

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

In the Matter of the Accusation Against:

CURTIS MICHAEL WILLIAMS, Respondent.

Agency Case No. 2-199675604

OAH No. 2022070666

PROPOSED DECISION

Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on February 7, 2023, by videoconference.

Lisa A. Miller, Deputy Attorney General, represented Complainant. Respondent appeared with his attorney, Amit Singh, Rothschild, Wishek & Sands LLP.

Oral and documentary evidence was received. The record closed and the matter was submitted for decision on February 7, 2023.

FACTUAL FINDINGS

The Parties and Jurisdiction

1. Complainant Mary Vixie Sandy, Ed.D., filed and maintained the Accusation in this matter while acting in her official capacity as the Executive Director of the California Commission on Teacher Credentialing (Commission).

2. Respondent currently holds a Level II Education Specialist Instruction Credential with a Moderate/Severe Disabilities Authorization (Credential), and it was in effect at the times relevant to the charges brought in the Accusation. Respondent's Credential was first issued by the Commission in December 2010, and it is set to expire on January 1, 2026.

3. Prior to the Commission's issuance of his Credential, Respondent held two other credentials. He held a Level I Education Specialist Instructional Credential with a Moderate/Severe Disabilities Authorization, which was issued on February 1, 2006, and expired on March 1, 2011. Prior to that Respondent held an Emergency Education Specialist Instruction Permit with a Moderate/Severe Disabilities Authorization, which was issued on September 17, 2002, and which expired on June 30, 2006.

4. On February 1, 2006, the Commission issued a Clear Crosscultural, Language and Academic Development Certificate (CLAD Certificate) to Respondent. This Certificate does not have an expiration date.

5. There has been no adverse action against any of Respondent's credentials or his CLAD Certificate prior to the filing of this proceeding.

6. In July 2021, the Commission's Committee of Credentials determined that probable cause existed, within the meaning of California Code of Regulations, title 5 (CCR), section 80300, subdivision (o), for an adverse action against Respondent. He timely requested an administrative hearing, and the Accusation was prepared, filed, and serve upon him.

7. After receiving the Accusation, Respondent submitted a Notice of Defense, contesting the Accusation and seeking a hearing. This proceeding ensued. All jurisdictional requirements have been met.

The Stipulation

8. On February 2, 2023, the parties entered into a written stipulation titled "Stipulation Regarding Undisputed Facts for Hearing." (Ex. 3.) The Stipulation is six pages in length, with many provisions regarding its nature, all of which need not be repeated here.

9. The most salient provisions of the Stipulation establish that Respondent thereby admits the "complete truth and accuracy of each and every charge and allegation contained in [the Accusation]." (Ex. 3, p. A53, lines 9-10.) Furthermore, Respondent admitted that he was guilty of each and every violation of law described in the Accusation. (*Ibid.*, lines 12-13.) Under the Stipulation, Respondent reserved the right to present evidence of extenuating circumstances by way of mitigation or explanation, as well as evidence of rehabilitation, although such could not impeach or cast doubt upon his admissions. Respondent was also entitled to present evidence or argument regarding the appropriate discipline to be imposed.

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THE ADMITTED FACTUAL ALLEGATIONS

10. The factual allegations of the Accusation, admitted as true in the Stipulation, follow in their entirety. The paragraphs in the Accusation were numbered 13 through 25, relevant because they were incorporated by reference into the three alleged causes for discipline. However, Complainant inadvertently labelled two paragraphs in the Accusation as number 17, and two paragraphs as number 22. Thus, rather than 13 paragraphs alleging facts, there were 15 paragraphs. In the quoted material that follows, the twice-numbered paragraphs are renumbered as 17[A] and 17[B], and 22[A] and 22[B]. The factual allegations admitted by Respondent state:

13. At all times relevant to the allegations herein, Respondent was assigned as a teacher for special needs students in the Moderate/Severe Program at Smith Elementary School ("Smith Elementary") in the San Bernardino County Superintendent of Schools ("SBCSS").

