Ms. Jamero gave respondent a letter of reprimand for tardiness. She noted respondent was late to work on November 2 and 4, 2020. She summarized his past reprimands for tardiness and warned, "Your tardiness impacts the instructional program of your students. During distance learning, the expectation is that students will be logged on and ready to learn at 8:00 a.m. It is the teacher's professional obligation and responsibility to be ready to start class at 8:00 a.m."

15. Ms. Jamero reminded respondent, "Beginning Monday, November 16th, the intermediate students will be on campus to arrive at your classroom between 7:45-7:50 AM." As a result, she explained, "Effective Friday, November 6, 2020, you will

report directly to your classroom by 7:45 a.m. each morning. You are directed to call our office manager . . . and let her know you are in your classroom. She will document the call and time of call each day until Friday, December 18th."

16. As of January 2021, Heather Thomson was Woodward's new Principal. On January 26, 2021, she emailed respondent to thank him for notifying the office he would be late to work that day, but also to counsel him to leave substitute teacher lesson plans readily accessible in his classroom. Ms. Thomson covered respondent's class until he arrived that day, but she was unable to find any substitute teacher lesson plan in his classroom. She also wrote, "Prior to my arrival at Woodward the practice was that you were to call the office once you got to your classroom to let them know that you are here. Moving forward we will be putting this step back into practice."

17. On February 3, 2021, Ms. Thomson emailed respondent to arrange a meeting to discuss his ongoing tardiness. She noted that on January 28 and 29 and February 1 and 2, 2021, he telephonically checked in with the office after 7:45 a.m. She wrote, "My concerns continue and we will need to meet. The agreement was you would be in your classroom calling at 7:45 and that has not been accomplished yet. There still aren't lesson plans and your room is disorganized. [Ms. del Mundo] and I will meet with you on Thursday."

### **RESPONDENT'S BEHAVIOR ON NOVEMBER 2, 2020**

18. In early November 2020, Woodward held its sixth grade classes virtually. On November 2, 2020, parents of two of respondent's students contacted the administration to complain about respondent's demeanor while teaching. The parents reported respondent appeared to be falling asleep and drooling.

19. In response, Ms. Jamero and Ms. del Mundo logged into respondent's class session and observed him. They also observed respondent falling asleep and drooling. They then went to his classroom to talk to him in person. During their conversation, they confirmed their belief that respondent was unfit to teach and should be removed from the classroom. They asked him to tell the students he would be leaving for the day and a substitute teacher would conclude their instruction. He did so, telling the students, "They are saying I am unfit because parents are complaining. I am surprised and not happy about it. The principal and vice principal are saying I am unfit, so I have to listen to them."

20. Complainant submitted a recording of the relevant portion of respondent's class session on November 2, 2020. For approximately 30 minutes, respondent dozed, drooled, and was confused and unresponsive to his students' questions. At one point while apparently sleeping, he spontaneously said, "You guys, if the song says 'do not, like, do this,' that means 'do not do that.'" Several times, the students asked what they were supposed to be doing.

21. On November 5, 2020, Ms. Jamero gave respondent a letter of reprimand for his conduct on November 2. She informed him, among other things, "It is your professional responsibility to be ready to teach every day and conduct yourself in a way that promotes a positive culture in your classroom. This was not the case on Monday, November 2, 2020. Involving your students in the conversation regarding your inability to teach on this day, is also unprofessional." She warned respondent:

Effective immediately, I am directing you to complete the following tasks:

Be present at your classroom door, each day/on time, ready to accept students in your classroom or online when implementing Distance Learning.

Provide a positive classroom atmosphere to encourage student engagement.

Be prepared with lesson plans for a substitute if you are not feeling well or fit to teach for the day and require a substitute.

### **RESPONDENT'S BEHAVIOR ON FEBRUARY 4, 2021**

22. On February 10, 2021, Ms. Thomson gave respondent a letter of reprimand for unsatisfactory performance and having dangerous items on campus on February 4, 2021. She wrote, in relevant part:

On February 4th, 2021, Mrs. Del Mundo and I were assisting a student on the playground and notice[d] that your classroom door was not opened at 12:10 to receive students as agreed upon in our mitigation plan. The office called your classroom, but you didn't answer your classroom phone. At 12:20 there was an all call for you to come to your classroom. A minute later you opened your classroom door. You were sweating, you dropped your mask, and your pants were below your bottom exposing your underwear to students and staff. At this point Mrs. Del Mundo and I entered your classroom.



