

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

In the Matter of the Accusation against:

Anna Van Loon, Respondent

Agency Case Nos. 1-748409982 & 1-986064532

OAH No. 2020011095

PROPOSED DECISION

Erin R. Koch-Goodman, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter telephonically on June 16, 2020, in Sacramento, California.

Kristina Jarvis, Deputy Attorney General, represented Mary Vixie Sandy, Ed.D. (complainant), Executive Director, California Commission on Teacher Credentialing (CTC or Commission).

Anna Van Loon (respondent) failed to appear.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on June 16, 2020.

FACTUAL FINDINGS

Jurisdictional Matters

1. On June 16, 2010¹, the CTC issued a Level II Education Specialist Instruction Credential (Credential) to respondent. Said Credential authorizes respondent to: provide English learners instruction for English language development in grades 12 and below, including preschool, and in classes organized primarily for adults (ELA1); and, conduct assessments related to students access to the academic core curriculum and progress towards meeting instructional academic goals, provide instruction, and Special Education (SE) Support to individuals with a primary disability of autism, moderate/severe intellectual disabilities, deaf-blind, emotional disturbance, and multiple disabilities, to students in kindergarten, grades 1 through 12 through age 22, and classes organized primarily for adults in services across the continuum of program options available (R3MS). The Credential will expire on April 1, 2024, unless renewed or revoked.

¹ The Accusation identifies March 27, 2014, as the original issue date for respondent's Education Specialist Instruction Credential, but the Commission's website identifies the original issue date as June 16, 2010 (Exhibit 2). The date on the Commission's website is used.

Conduct at Issue

INTOXICATION AT SCHOOL

2. In August 2013, respondent began teaching for the Rocklin Unified School District (Rocklin USD). For the 2016/2017 and 2017/2018 school year, respondent taught SE students at Rocklin High School (HS). On or about May 31, 2017, Davis Stewart, Rocklin HS Principal, received reports respondent was intoxicated at school. On June 2, 2017, Principal Stewart and Colleen Slattery, Rocklin Human Resources (HR) Assistant Superintendent, met with respondent to discuss the reports of her intoxication while at school, and directed her to get help. Respondent requested, and was placed on "stress leave" for the remainder of the school year, four days, from June 5, through 8, 2017.

3. In August 2017, respondent returned to teach SE classes at Rocklin HS. Principal Stewart and his staff made day-to-day observations of respondent's classroom and found no evidence of her using alcohol. However, on September 21, Principal Stewart again received reports respondent was intoxicated at school, including a report from an SE Program Specialist, who had gone into respondent's classroom and observed her for 20 minutes (approximately 1:50 p.m. to 2:10 p.m.). Principal Stewart went to respondent's classroom and observed her for 20 minutes (2:20 p.m. to 2:40 p.m.), and found her to have objective signs of intoxication.

4. Principal Stewart then called HR Assistant Superintendent Slattery, who directed Principal Stewart to have someone remain with respondent and escort respondent to his office at the end of the school day (3:00 p.m.), to meet with HR Director Matthew Murphy. Principal Stewart called the School Resource Officer Jeremy Duckham, a Rocklin Police Officer, and asked him to report to his office at 3:00 p.m. for

an alcohol/drug intoxication evaluation. Principal Stewart also called the Rocklin Teachers Professional Association (RTPA) President, and asked him to join the meeting on respondent's behalf.

5. At 3:00 p.m., Principal Stewart and HR Director Murphy met with respondent and the RTPA President to discuss respondent's conduct. Respondent was placed on Administrative Leave. Principal Stewart then introduced respondent to Officer Duckham for an alcohol/drug intoxication evaluation. Officer Duckham observed respondent to have objective signs of intoxication, including red and watery eyes, slow and slurred speech, slow and deliberate movements, and the smell of alcohol emanating from her person. Officer Duckham asked respondent to complete a series of field sobriety tests (FSTs), as well as a Preliminary Alcohol Screening (PAS), but the RTPA President refused on respondent's behalf and offered to drive respondent home. Believing respondent to be a danger to herself and others, Officer Duckham placed respondent under arrest for public intoxication, pursuant to Penal Code section 647, subdivision (f). He then transported respondent to the South Placer jail, booked her, and arranged for her to be released without additional charges once sober.

6. Respondent remained on Administrative Leave until January 12, 2018, when she resigned from Rocklin pursuant to a Resignation and Release Settlement Agreement. On January 22, 2018, Rocklin USD sent the Commission a letter, notifying it respondent had resigned her teaching position pending an investigation of unprofessional conduct – intoxication at school (CTC Case No. 1-74809982). On or about February 5, 2018, respondent began teaching SE in the Natomas USD.

