

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS AND A
COMMISSION ON PROFESSIONAL COMPETENCE FOR THE
LOS ANGELES UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Dismissal of:

JULIO BELTRAN (EN 714352),

A Permanent Certificated Employee,

OAH No. 2018120438

Respondent.

DECISION

This matter was heard by the Commission on Professional Competence (Commission) in Los Angeles on May 20, 2019 to May 31, 2019. The Commission consisted of James Sinclair, John Dolan and Glynda B. Gomez, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, who presided.

Ellen Wu, Attorney at Law, and Kelly Kim, Assistant General Counsel, represented Los Angeles Unified School District (District).

Tamra M. Smith, Attorney at Law represented Respondent Julio Beltran (Respondent) who was present throughout the hearing.

Rulings on pre-trial motions were made on the record. Additionally, on the record, the ALJ ordered that student names would appear in the hearing transcript as first name and last initial. A subsequent written protective order was issued during the hearing. In addition, when noted by the Commission and/or as stated on the record, documentary evidence was redacted to show student names in that format.¹

The presentation of oral and documentary evidence concluded on May 31, 2019. The record remained open until June 4, 2019, for the lodging of the transcript of hearing testimony of Principal Elsa Bolado which had been relied upon by Respondent's expert witness. The record closed and the case was submitted for decision on June 4, 2019.

¹ In this decision, Student names will either be referred to with the first full name and last initial, or just the first full name.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Respondent is a permanent certificated employee of the District.
2. On November 14, 2018, the District served Respondent with a Notice of Intention to Dismiss and Placement on Immediate Suspension (Notice of Intent), which notified respondent of the District's intent to dismiss him within 30 days unless he made a written request for a hearing, and notified Respondent of his immediate suspension without pay. The Notice of Intent included a Statement of Charges dated October 12, 2018 with exhibits, a Request for Hearing form, and copies of relevant Education Code sections.
3. On December 12, 2018, in response to the November 14, 2018, Notice of Intent, Respondent served the District with a Notice of Defense and Request for Hearing, which contained Respondent's demand for a hearing pursuant to Education Code section 44941.
4. On March 13, 2019, the District filed and served the Accusation dated March 13, 2019, which is the operative pleading in this case. (Exh. 53.)
5. All jurisdictional requirements have been met.

Respondent's Background

6. Education: Respondent grew up in South Gate/Paramount and attended public schools in the area. Respondent chose to remain in Paramount as an adult with his own family. Respondent obtained a Bachelor of Science Degree in Public Administration and a teaching credential with emphasis in bilingual (Spanish) education from California State University, Dominguez Hills. Respondent also received a Master's degree in Education and an Administrative Credential. Respondent attributes his decision to go into teaching to his seventh grade teacher and many dedicated professors who saw his potential.

Employment with District

7. Respondent has been employed by the District for approximately 20 years starting as a substitute bilingual aide while in college and later becoming a teacher at Stanford Avenue Elementary (Stanford) in South Gate where he taught most grades during his tenure. After Stanford, Respondent taught at Edison Middle School, Graham Elementary School (Graham) and Rodia Continuation School (Rodia). Respondent is currently on unpaid leave as a result of the charges in this case.

8. The charges in this matter relate to Respondent's assignments at Graham and Rodia during the period of August 2013 to March 2018.

District Policies

9. The following policies and procedures of the District were presented at the hearing: District's Employee Ethics Policy (Exh. 56); Code of Conduct with Students (Exh. 58); Child Abuse and Neglect Reporting Requirements dated August 19, 2016 (Exh. 55); Child Abuse and Neglect Reporting Requirements pre-August 19, 2016 (Exh. 55A); Employee Code of Ethics (Exh. 57); the Board and Resolution to Enforce the Respectful Treatment of All Persons (Exh. 59); and Sexual Harassment Policy (Exh. 60).² Although District alleged Respondent violated the California Standards for the Teaching Profession and LAUSD Teacher Job Description, those documents were not introduced and are not in evidence.

10. The District's Employee Ethics Policy provides "general guidelines for employees to follow carrying out their critical roles as District employees." In pertinent part it provides:

EMPLOYEE AND STUDENT RELATIONS. District employees are entrusted with the physical and mental well-being of every student. Therefore, employees shall treat students with respect and care and be aware of their proper roles as public servants, role models and contributors to student development. Employees shall not exploit, harass, or discriminate against any student or require students to perform work or service that could be detrimental to their health.