23. Ms. Thomson further noted that, once inside the classroom, she and Ms. del Mundo observed respondent had “great difficulty determining where to start the lesson,” began the lesson late, and lacked a clear teaching objective. Ms. Thomson observed he seemed disorganized and unprepared, reacted slowly, and was distractable. She and Ms. del Mundo were concerned respondent was under the influence of drugs or alcohol or experiencing a medical problem. They determined he was unfit to teach and Ms. del Mundo took over instructing his students.

24. Ms. Thomson and Ms. del Mundo testified at hearing consistent with one another and with the letter of reprimand. Ms. Thomson further explained she and respondent next went to the administration office, where they met with the District’s Director of Certificated Personnel, Dante Alvarez, Ed.D., and Woodward’s School Resource Officer (SRO). (An SRO is a police officer assigned to a local campus.) The SRO searched respondent’s pockets and found a folding pocketknife and two lighters. Respondent explained he had the knife for personal security. Based on their own observations and the SRO’s stated opinion, Woodward’s administrators believed respondent was unsafe to drive himself home, so they asked him to arrange for a ride. Respondent’s parents picked him up approximately two hours later. While Ms. Thomson and Dr. Alvarez waited, they continued to talk with respondent. They noted he drifted in and out of sleep during these discussions.

### **ITEMS FOUND IN RESPONDENT’S CLASSROOM ON JUNE 15, 2021**

25. On June 15, 2021, custodians cleaned out several classrooms after the end of the school year. In respondent’s classroom, they found a vape pen near his desk chair. The custodians contacted administration. Ms. Thomson and Ms. del Mundo went to respondent’s classroom. To ensure there were no other unauthorized items left behind, they searched the desk and surrounding area. On a nearby bookshelf, they

found a narrow strip of aluminum foil with a crusted burnt residue on it. Inside the desk, which did not have a lock on it, they found matches, prescription nasal spray, and two packs of buprenorphine-naloxone sublingual films, a prescription medication.

26. Most of the text on the buprenorphine-naloxone packets had been covered by Wite-Out or similar white correction tape. Ms. Thomson and Ms. del Mundo scratched off the tape to determine the packets' contents. They photographed the packets. In addition to the name and dose of the medication, the tape had also covered the phrase "Rx only" and the warnings, "Children who accidentally take buprenorphine and naloxone sublingual film will need emergency medical care" and "Keep buprenorphine and naloxone sublingual film out of the reach of children."

### **RESPONDENT'S RESIGNATION FROM THE DISTRICT**

27. Based on respondent's conduct, the District prepared legal paperwork to terminate his employment. On August 10, 2021, respondent and the District signed a contract agreeing the District would place him on unpaid administrative leave until June 30, 2022, at which time his resignation would become effective. He has not worked anywhere else since his resignation.

### **Respondent's Evidence**

28. Respondent testified he always wanted to be a teacher and believed he was "following in the family footsteps." Several family members, including his father, were teachers. After receiving his credential in 2009, he began teaching at Woodward in the 2010-2011 school year. He taught sixth grade his first year, fourth grade the next eight years, and sixth grade his last year. He believes he is a good teacher and submitted evaluations and notes from students to support his opinion.

29. In respondent's evaluations, from April 2018 and April 2020, Ms. Benson rated him as "meets expectations" in all six categories, including "developing as a professional educator." That category covered, among other skills, being on time. In 2018, Ms. Benson noted "[respondent] is working to meet his professional responsibility of being on campus at least 15 minutes before school starts and attend all required meetings on time." In 2020, she noted, "[respondent] still struggles with time management at times. He does not always respond in a timely way to email communications from parents, staff, and administration in a timely manner. However, [respondent] has made progress in these areas this school year."

30. At hearing, respondent acknowledged he was occasionally late to class. He lived far from campus and often struggled to plan his commute around unpredictable freeway traffic. In addition, when the administration required him to sign in at the office, doing so delayed him more. He understood Woodward required teachers to be in their classrooms at least 15 minutes before class started, but teachers did not teach in that time. Rather, students ate their breakfast in class and teachers finalized their daily preparations. Respondent often stayed late after school, sometimes for hours, to prepare for the next day. Therefore, he did not need the extra 15 minutes in the morning to prepare. Even when he was late to campus, he rarely began class after the scheduled time. When he was forced to begin class late, he arranged for a coworker to supervise his students. He submitted a September 2018 letter from a colleague who confirmed he asked her to cover his class on August 23, 2018, so he could use the bathroom.