14. From March 2016 through August 2019, Respondent failed to timely report his tardiness or absence necessitating a substitute on 50 separate occasions.

15. During the 2018-2019 school year, Respondent committed acts of misconduct including but not limited to tardy in reporting to work approximately 34 times. During the month of August 2019, alone, Respondent was tardy nine times in reporting to work or returning from lunch, and left students unsupervised or under the sole supervision of a paraeducator.

16. On or about February 27, 2018, SBCSS Human Resources issued Respondent a Notice of Absence from Employment regarding his frequent absences.

17[A]. On or about April 10, 2019, Paraeducator AP observed Respondent sleeping in his classroom with students present. Respondent's students were unsupervised, as he had already released his own paraeducators for the day. Paraeducator AP had to call his name three times before he responded.

17.[B] On or about April 15, 2019, teacher JH emailed Principal regarding the above-described incident on April 10, 2019. According to JH, there was a late bus arrival at the end of the school day. When the bus arrived to pick up Respondent's students, school staff were unable to reach anyone in Respondent's classroom. Because of this, Paraeducator AP was sent to Respondent's classroom and observed him sleeping.

18. On or about April 16, 2019, Smith Elementary Principal LG interviewed Respondent regarding Respondent's sleeping in his classroom on April 10, 2019. Respondent falsely stated that he had not been sleeping in his classroom.

19. On or about May 9, 2019, several of Respondent's co-workers reported that throughout the 2018-2019 school

year, Respondent demonstrated erratic behavior while in the classroom. Specifically, staff reported that Respondent's personality changed throughout the school day, ranging from "super hyper" behavior to falling asleep in his chair. Staff also observed that Respondent was excessively absent/tardy and that Respondent was often impatient with students and decreased his student interactions.

20. On or about June 11, 2019, Principal LG held a meeting with Respondent to discuss his work performance and excessive absenteeism and tardiness.

21. On or about August 7, 2019, Principal LG instructed Respondent to provide her with substitute plans and lesson plans. Respondent failed to comply with the directive.

22.[A] On or about August 12, 2019, SBCSS Human Resources Director SH met with Respondent to address his repeated failure and refusal to comply with directives from administrators. Specifically, they discussed Respondent's absenteeism, tardiness, sleeping in class, and erratic behavior.

22.[B] In or about August of 2019, Respondent failed to comply with Principal LG's directive to provide her with substitute lesson plans for his class.

23. On or about August 29, 2019, school staff observed that Respondent had fallen asleep during instructional time.

School staff were unable to wake him and were concerned that he needed medical attention. When Principal LG arrived at Respondent's classroom, he had woken up but appeared jittery and incoherent. Respondent stated he had been asleep for approximately 20 minutes and admitted he had left his students and paraeducator unattended. Human Resources Director SH and Director of Risk Management JS also reported to Respondent's classroom. They observed that Respondent appeared jittery, confused, and unable to sit still or stay focused. Respondent was transported to Fox Medical Clinic for an evaluation. Respondent tested positive for cocaine. Respondent initially denied any drug use, but later admitted to using cocaine five days prior, August 24, 2019.

24. On or about July 16, 2020, SBCSS provided Respondent with a Notice of Immediate Suspension Without Pay and a Dismissal Notice.

25. On or about December 4, 2020, Respondent resigned while charges were pending.

(Ex. 1, pp. A12-A14.)

THE ADMITTED CAUSES FOR DISCIPLINE

11. Respondent admitted there were three established causes for discipline of his credential. First, his credential was subject to disciplinary action pursuant to Education Code section 44421, because he had engaged in unprofessional conduct.

(All further statutory references are to the Education Code unless otherwise noted.)

Second, Respondent admitted his credential was subject to disciplinary action pursuant to section 44421, because he had persistently defied and refused to obey the laws regulating the duties of a person serving in the public school system. Third, he admitted his credential was subject to disciplinary action pursuant to section 44421, in conjunction with section 44345, subdivision (d), in that he was addicted to the use of controlled substances.