7. On December 21, 2018, the CTC wrote respondent, notifying her of its recommendation to revoke her Credential based upon her intoxication at school. On

January 18, 2019, respondent wrote CTC, requesting reconsideration and an administrative hearing. On February 22, 2019, the CTC wrote respondent, notifying her of its recommendation to sustain the revocation of her Credential.

INTOXICATION IN PUBLIC

8. On June 21, 2018, the Lincoln Police Department received a report that respondent was in the Target parking lot, at 950 Groveland Lane, Lincoln, appeared to be intoxicated, and was seen walking towards her vehicle with her car keys in her hands. Officer Travis Parson was dispatched to the scene. In route, Lincoln Police Department updated Officer Parson, indicating respondent had driven out of the Target parking lot and was near her residence. Officer Parson was given respondent's home address and drove there. Upon arrival, Officer Parson found respondent in her driveway, standing behind her vehicle and shutting the trunk. She was carrying a white shopping bag in her hands. Officer Parson made contact with respondent and questioned her. Respondent denied drinking alcohol, but Officer Parson observed several objective signs of alcohol intoxication, including bloodshot watery eyes and the odor of an alcohol beverage emanating from respondent's person. Officer Parson administered FSTs; respondent performed poorly. Officer Parson asked respondent if she would take a PAS; she declined. Officer Parson then placed respondent under arrest and took her to the Lincoln Police Department, where he administered a Breathalyzer test, resulting in a 0.26 percent blood alcohol level (BAC). Respondent's blood was also drawn, resulting in a 0.218 percent BAC.

9. On October 4, 2018, in the Superior Court, County of Placer, Case No. 62-161150, respondent was convicted, on a plea of nolo contendere, of violating Vehicle Code section 23152, subdivisions (a), driving under the influence (DUI) of alcohol, and (b) DUI with a BAC greater than 0.08 percent, both misdemeanors. Respondent was

sentenced to 25 days in jail and three years of conditional probation, and ordered to complete a nine month First Offender program, a DUI Panel, self-help classes once a week for six months, and pay fines and fees.

10. On June 28, 2019, CTC wrote respondent, notifying her of its recommendation to revoke her Credential, as a result of her October 2018 DUI conviction (CTC Case No. 1-986064532). On July 8, 2019, respondent wrote CTC, requesting an administrative hearing.

11. On August 21, 2019, complainant issued an Accusation against respondent, consolidating Case Nos. 1-74809982 and 1-986064532, and alleging four causes of discipline: (1) unprofessional conduct, (2) immoral acts, (3) evident unfitness for service, and (4) addiction to intoxicating beverages. Specifically, complainant alleges respondent: on September 21, 2017, appeared at Rocklin HS and taught SE students while under the influence of alcohol; on June 21, 2018, drove a vehicle while under the influence of alcohol; and on October 4, 2018, pled nolo contendere and was convicted of the same. The matter was set for an evidentiary hearing before an ALJ with OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Discussion

12. The Accusation and Notice of Hearing were properly served on respondent. However, respondent failed to appear at hearing. Complainant called Principal Stewart and Officer Duckham to testify at hearing; their testimony was unchallenged. Respondent's conduct evidences an addiction to alcohol and a complete disregard for her students, Rocklin USD, the law, and the Commission. Based upon the Factual Findings as a whole, respondent is subject to discipline by the

Commission. Based on the circumstances presented at hearing, respondent's Credential should be revoked.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. In an administrative proceeding in which a licensing agency seeks the suspension or revocation of an existing, professional license, the standard of proof is clear and convincing evidence to a reasonable certainty. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 583.) 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.)

2. The burden of proving the charges rests upon the party making the charges. (*Lopez v. Imperial County Sheriff's Office* (2008) 165 Cal.App.4th 1, 4.) Therefore, complainant bears the burden of proving the existence of grounds for disciplining respondent's Credential, and such evidence must be clear and convincing to a reasonable certainty. (See, *Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1036, 1039-1040 [recognizing that the clear and convincing evidence standard applies to proceedings to discipline a teacher's credential, whereas the lesser preponderance of the evidence standard applies to proceedings to dismiss a teacher from particular employment].)

Authority to Discipline

3. Education Code section 44421 provides in part:

The Commission on Teacher Credentialing shall privately admonish, publicly reprove, revoke or suspend for immoral or unprofessional conduct . . . or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

4. Education Code section 44345, subdivision (c), provides that the Commission may deny any application for the issuance of a credential made by any applicant who falls under specified categories including one who “is addicted to the use of intoxicating beverages to excess.”