ACTIONS AND CONDUCT OF DISTRICT EMPLOYEES. District employees shall not only be aware that public service is a public trust, but also conduct themselves, both inside and outside the school district's services, in a manner that deserves the respect of the students, parents and the communities the District serves.

[¶ . . . ¶]

COMMITMENT. District employees are expected to uphold the federal and California Constitutions, the laws and regulations of the United States and the State of California (particularly the Education Code) and all other applicable government entities, and the policies, procedures, rules and regulations of the Los Angeles Unified School District Board of Education.

FAIRNESS. District employees are expected to conduct themselves in the course of their employment by word, gesture, act, and demeanor to ensure that all others are given fair and just consideration, regard and treatment.

² The District refers to these same policies by different names in the Charges; however, the policies referenced herein are the same policies that were in place at the time of the alleged conduct unless noted otherwise.

Understanding that, employees are encouraged to, and should, report unethical or fraudulent practices. Employees shall not be subject to retaliation for so doing.

(Exh. 56, p.2.)

11. The District's Code of Conduct with Students states, in pertinent part:

The most important responsibility of the [District] is the safety of our students. All employees, as well as all individuals who work with or have contact with students, are reminded that they must be mindful of the fine line drawn between being sensitive to and supportive of students and a possible or perceived breach of responsible, ethical behavior.

While the District encourages the cultivation of positive relationships with students, employees and all individuals who work with or have contact with students are expected to use good judgment and are cautioned to avoid situations including, but not limited to, the following:

[¶ . . . ¶]

3. Engaging in any behaviors, either directly or indirectly with a student(s) or in the presence of a student(s), that are unprofessional, unethical, illegal, immoral, or exploitive.

[¶ . . . ¶]

5. Making statements or comments, either directly or in the presence of student(s), which are not age-appropriate, professional, or which may be considered sexual in nature, harassing, or demeaning.

6. Touching or having physical contact with a student(s) that is not age-appropriate or within the scope of the employee's/individual's responsibilities and/or duties.

[¶ . . . ¶]

10. Communicating with student(s), in writing, by phone/Email/electronically, via internet, or in person, at any time, for purposes that are not specifically school-related purposes and/or situations.

11. Calling student(s) at home or on their cell phone, except for specific school-related purposes and/or situations.

12. Providing student(s) with a personal home/cell telephone number, personal Email address, home address, or other personal contact information, except for specific school-related purposes and/or situations.

Even though the intent of the employee/individual may be purely professional, those who engage in any of the above behavior(s), either directly or indirectly with a student(s) or in the presence of a student(s), are subjecting themselves to all possible perceptions of impropriety. Employees/individuals are advised that, when allegations of inappropriate conduct or behavior are made, the District is obligated to investigate the allegations and, if warranted, take appropriate administrative and/or disciplinary action.

(Exh. 58, p. 1.)

12. The District's Board of Education Resolution to Enforce the Respectful Treatment of All Persons provides, in pertinent part, that the District reaffirms its policy that "students and adults in both schools and offices should treat all persons equally and respectfully and refrain from the willful or negligent use of slurs against any person on the basis of race, language spoken, color, sex, religion, handicap, national origin, immigration status, age, sexual orientation, or political belief." (Exh. 59.)

13. The District's Employee Code of Ethics provides that the mission of employees of the District is to educate all students to their maximum potential. It further provides that the purpose of the Code of Ethics is to "help[s] develop trust by describing what the public can expect from us, and what we can expect from each other and our District.... Our goal is to create a culture that fosters trust, commitment to excellence and responsibility, personal and institutional integrity, and avoids conflicts of interest and appearances of impropriety." With respect to students, the Code states: "Maintain appropriate relationship with students. We are committed to ensuring that employee-student relationships are positive, professional and non-exploitative. We will not tolerate improper employee-student relationships." (Exh. 57, p. 1, 3.)