31. Regarding the January 2020 "EdCon" staff development training, respondent denied being late or missing any part of the scheduled sessions. Rather, when he arrived, he saw and chatted with his former administrator. She told him he

could attend the daily sessions in any order and was not required to follow the schedule for Woodward personnel. He followed her guidance and attended with the District's high school science teachers, with whom he was friendly. He denied telling Ms. Jamero he only saw "the tail end" of the keynote address.

32. Regarding his behavior on November 2, 2020, respondent denied any wrongdoing. He noted the video excluded the first approximately two hours of his teaching that day. He explained, when the video began, he was not providing "direct instruction," but giving students a chance to catch up on missing assignments or their morning work. He said the students could only see his face if they actively "switched over" to view his camera. Otherwise, the students' screens would show the assignment. While the students worked, respondent was "just checking stuff in" and monitoring the online chat.

33. Respondent acknowledged he was tired and slightly falling asleep. He explained he was not sleeping a lot at night. His brother died unexpectedly in early November 2019, and respondent was depressed and overwhelmed as the first anniversary approached. Additionally, in September he started taking a new medicine (olanzapine), which made him tired. At first, respondent's doctor instructed him to take one tablet in the morning, but after respondent reported drowsiness, his doctor told him to take it in the evening instead. Finally, respondent explained he dozed off because he lacked stimulation in the warm and stuffy classroom.

34. Regarding his conduct on February 4, 2021, respondent explained he opened his classroom late after lunch because he spilled a soda and was cleaning the mess. He heard knocking on the door but before he could open it, his classroom phone rang. He left the door area to answer the phone, then finally opened the door. As a joke, he was wearing a monkey mask over his regular mask, but it fell down.

When he bent to get it, his shirt lifted and showed his underwear. Later, he bought longer shirts so that would not happen again. He explained he was sweating as a side effect of a new medicine he recently started taking. He submitted a letter from the doctor who prescribed the medicine. The doctor wrote, "due to his current medications it [sic] causes him to sweat during the day." According to the letter, respondent started seeing that doctor on March 11, 2021. Finally, respondent denied falling asleep while talking with Ms. Thomson and Dr. Alvarez. Rather, he was looking at the ground because he had nothing left to say to them.

35. Respondent explained he carried the pocketknife for personal protection because he often walked to his car after dark. He brought the knife to school every day and used it "all the time" when students were not present. No one from the District had ever told him he could not have a knife on campus.

36. Respondent had the lighters in his pocket because he smoked cigarettes. He never smoked on campus or on his breaks. Instead, he chewed nicotine gum. He sometimes used the lighters for science experiments. No one from the District ever warned him not to bring lighters on campus.

37. Regarding the items found in his classroom in June 2021, respondent explained he cleaned out his class the first week of June, after the school year ended. His vape pen fell out of his pocket when he used a foam rolling device to stretch his back on the floor. He inadvertently left behind the other items found in his desk. The matches were for science experiments. He brought the buprenorphine-naloxone packs to school after a doctor prescribed them for back pain. He put them in his desk so they would not get hot in his pocket. He initially said the desk was locked, but on cross-examination admitted it did not have a lock. Rather, the drawer was partially stuck and therefore difficult to open. He used white correction tape on the packs to hide any

information about what was in them. He has no knowledge of what substance was in the aluminum foil or its origins.

38. Respondent has attended grief counseling and therapy regarding his brother's death. He feels more emotionally stable and is sleeping better. He has seen the same doctor since summer 2022 and plans to continue seeing her. He now uses three medications that help him manage his depression and other health conditions. He submitted a letter from the doctor, which states she diagnosed him with a "severe episode of recurrent major depressive disorder and generalized anxiety disorder." She concluded:

I have completed my evaluation based on clinical interview.

[Respondent] appears to be in stable condition and is compliant with medications. I do not believe that [respondent] is a danger to the public or as a teacher as he has never expressed any suicidal or homicidal ideations or presented with any psychotic symptoms. Finally, I do not believe [respondent] to have any current substance abuse disorders based on clinical interview and patient report.

### **RESPONDENT'S WRITTEN REBUTTALS TO REPRIMANDS**

39. After most of the letters of warning or reprimand from the District, respondent explained his actions in writing. Regarding the September 2018 letter of warning for being late, respondent explained he needed to use the bathroom urgently because of a medical issue. He asked a coworker to watch his students, which she did.