Causes of Action

IMMORAL AND UNPROFESSIONAL CONDUCT

5. 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 that is 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. (*Orloff v. Los Angeles Turf Club* (1951) 36 Cal.2d 734, 740.)

6. The phrase “unprofessional conduct” is conduct such as to indicate unfitness to teach. (*Perez v. Commission On Professional Competence* (1983) 149 Cal.App.3d 1167, 1174.) The Commission may only take adverse action against a teacher’s credential when the underlying conduct demonstrates his or her unfitness to teach. (See, *Broney v. California Commission on Teacher Credentialing* (2010) 184

Cal.App.4th 462, 473.) The California Supreme Court has delineated factors for determining whether particular conduct demonstrates 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.]) But "only the pertinent *Morrison* factors need to be analyzed." (*Broney v. California Commission on Teacher Credentialing, supra*, 184 Cal.App.4th at p. 476.)

FITNESS TO TEACH

7. The Commission has adopted a regulation which includes the *Morrison* factors. California Code of Regulations, title 5, section 80302, subdivision (a), provides:

The Committee, in conducting its investigation, shall determine the relationship between the alleged misconduct and the applicant's or holder's fitness, competence, or ability to effectively perform the duties authorized by the credential. Such relationship may be based on facts which include, but are not limited to, the following:

- (1) The likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity anticipated;
- (2) The proximity or remoteness in time of the conduct;
- (3) The type of credential held or applied for by the person involved;
- (4) The extenuating or aggravating circumstances surrounding the conduct;

(5) The praiseworthiness or blameworthiness of the motives resulting in the conduct;

(6) The likelihood of the recurrence of the questioned conduct;

(7) The extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the person involved, or other certified persons;

(8) The publicity or notoriety given to the conduct.

8. Applying the *Morrison* factors, respondent's conduct demonstrates an unfitness to teach. Respondent has a Level II Education Specialist Instruction Credential. In 2017, respondent taught SE students at Rocklin HS. On more than one occasion, respondent appeared at school to teach while intoxicated and also drove a vehicle while under the influence of alcohol. Respondent's conduct caused harm to students, fellow teachers, the educational community, and the public at large. Sadly, the damage was irreparable, including lost confidence and trust, fear, missing curriculum, physical injury, and emotional pain. In addition, respondent's behavior suggests an addiction to alcohol, and without professional help, respondent's behavior is very likely to recur. Further, respondent's conduct evidences several aggravating factors², including: multiple acts of wrongdoing or a pattern of misconduct; the misconduct significantly harmed a child entrusted to the care of a credential holder or

² An "[a]ggravating 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.

applicant, or significantly harmed the public or the educational system; and the holder or applicant had prior notice, warnings or reprimands for similar conduct from any reliable source. (Cal. Code Regs., tit. 5, § 80300, subd. (b)(2), (4) & (6).) Finally, there are no constitutional issues involved in this case, and no evidence of publicity or notoriety either. However, the Rocklin USD owes a duty to its students to provide a safe and stable learning environment, and if appropriate adverse action is not taken, there is a risk of negative publicity and notoriety for the Commission and Rocklin USD.

EVIDENT UNFITNESS FOR SERVICE

9. “Evident unfitness for service” means clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies. Unlike “unprofessional conduct,” “evident unfitness for service” connotes a fixed character trait, presumably not remediable merely on receipt of notice that one’s conduct fails to meet professional standards. (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.)

Causes for Adverse Action

10. Based upon the Factual Findings as a whole, cause exists under Education Code sections 44421 and 44345, subdivision (c), for adverse action against respondent’s Credential on the grounds of unprofessional conduct, immoral acts, evident unfitness for service, and addiction to intoxicating beverages. It was established by clear and convincing evidence that, at a minimum, on September 21, 2017, respondent appeared at school and taught SE students while intoxicated, and on June 21, 2018, respondent drove a vehicle under the influence of alcohol.

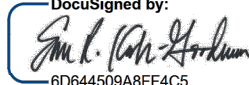
11. Complainant seeks revocation of respondent’s Credential. Based upon the Factual Findings as a whole, complainant has proven respondent engaged in

immoral and unprofessional conduct and displayed an addiction to alcohol, making her unfit to teach; as well as demonstrated an evident unfitness for service. For all the above reasons, the public interest and safety requires that respondent's teaching credential be revoked.

ORDER

Respondent Anna Van Loon's Level II Education Specialist Instruction Credential is hereby REVOKED.

DATE: July 15, 2020

DocuSigned by:

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ERIN R. KOCH-GOODMAN

Administrative Law Judge

Office of Administrative Hearings