14. The Bullying and Hazing Policy dated November 26, 2014 prohibits bullying, hazing and sexual harassment. It provides in pertinent part: "District policy requires all schools and all personnel to promote mutual respect, tolerance and acceptance among students and staff." It further defines the term "bullying" as including cyberbullying, physical bullying, social or relational bullying, verbal and non-verbal bullying. (Exh 54, p. 3). "Physical bullying" is defined as including "intentional, unwelcome acts of beating, biting, fighting, hitting, poking, punching, pushing, shoving, spitting and tripping." (Exh. 54, p. 3). "Social or relational bullying" is defined as including "spreading rumors, manipulating relationships, exclusion, blackmailing, isolating, rejecting, using peer pressure and ranking personal characteristics. (Exh. 54, p.3.) "Verbal and non-verbal bullying" is defined as including "gossiping, making rude noises, name-calling, spreading rumors, hurtful teasing and threatening gestures." (Exh. 54, p.3.)

15. The Bullying and Hazing Policy also states in pertinent part: “All pupils have the right to participate in the educational process free from discrimination and harassment. Discrimination is different treatment on the basis of a protected category in the context of an educational program or activity, without a legitimate nondiscriminatory reason, that interferes with or limits the ability of the student to participate in or benefit from the services, activities or privileges provided by the District. Protected categories include an individual’s actual or perceived sex, sexual orientation, gender, gender identity, gender expression, race or ethnicity, ethnic group identification, ancestry, nationality, national origin, religion, color, mentor or physical disability, or age, as well as a person’s association with a person or group of these protected categories, or any other basis protected by federal, state, local law, ordinance, or regulation.” (Exh. 54.)

16. The Bullying and Hazing Policy defines “Sexual Harassment” as “unwelcome conduct of a sexual nature directed at or about an individual on the basis of actual or perceived sex, sexual orientation, gender identity or gender expression. The policy also provides that “Hostile Environment Harassment” occurs when: (1) the target is subjected to unwelcome conduct related to a protected category; (2) the harassment is subjectively offensive to the target and would be objectively offensive to a reasonable person of the same age and characteristics under the same circumstances; and (3) harassment is sufficiently severe, pervasive, or persistent so as to interfere with or limit the target’s ability to participate in or benefit from an education program or activity. (Exh. 54, p. 3.)

17. The Child Abuse and Neglect Reporting Requirements Bulletin dated July 1, 2011 provides that “all District employees shall report instances of suspected child abuse or neglect by telephone immediately, or as soon as practically possible, to an appropriate child protective agency and shall prepare and send a written report thereof to the same child protective agency called within 36 hours of receiving the information concerning the incident.” (Exh. 55A, p. 1). The Bulletin defines and details the duties of mandated reporters of child abuse. According to the Bulletin, all District employees are mandated reporters with a duty to report suspected child abuse to the police. The reports are confidential. The bulletin defines physical abuse, sexual abuse, willful cruelty or unjustifiable punishment and Mental suffering, emotional well-being as follows:

Physical Abuse—Physical injury (external or internal) such as a bruise, welt, burn, or cut inflicted on a child by other than accidental means by another person. “Hazing” may constitute physical abuse.

Sexual Abuse—Sexual assault or sexual exploitation. Sexual assault includes rape, statutory rape, rape in concert, incest, sodomy, lewd or lascivious acts upon a child, oral copulation, penetration or intrusion of a genital or anal opening, including the use of any object, intentional touching of the genitals or intimate parts or the clothing covering them, or child molestation. Sexual exploitation includes conduct or encouragement of activities related to pornography depicting minors and promoting prostitution by minors. “Hazing” may constitute sexual abuse.

[¶ . . . ¶]

Willful Cruelty or Unjustifiable Punishment-A situation where any person willfully causes, inflicts or permits unjustifiable physical pain or mental suffering, or a caregiver willfully causes or permits the child to be placed in a situation in which the child's person or health is endangered. Endangerment and cruel punishment are both required reportable categories of child abuse, even if no injury is sustained.

Mental Suffering, Emotional Well-Being- A situation where any mandated reporter has knowledge of or who reasonably suspects that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any way.

(Exh. 55A, p. 4, 5.)

18. The Child Abuse and Neglect Reporting Bulletin also contains a section entitled "What Child abuse does not include." In relevant part, the Bulleting provides: "[t]he use of an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to a person(s) or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil." (Exh. 55A, p. 5.)