THE ADMITTED AGGRAVATING FACTORS

12. In the Stipulation Respondent admitted there were a number of aggravating factors, pursuant to CCR section 80300, which "individually and/or collectively, demonstrate that a greater degree of adverse action is needed to adequately protect the public, schoolchildren, or the profession." (Ex. 1, p. A15.) Those aggravating factors are alleged as part of paragraph 29 of the Accusation, as follows:

Respondent's misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

Respondent's misconduct significantly harmed a child trusted to his care, and significantly harmed the public or educational system.

Respondent has had prior notice, warnings or reprimands for similar conduct.

Respondent's misconduct was surrounded by or followed by bad faith, dishonesty or other violation of the law governing educators.

Respondent has demonstrated indifference toward the consequence of his misconduct.

(Ex. 1, p. A15, bullet points omitted.)

Respondent's Case

RESPONDENT'S BACKGROUND

13. Respondent first worked as an educator in 1996, as a substitute paraeducator in alternative education with SBCSS. This was shortly after he graduated from high school. At around that time he began taking college classes to train as a teacher, because he knew early on that he wanted to have a career as a teacher. In 2002, Respondent graduated from California State University, San Bernardino with a bachelor's degree. He has since obtained a master's degree in special education.

14. Respondent went into special education early in his career. In early 1999, he became a permanent paraeducator with SBCSS in an elementary school classroom with severely emotionally disturbed students, and then moved into a moderate/severe elementary classroom. After he completed his bachelor's degree, SBCSS hired Respondent as a teacher in a middle school, assigning him to a moderate/severe classroom. In 2013 he was honored as East Valley Special Education Teacher of the Year.

15. Respondent married in June 2005, and soon started a family. He has two children. According to Respondent, he thought he had a solid marriage, and he was happy with his career. However, in the fall of 2015 his life took a turn for the worse. In a short period of time, he suffered the loss of his grandfather and his aunt. Worse than these losses was the downfall of his marriage; in 2016 his wife told him she wanted a

divorce, telling him she had found someone else. Respondent became embroiled in a contentious divorce and custody proceeding, which lasted from approximately July 2016 to November 2018. In the course of the divorce, Respondent had to sell his house, and uproot his children. In the fall of 2016 Respondent's grandmother and uncle both died. Respondent's spiral down into depression and anxiety worsened.

RESPONDENT'S DRUG USE AND EFFORTS AT REHABILITATION

16. As Respondent's depression worsened, it led to some of the problems he was having on the job, with tardiness and fatigue. In approximately January 2019 Respondent began to use cocaine in an effort to pull himself out of the depression. This attempt at self-medication, with a controlled substance, did not alleviate Respondent's depression and anxiety, and it contributed to poor teaching performance and misconduct.

17. After Respondent was removed from the classroom at SBCSS, he enrolled in a four-week residential rehabilitation program at Anaheim Lighthouse. He completed the program in mid-March 2020. Respondent testified his life had become unsustainable and he sought help with the Lighthouse program, which program gave him tools to deal with his pain and depression.

18. After he completed the Lighthouse program, Respondent underwent therapy provided by Kaiser, for a total of nine sessions. Respondent testified the therapy reinforced what he learned at Lighthouse. After nine sessions, he perceived that he and the therapist were going over the same ground, so he terminated the therapy.

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19. Respondent participated in a 12-step program for about three months. He liked the camaraderie of the meetings, which reminded him of his time living at Lighthouse, but he tired of re-hashing the past.

20. Respondent acknowledged that he sometimes used marijuana to combat his anxiety, but he found that it exacerbated his anxiety, and he described it as a crutch. He last used marijuana on May 9, 2021. He last used cocaine on February 7, 2020. It should be noted that Respondent has undergone hair follicle drug testing at the behest of his current employer. Some of the test results in evidence showed marijuana, but none showed positive for any other drugs. No marijuana was shown in tests after September 2021, which appears to be an artifact of prior use. (Ex. H.)