40. In response to his reprimand for being late on August 6, 2020, respondent explained his policy was to give students a five-minute grace period

before being marked tardy for class. He logged in at 8:03, which was within his own grace period, so he was not late. He also explained he communicated with parents, which explained why so many of his students were able to join the class session on time. Finally, he complained he was transferred to sixth grade on short notice, which did not provide enough time to resolve technological problems with his class roster.

41. Regarding his reprimand in November 2020 for ongoing tardiness, he blamed “poor traffic control” at the school. Specifically, students were resuming in-person instruction, and the roads and parking lot were jammed. He noted many other teachers were late for the same reasons.

42. To explain his actions on February 4, 2021, respondent wrote he was sweating because he wore two masks and “hustled to the door” after cleaning up a spilled soda. He accidentally exposed his underwear when he briefly bent to pick up one of the masks he had dropped. Once class began, he believed the lesson was going well. He instructed the students who, in his opinion, were engaged with the material.

43. Once respondent was questioned in the office, he explained he was feeling fine. The SRO gave him field sobriety tests and opined he had a slow reaction time and constricted pupils. Respondent wrote in his response letter, “During this time, I did not feel that I had slurred speech or was off balance or any other signs of impairment. In fact, the two indicators that were sighted by the officer (slow reaction time and constricted pupils) can be explained by the fact that my pupils were constricted from the fluorescent lights in the office and I purposely slowed my reaction time as I felt I was nervous and would go too fast.” After more than an hour, respondent felt “utterly beat down” and put his head down as he waited for his parents to arrive.

## CHARACTER EVIDENCE

44. Respondent's father, Mark Taylor, testified and submitted a letter of support. He was a teacher and administrator for 37 years. After respondent graduated from college, Mr. Taylor asked him to mentor a student with autism. Respondent connected exceptionally well with the student. Soon after, respondent decided to pursue his own teaching credential.

45. After Mr. Taylor retired in 2010, he occasionally volunteered in respondent's classroom. Based on those experiences, he believes respondent managed his classes well, monitored his students appropriately, and adjusted his instruction to his students' needs. He also believes respondent is a responsible man with "a very strong moral compass."

46. After respondent's brother died, respondent "wasn't quite as spunky" or happy. Since seeing a new psychiatrist, respondent is "more on top, lucid, and happy" than he had been.

47. Mr. Taylor and his wife picked up respondent from Woodward on February 4, 2021. Mr. Taylor observed respondent's energy seemed depleted. Respondent seemed "shell-shocked" and Mr. Taylor could tell "something was really wrong" with him. Respondent uncharacteristically cried. Mr. Taylor did not know any details, but could tell "something happened, and it wasn't good."

48. Mr. Taylor believes respondent has "learned quite a bit" and "had a wake-up call." Respondent has expressed remorse about his tardiness. Mr. Taylor did not share other specifics about how respondent's attitude has changed.



49. Respondent submitted four additional character reference letters from family and friends. His mother noted he was deeply affected by his brother's death. He was also isolated from COVID-19 restrictions and his life lacked normalcy. Respondent's uncle, who taught elementary school for 30 years, believes he is an exemplary teacher. His uncle praised his open communication with parents, transparency in the classroom, outgoing personality, and classroom management skills. Respondent's friend, who has been a high school teacher for 16 years, described him as honest, trustworthy, compassionate, and true to his word. Respondent's mentor, who has been a special education teacher for 35 years, praised his devotion to his students and to the teaching profession in general.

## **Analysis**

50. Resolving this case is a two-step process. First, the factual disputes must be resolved to establish respondent's conduct. Second, that conduct must be analyzed to determine whether it indicates unfitness to teach.

### **RESPONDENT'S CONDUCT**

51. Complainant proved respondent was frequently late to campus over several months spanning multiple school years. He received multiple warnings and reprimands.

52. Complainant proved that, for over approximately 30 minutes of classroom instruction on November 2, 2020, respondent fell asleep multiple times, drooled, was inattentive and unresponsive to student questions, and was unable to direct the students toward any recognizable objective. Respondent's explanations for his behavior, including his reaction to prescription medication, is addressed in the section below regarding his fitness to teach.

53. Complainant also proved that on February 4, 2021, respondent was late reopening his classroom, was unkempt, and fell asleep while discussing his behavior afterwards. Ms. Thomson and Ms. del Mundo credibly testified respondent did not reopen his classroom after lunch until staff called the room and made a campus-wide announcement. They also credibly described respondent's disheveled physical appearance when he opened the door. Ms. Thomson and Dr. Alvarez credibly described respondent's behavior during their discussion with him in the office, including that he appeared to be falling asleep during their conversation.