19. The District's Sexual Harassment Policy dated November 29, 2006 provides that the District "is committed to maintaining a working and learning environment that is free from sexual harassment. Sexual harassment by of or by our employees, students, or persons doing business with the District is a form of sex discrimination in that it constitutes differential treatment on the basis of sex, sexual orientation (actual or perceived) or gender (actual or perceived). As such, an act of sexual harassment is a violation of state and federal laws and a violation of District policy." (Exh. 60, p.1.)

20. The District's Sexual Harassment Policy also provides "Examples of Conduct which may result in sexual harassment" as follows:

Conduct which may result in sexual harassment may include, but is not limited to the following:

Verbal-unwelcome conduct such as the use of suggestive, derogatory, or vulgar comments; the use of sexual innuendo or slurs; making unwanted sexual advances, invitations, or comments; pestering for dates; making threats; and/or spreading rumors about or rating others as to their sexual activity or performance.

Visual-unwelcome conduct such as the display of sexually suggestive objects, pictures, posters, written material, cartoons, or drawings; the use of graffiti and/or computer-generated images of a sexual nature; and/or spreading rumors about or rating others as to their sexual activity or performance.

Physical-unwelcome conduct such as unwanted touching, pinching, kissing, patting, or hugging; the blocking of normal movement; stalking; assault; and/or physical interference with work or study directed at an individual because of the individual's sex, sexual orientation, or gender.

Threats, demands, or pressure to submit to sexual requests in order to keep a job or academic standing or to avoid other loss, and/or offers or benefits in return for sexual favors.

(Exh. 60, p. 4.)

21. Section VIII. A. 9. of the Sexual Harassment Policy provides guidance for assessing complaints of sexual harassment. It provides:

[C]arefully consider all available information in determining whether the conduct described in the complaint violated the District's sexual harassment policy. The following five questions should be asked:

- a. Was the conduct of a sexual nature?
- b. Was the conduct unwelcome?
- c. Did the conduct create a hostile environment for the alleged target of the harassment?
- d. Was the conduct severe, persistent, or pervasive?
- e. Did the conduct limit the individual's ability to participate in or benefit from an educational program or activity?

When the answers to questions a-e are 'yes,' the conduct may be considered sexual harassment. However, conduct that does not rise to the level of sexual harassment may still be considered inappropriate behavior and may require that corrective actions be taken.

(Exh. 60, p. 4, 11.)

22. As noted in the District's Code of Conduct with Students, the District is obligated to investigate allegations of inappropriate conduct or behavior by teachers.

Generally speaking, the District's investigatory process regarding student complaints against teachers involves interviewing the student making the complaint and randomly selected students from the same class. All students are interviewed separately and may be asked to write down the statements made in their interview. If the complaint is corroborated, a conference is held with the teacher to discuss the allegations made by the student(s) against the teacher. At the conference, the teacher is allowed to respond to the allegations, and the teacher may be given assistance and guidance, and directives. The teacher is issued a Conference Memorandum that summarizes the discussion at the conference and the assistance and guidance, and directives given to the teacher. (See e.g., Exhs. 17, 45, 46 and 58.) Administrative investigations of student complaints may be conducted by school site administrators and/or the District's Student Safety Investigation Team. (See e.g., Exh. 38.)

Graham Elementary School

23. At Graham, Respondent taught kindergarten during his first year and was happy with the assignment. The teaching assignments are made on the basis of a seniority list. Because Respondent was low in seniority at Graham, he was not assigned kindergarten for the subsequent year. Instead, he was assigned a second grade classroom. While Respondent would have preferred kindergarten, he welcomed the opportunity to teach second grade since he had an ultimate goal of becoming an administrator, and the assignment would give him valuable experience. Respondent clearly remembered that the new principal Elsa Bolado seemed to have assumed that he would contest the assignment. While in the cafeteria reviewing the posted assignments for the coming school year, Ms. Bolado commented from across the room to Respondent that if Respondent did not like the assignment, he could transfer. Respondent thought the comment was odd.