21. Respondent has been employed as a special education teacher since July 2021 at SOAR Charter Academy in San Bernardino, a matter confirmed by a letter from Tammi Martinez, SOAR's Director of Human Resources and Communications. (Ex. G.) Respondent testified that the school management knows about his problems with drugs, a matter corroborated by Ms. Martinez's statement that "we also will request that Mr. Williams continue to drug test and provide results to his immediate supervisor." (Ex. G, p. B109.)

22. Respondent has been in a relationship with Sara Puthoff for several years, and they have lived together, along with her teenage daughter, for approximately three years. Ms. Puthoff is very supportive of Respondent, and despite his troubles believes that he is a good and caring teacher, who is an honest person.

23. A former colleague of Respondent at SBCSS wrote a letter of support for Respondent. She describes him as a good teacher, and she knew of his personal problems leading up to his termination by SBCSS.

24. Respondent testified in a forthright manner, taking responsibility for his behavior. He was respectful of the Commission and this process, acknowledging the Commission needed to proceed in this manner and he agreed that it should be concerned about him. He was willing to accept any restrictions or requirements they might place on him if he is allowed to continue teaching.

LEGAL CONCLUSIONS

1. Jurisdiction was established to proceed in this matter pursuant to Code sections 44421 and 44345, subdivision (e), based on Factual Findings 1 through 7.

2. Code section 44421 states:

The Commission on Teacher Credentialing shall privately admonish, publicly reprove, revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, 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.

3. Code section 44345 sets out grounds for denying an application for a credential. Subdivision (d) of the statute provides for denial of an application where the applicant "is addicted to the use of controlled substances."

4. Respondent's Credential is a professional license. Therefore, grounds for discipline—adverse action in the Commission's parlance—must be proven by clear and

convincing evidence, to a reasonable certainty. (*Eittinger v. Bd. of Med. Quality Assurance* (1982) 135 Cal.App.3d 853.) Complainant was obligated to adduce evidence that was clear, explicit, and unequivocal—so clear as to leave no substantial doubt and sufficiently strong as to command the unhesitating assent of every reasonable mind. (*In Re Marriage of Weaver* (1990) 224 Cal.App.3d 278.) Here the Stipulation and Respondent's admissions more than satisfy the standard of proof.

5. Unprofessional conduct, a ground for discipline that Respondent has admitted, has been defined as "that conduct which breaches the rules or ethical code of a profession, or conduct which is unbecoming a member in good standing of a profession." (*Board of Education v. Swan* (1953) 41 Cal.2d 546, 553.) It has also been defined as conduct, measured by the "*Morrison* factors" discussed below, which indicates unfitness to teach. (*Board of Education v. Jack M.* (1977) 19 Cal.3d 691, 698, fn. 3; *Perez v. Commission on Professional Competence* (1983) 149 Cal.App.3d 1167, 1173-1174.)

6. Respondent admits his Credential is subject to discipline because he acted with persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system. In construing that statutory basis for adverse action, it is instructive to consider Code section 44932, subdivision (a)(7), which authorizes termination of a teacher's employment for persistent disobedience of applicable rules and regulations. There it must be established there has been continuous and constant refusal to obey, or behavior motivated by an attitude of continuing insubordination; a single instance of disobedience is insufficient. (*Governing Bd. of the Oakdale Union School Dist. v. Seaman* (1972) 28 Cal.App.3d 77, 81-82.) Respondent's admissions establish, by clear and convincing evidence, that

there was, on his part, a continuous and constant refusal to obey laws and regulations governing the duties of a person serving in the public school system.

7. Respondent engaged in unprofessional conduct, in violation of Code section 44421, based on Factual Findings 8 through 12, and Legal Conclusions 1 through 5.

8. Respondent acted with persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, in violation of Code section 44421, based on Factual Findings 8 through 12, and Legal Conclusions 1 through 4, and 6.

9. Respondent is in violation of Code sections 44421 and 44435, subdivision (d), by addiction to the use of controlled substances, based on Factual Findings 8 through 12, and Legal Conclusions 1 through 4.