54. Finally, complainant proved respondent brought unauthorized items to campus multiple times. Specifically, he brought a knife and two lighters to campus on February 4, 2021, brought a vape pen into his classroom in June 2021, and kept matches and two packs of buprenorphine-naloxone sublingual films in his unlocked desk for an extended timeframe.

### **FITNESS TO TEACH – *MORRISON* FACTORS**

55. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, the California Supreme Court concluded a teaching credential cannot be disciplined for immoral conduct, unprofessional conduct, or conduct involving moral turpitude "unless that conduct indicates that the [educator] is unfit to teach." (*Id.* at p. 229.) The Court outlined factors to consider when determining whether conduct demonstrates unfitness to teach, and the Commission adopted those factors by enacting California Code of Regulations, title 5, section 80302.

### **Likelihood of Adverse Effect on Students or Other Teachers**

56. On the two occasions respondent had to be removed from his classroom, his behavior deprived his students of valuable learning time and forced the

administration to arrange for someone else to fill in for him. More than once when he was late, others had to step in to supervise his students. In addition, his conduct set a bad example and reflected poorly on him individually and on teachers generally. "A teacher [. . .] in the public school system is regarded by the public and pupils in the light of an exemplar, whose words and actions are likely to be followed by the children coming under [his] care and protection." (*Bd. of Education v. Swan* (1953) 41 Cal.2d 546, 552.)

57. Moreover, respondent endangered the students when he brought a knife, two lighters, matches, a vape pen, and dangerous prescription medication to his classroom. More alarmingly, he used correction tape to obscure the label on the buprenorphine-naloxone packets that warned children not to take the medicine and advised any who did would need emergency medical care. He then stored the packs in his unlocked desk. He said his desk was locked, but later admitted it was simply difficult to open.

### **Type of Credential Held**

58. Respondent's credential authorizes him to teach students in an impressionable and vulnerable age range. Therefore, it is even more imperative that he possess sound judgment and exemplify the type of behavior society wants students to emulate.

### **Extenuating or Aggravating Circumstances**

59. Neither the Education Code nor the Commission's regulations define "extenuating circumstances." However, a "mitigating factor" is "an event or circumstance which demonstrates that the public, schoolchildren and the profession would be adequately protected by a more lenient degree of adverse action or no

adverse action whatsoever.” (Cal. Code Regs., tit. 5, § 80300, subd. (m).) Mitigating factors can include an individual’s emotional or physical difficulties, but only if he proves he no longer has such difficulties. (*Id.* at subd. (m)(3).)

60. Here, respondent partially attributed his behavior on November 2, 2020, to his depression and related insomnia regarding his brother’s death. However, to the extent those circumstances contributed to emotional or physical difficulties, he did not prove those difficulties no longer exist. He also attributed his behavior to his reaction to prescription medication. However, he began taking the subject medication weeks before November 2020. He did not prove using medication was a mitigating factor.

61. Respondent also attributed his profuse sweating on February 4, 2021, to a new medication. That explanation was unpersuasive because he did not begin to see the doctor who prescribed that medication until the next month. Moreover, respondent’s conduct in February 2021 went well beyond merely sweating excessively.

62. On the other hand, an “aggravating factor” is “an event or circumstance which demonstrates that a greater degree of adverse action for an act of professional misconduct is needed to adequately protect the public, schoolchildren or the profession.” (Cal. Code Regs., tit. 5, § 80300, subd. (b).) Here, respondent’s multiple acts of wrongdoing, which demonstrate a pattern of misconduct, constitute an aggravating factor. (*Id.* at subd. (b)(2).) Similarly, respondent had prior warnings and reprimands about arriving on time, being prepared to teach, and not bringing unauthorized items to school. (*Id.* at subd. (b)(6).) Finally, obscuring the warning label on dangerous medication that children could have accessed demonstrated an indifference to the consequences of his misconduct. (*Id.* at subd. (b)(5).)

## **Praiseworthiness or Blameworthiness of Respondent's Motives**

63. Respondent bears the sole blame for his conduct. Although respondent attempted to justify and excuse being late, falling asleep in class, and bringing unauthorized items to school, he knew or should have known the rules governing his profession and behavior.