24. Respondent also recalled that before a staff meeting one day, he was in the office making photocopies when Ms. Bolado approached him. At the time, Respondent was wearing a distinctive United Teachers Los Angeles (UTLA) union T-shirt which had a special emblem. The emblem signified his involvement with the steering committee and area meeting. Respondent was not a local representative or involved in representation of other employees. Ms. Bolado asked Respondent what his union position and affiliation was. Respondent answered her question and then stated that he would like to be on his way to attend the meeting. Ms. Bolado then brought out a copy of the UTLA-District contract and made a statement to the effect of "if you want to play contract, we can play contract." Respondent did not respond and left the office to attend the meeting. Once at the meeting, he was surprised to hear Ms. Bolado give specific direction about what materials must appear in the classroom since Respondent had understood that classroom environment was generally an area of teacher discretion. Ms. Bolado gave specific instruction that the GLAD program and posters related to the program were to be used and posted by all teachers. Respondent took copious notes during the meeting and tried to copy all of the charts that were shown. At one point Ms. Bolado raised her voice and stated "I'm going to want to see this in my class." She then turned to Respondent and called him by name. She asked "Mr. Beltran, do you have an objection?" Respondent said nothing. Then Ms. Bolado turned to Mr. Carter, the UTLA site representative, and stated: "If you have an issue I don't want to hear it behind my

back, you need to say so now.” Respondent found the interactions concerning especially because Ms. Bolado was a new principal and this was the beginning of a new school year.

25. Respondent’s second grade classroom at Graham was set up in six pods of four students. There were various designated areas in the classroom: two rug areas, group areas, teacher stations, reading, writing, listening and computer centers. Respondent found the more areas he had, the easier it was to manage the classroom. Respondent’s students were primarily beginning English language learners designated as ELD1 and ELD2. The students were grouped by English language ability level. Previously, teachers had helped construct the groups of students for each classroom to make the ability and language levels more balanced. Respondent found this class challenging. The students had more behavior issues than he was accustomed to, struggled academically and did not work well independently. Respondent’s wife, Johanna Beltran, a para-educator, testified that Respondent had mentioned he was struggling with some challenging classroom behaviors and was concerned about the students. Respondent and Campus Aide Lorena Beatriz both testified about a group of boys who played together that often misbehaved and engaged in off task behavior. Among those students were O [redacted], E [redacted], J [redacted], D [redacted], J [redacted], J [redacted], and J [redacted]. The boys usually went to recess together, played rough and sometimes called each other names and played at fighting.

26. Respondent posted classroom rules which were developed with input from the students. The rules included being respectful, asking permission to leave the classroom, and being kind. He used incentives including praise, stickers and, stamps for good behavior. He also developed different lessons to address some of the classroom behaviors and worked on character building and thematic lessons which included the books “Have you filled up a bucket today” and “No David.” Respondent also used a character building program that he found for self-esteem and to foster positive interactions. The lessons included the use of puppets, acting out scenarios and role modeling of appropriate behaviors.

27. Respondent used a variety of strategies including modeling, redirection, time out and classroom admonitions to modify behaviors. Respondent used “time out” to change student behavior. Time out consisted of removing the student from the situation for five minutes or less until Respondent could sit down with the student individually and address the student’s behavior. Typically, in time out, students were asked to go to the rug or one of the centers or go back to the desks if they were on the rug or at a center. He also changed students’ seats during the year based upon behavior. Early in the school year, Respondent also benched students at recess if they needed to be reminded of classroom rules or were disruptive or did not finish homework. He stopped this when he realized that some of the students were not abiding by the instruction and the benching was not being enforced uniformly by campus aides. Respondent also sent students to the office with a referral for misbehavior. In some cases, he held conferences with the parents or with the parents and the principal. In an attempt to reward good behavior, Respondent held pizza parties approximately once a month.

28. Respondent denied using corporal punishment in his classroom. In his testimony at hearing, he denied grabbing students, yelling at students, throwing students or excluding students from pizza parties.

29. Respondent's classroom door was usually open. Adults walked in unannounced at least once or twice a week. A speech therapist, a school psychologist, neighboring teachers, parent volunteers and the principal all came into the classroom. Because it was an evaluation year for Respondent, Principal Bolado frequently came into the classroom for brief observations and to observe the implementation of a reading program.