10. Notwithstanding Legal Conclusions 7, 8, and 9, adverse action may not be taken against Respondent's Credential unless the conduct is substantially related to his fitness, competence, or ability to teach. That substantial relationship may be determined by examining a number of factors enunciated in *Morrison v. State Board of Education* (1960) 1 Cal.3d 214, 229. The "*Morrison* factors" have, in effect, been set forth in CCR section 80302, subdivision (a). Factors to consider include the following:

(A) The likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of the adversity anticipated;

(B) The proximity or remoteness in time of the conduct;

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(C) The type of credential held or applied for by the person involved;

(D) The extenuating or aggravating circumstances surrounding the conduct;

(E) The praiseworthiness or blameworthiness of the conduct;

(F) The likelihood of recurrence of the conduct in question;

(G) The extent that disciplinary action may cause an adverse impact or chilling effect upon the constitutional rights of the person involved;

(H) The publicity or notoriety given to the misconduct.

11. (A) On balance, the *Morrison* factors weigh against Respondent. As to the first factor, adverse effect on students, fellow teachers, and the education community, Respondent admitted to an aggravating factor, that his misconduct significantly harmed a child trusted to his care, and the public or educational system. (Factual Finding 12.)

(B) Respondent's misconduct is fairly recent; he admitted that it occurred between 2016 and when he was removed from the classroom in August 2019, three and one-half years ago.

(C) Respondent's credential is a Level II Education Specialist Instruction Credential with a Moderate/Severe Disabilities Authorization and he also holds a CLAD

Certificate. The Credential authorizes Respondent to teach and have close contact with especially vulnerable children.

(D) The fourth and fifth *Morrison* factors look to extenuating or aggravating circumstances and blameworthiness or praiseworthiness of the conduct. Here Respondent admitted to numerous aggravating factors, including that his misconduct was repeated and surrounded by bad faith and dishonesty. (Factual Finding 12.) His conduct cannot be labeled as praiseworthy at all, though he is to be credited for finally taking steps to bring his dependency under control.

(E) The sixth factor looks to the likelihood of recurrence of the misconduct. It appears to be low, though it is known that relapse is a danger for persons with drug dependency. Here there is no evidence of further cocaine use since March 2020, and after one and one-half years of teaching at SOAR Academy, there is no evidence of problems in the classroom of the type that occurred when Respondent was employed by SBCSS.

(F) The seventh factor does not apply to this case. The eighth factor, publicity or notoriety regarding the misconduct applies against Respondent; Respondent's misconduct was observed by and well known to several staff members at his former school site.

12. It has been established that Respondent's misconduct is substantially related to his fitness, competence, or ability to teach, and renders him unfit to teach, based on Legal Conclusions 10 and 11 and their factual predicates.

13. Based on the foregoing, cause exists for adverse action against Respondent's Credential and CLAD Certificate pursuant to Code section 44421, for unprofessional conduct rendering him unfit to teach.

14. Based on the foregoing, cause exists for adverse action against Respondent's Credential and CLAD Certificate pursuant to Code section 44421, for persistent defiance of, and refusal to obey laws regulating the duties of a person serving in the public school system, rendering him unfit to teach.

15. Based on the foregoing, cause exists for adverse action against Respondent's Credential and CLAD Certificate pursuant to Code sections 44421 and 44345, subdivision (d), by his admitted addiction to controlled substances, rendering him unfit to teach.

16. The purpose of proceedings of this type is to protect the public, not to punish an errant licensee. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784-786; *Bryce v. Board of Medical Quality Assurance* (1986) 184 Cal.App.3d 1471, 1476.) Notwithstanding his misconduct, Respondent has taken efforts to rehabilitate himself, and he has held a teaching position for approximately 18 months without incident. It does not appear that an outright revocation is needed to protect the public. However, Respondent has more work to do on his personal issues, and his admitted addiction. Respondent's Credential and CLAD Certificate should be subject to a period of probation, the terms of which will mandate participation in rehabilitative efforts, and some drug screenings to monitor Respondent's behavior.