## **Likelihood of Recurrence**

64. Respondent lacks insight into his misconduct and its causes. Without fully appreciating the reasons for his past misconduct, respondent cannot demonstrate he is unlikely to engage in similar misconduct in the future. Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Exam'rs* (1989) 49 Cal.3d 933, 940.) Respondent has not achieved this essential step because, apart from being late occasionally, he does not believe he did anything wrong. As a result, any assurances that he would not repeat his misconduct are unpersuasive.

## **Possible Chilling Effect on Constitutional Rights of Others**

65. Neither party presented evidence about the possibility of a chilling effect on any person's constitutional rights. Given the nature of the allegations, such an effect is unlikely.

## **Publicity or Notoriety of Respondent's Conduct**

66. Respondent's tardiness and classroom behavior conduct were not private. Rather, his students, more than one of their parents, and his colleagues knew of, and often were directly affected by, his behavior.

## **Conclusion**

67. As discussed above, complainant proved respondent engaged in the misconduct alleged in the Accusation. Complainant further proved, after applying the *Morrison* factors, that respondent's conduct indicates his unfitness to teach. Therefore, cause exists to discipline his credential. In light of the serious and repeated nature of his conduct, coupled with the lack of rehabilitation evidence, respondent's credential should be revoked.

## **LEGAL CONCLUSIONS**

1. Complainant bears the burden to prove the grounds for disciplining respondent's credential by clear and convincing evidence to a reasonable certainty. (*Daniels v. Dept. of Motor Vehicles* (1983) 33 Cal.3d 532, 536; *Gardener v. Comm'n. on Professional Competence* (1985) 164 Cal.App.3d 1036, 1039-1040.) "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.)

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 of ethical code of a profession or such conduct which is unbecoming a member of a profession in good standing.'" (*Bd. of Education v. Swan*, *supra*, 41 Cal.2d at p. 553; quoting, 66 Corpus Juris, p. 55.) In describing what constitutes "immoral conduct" within the context of the Education Code, the court in *Board of Education of San Francisco Unified School District 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."

(*Id.*, at p. 811.)

3. The court in *San Diego Unified School District v. Commission 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 the following has been said about the analysis for determining whether particular 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.)*

5. The Commission may discipline a credential based on the holder's unprofessional conduct. (Ed. Code, § 44421.) As discussed above, complainant established by clear and convincing evidence that respondent engaged in unprofessional conduct when he was habitually late to work, was unfit to teach, and brought dangerous and unauthorized items to school. On that basis, cause exists to discipline respondent's credential pursuant to Education Code section 44421.

6. The Commission may discipline a credential based on the holder's immoral conduct. (Ed. Code, § 44421.) As discussed above, complainant established by clear and convincing evidence that respondent engaged in immoral conduct when was unfit to teach and brought dangerous and unauthorized items to school. On that basis, cause exists to discipline his credential pursuant to Education Code section 44421.

7. The Commission may discipline a credential based on the holder's evident unfitness for service. (Ed. Code, § 44421.) As discussed above, complainant established by clear and convincing evidence that respondent was habitually late to work, was unfit to teach, and brought dangerous and unauthorized items to school, all of which collectively demonstrated his evident unfitness for service. On that basis, cause exists to discipline respondent's credential pursuant to Education Code section 44421.

8. The Commission may discipline a credential "for any cause that would have warranted the denial of an application for a credential or the renewal thereof." (Ed. Code, § 44421.) An application for a credential may be denied if the applicant "has


committed any act involving moral turpitude.” (Ed. Code, § 44345, subd. (e).) As discussed above, complainant established by clear and convincing evidence that respondent committed acts involving moral turpitude when he was unfit to teach and brought dangerous and unauthorized items to school. On that basis, cause exists to discipline his credential pursuant to Education Code section 44421, as that statute relates to Education Code section 44345, subdivision (e).

9. Cause exists to discipline respondent’s credential for the reasons explained above, both individually and collectively. When all the evidence is considered, there was insufficient evidence of rehabilitation or respondent’s continued fitness to perform the duties authorized under his credential, even on a probationary basis. Therefore, his credential should be revoked.

## **ORDER**

The Clear Multiple Subject Teaching Credential, and all other credentials, certificates, and authorizations issued to respondent Joshua Zarek Taylor by the Commission, is REVOKED.

DATE: December 5, 2023

  
Sean Gavin (Dec 5, 2023 08:20 PST)  
**SEAN GAVIN**

Administrative Law Judge  
Office of Administrative Hearings