ORDER

Respondent Curtis Michael Williams' Level II Education Specialist Instruction Credential with a Moderate/Severe Disabilities Authorization and his CLAD Certificate are hereby revoked; provided, however, that the revocation order is stayed, and

Respondent's Credential and Certificate are placed on probation for three years, under the following terms and conditions:

1. Respondent shall obey all federal, state, and local laws and regulations, including, but not limited to, the statutes and regulations of the Commission. A full and detailed account of any arrests or citations for any violation of law (except minor traffic offenses) shall be reported by Respondent to the Commission, in writing within 30 days of the arrest or citation.

2. Respondent shall fully comply with the terms and conditions of this order and cooperate with representatives of the Commission in its monitoring and investigation of his compliance. Any credentials issued to Respondent during the period of probation shall be subject to the conditions contained herein.

3. During the period of probation, Respondent shall appear in person, by video conference, or by telephone at interviews or meetings as directed by the Commission or its representatives upon reasonable notice.

4. Respondent must provide written notice to the Commission within 15 days of any change of residency or address. Periods of residency outside of California shall not apply toward completion of the probationary period.

5. Respondent shall submit quarterly reports, under penalty of perjury, in a form satisfactory to the Commission, certifying and documenting compliance with all terms and conditions of probation. The first quarterly report shall be due 30 days after the effective date of this order. Respondent shall execute release of information forms that may be reasonably required by the Commission or its representatives.

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6. The Commission shall be informed, in writing, of all employment of Respondent that requires a credential; this includes his current employment. Respondent shall inform his employer of the reason for, and the terms and conditions of, his probationary status and shall provide a copy of the Commission's Decision to his employer and immediate supervisor. Respondent shall authorize his employer to submit performance evaluations and other reports requested by the Commission. Respondent shall notify the Commission in writing within 72 hours after cessation of any employment that requires a credential. The notification shall contain a full explanation of the circumstances surrounding the cessation of employment.

7. Respondent shall be required to attend at least one, but no more than five, 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) each week. Respondent shall submit dated and signed documentation confirming his attendance to the Commission in his quarterly reports during the entire period of probation.

8. Respondent, at his own expense, shall participate in a random, biological fluid testing or a drug screening program which the Commission approves. The length of time and frequency of Respondent's participation will be subject to approval by the Commission. Any confirmed positive finding shall be reported immediately to the Commission by the program, and Respondent shall be considered in violation of probation upon such finding. Testing shall commence within 45 days of the effective date of this order.

9. If Respondent has a positive screen for any controlled substance, or marijuana, and the Commission files a petition to revoke probation or an accusation, the Commission may suspend Respondent's credentials and certificates pending the

final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

10. Within 45 days of the effective date of this order, Respondent shall seek individual mental health counseling. Respondent shall submit to the Commission for its approval the name and qualifications of a mental health professional of Respondent's choice. Upon approval, Respondent shall undergo and continue treatment until the Commission deems that no further counseling is necessary. Respondent shall have the treating mental health professional submit quarterly status reports to the Commission, and shall initially supply the treating mental health professional with a copy of the Commission's Decision and Order in this matter. Respondent shall bear the cost of counseling and evaluations.

11. The Commission shall retain jurisdiction over Respondent's case during the period of probation. If Respondent violates any term or condition of this Order, after giving him written notice and an opportunity to be heard on the issue of his violation of probation, the Commission may set aside the stay order and impose the revocation of Respondent's Credential and CLAD Certificate. If an accusation or petition to revoke probation is filed against Respondent during the period of probation, the probation period shall automatically be extended until a final decision is made on the accusation or petition.

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12. Upon successful completion of the terms of this probation, the stay order shall become permanent, and Respondent's Credential, CLAD Certificate, and any other credential, certificates, or authorizations issued during the probationary period shall be fully restored.

DATE: 03/08/2023

Joseph Montoya

JOSEPH D. MONTOYA

Administrative Law Judge

Office of Administrative Hearings