30. Respondent had a clear recollection of his students. Respondent described E█ as loud and disruptive. Respondent had witnessed E█ engage in bully behavior and had intervened. Similar to his friend O█, E█ pushed other students, ran around and was generally disruptive and off task. When confronted by Respondent about behavior including hitting other children or cutting in line, E█ always denied the behavior. Respondent recalled an incident during the second semester in April, when E█ was leaning back, playing with his chair, and fell out of the chair. Respondent had been at the front of the class using a projector, when there was a disturbance. He discovered E█ had fallen out of his chair. He checked to make sure E█ was not injured, picked up the chair, and told E█ that he could sit in his seat when he was ready to use the chair properly. E█ appeared stunned and just stood by his chair. When Respondent returned to the front of the class, he noticed that E█ was kneeling at his desk. E█ later resumed sitting in his chair.

31. When E█ misbehaved in class, Respondent gave him warnings, re-direction, recess, "benching" and timeouts. When those methods failed to change his behavior, Respondent called E█'s home. He kept E█'s mother apprised of the progression of E█'s behavior. Respondent spoke to his mother at the gate before or after school and had a conference with her. Usually, there was a brief improvement in E█'s behavior after a telephone call to his mother.

32. Respondent described student O█ as being loud and outspoken. He was bigger than the other students and bullied them. Frequently, O█ pushed other children and "could not keep his hands to himself" and had "personal space issues." Respondent also described O█ as a student who would frequently daydream, sit and stare at his books or pencil boxes and have difficulty working independently. The class generally had "must do" work which was to be completed at their seats and then "may do" work which was completed at classroom centers. The students always preferred the classroom centers over the seat work. O█ frequently skipped his "must do" work and attempted to push other students out of the centers so he could be at the centers. He often told Respondent that he had completed his work, when in fact, he had not done so. O█ bumped into other students and ran around in the music and theatre classes. He frequently laughed loudly at other students when the teacher called on them for misbehavior and made loud disruptive noises in class. Respondent saw O█ intentionally run into other students and cut into line. When asked about his behavior, O█ denied it. O█ also made disruptive noises in the classroom. Respondent recalled that one day, he discovered O█ with his head down crying in the

classroom. When Respondent inquired, O█ stated that he missed his mother and had not seen her. Respondent called O█'s mother and advised her of the situation. O█'s mother responded that she did not know why he missed her, she was at home and had seen him that morning.

33. Respondent described J█ as having a hard time following direction and completing work, and generally disruptive. J█ pushed other students, did not keep his hands to himself, cut in line and distracted other students. J█ also swayed back and forth, bumping into other students during rug time, and laughed and talked at inappropriate times. When confronted about his behavior, J█ always denied it. J█ struggled academically and had a difficult time writing. Respondent tried a variety of strategies to deal with J█'s behavior including conferencing, redirection, referrals to the office, time out, benching and conferences with his parents. On one occasion, he remembered J█ being excited to write about the Minions from the movie "Despicable Me" during a writer's workshop. Respondent was gratified to see J█ interested in writing.

34. Respondent's observations were supported by Graham's campus aide, Lorena Beatriz. Ms. Beatriz is currently a head start teacher at a District Child Development Center. She previously worked for the District in an afterschool program, as a teacher's assistant, a community representative and a campus aide. Ms. Beatriz testified at the administrative hearing. She was a campus aide at Graham for two school years from 2013-2015. She was one of four campus aides assigned to supervise the school grounds during recess and lunch. She remembered Respondent's second grade class as a group of very active students. She still remembers E█ and O█ because they were so difficult to handle. She described them as being aggressive, hyperactive, loud, and prone to play fight. She knew E█ and O█ to be untruthful. According to Ms. Beatriz, they frequently reported incorrect information about other students to get them in trouble and lied about their own behavior. O█ was a large student and did not seem to know his own strength. She found him to be aggressive with other students and always moving. She described E█ as a "busybody" who "couldn't stay sitting down, needed a lot of reminders to keep hands together and playing nicely with others." Although she did not hear them talk about Respondent on the yard or during lunch, the students did talk about each other and report on each other to the campus aides. She had been in Respondent's class several times either to drop off papers or drop off students. His door was usually open. She knocked on the door if it was closed, but just walked in if it was open. Respondent's class was calm. He spoke to the children directly and in a calm voice. She never saw Respondent grab any student by the neck and no student ever told her he had been grabbed by the neck. She found Respondent to be professional and polite when dealing with campus aides. She noted that he was always dressed up.

35. In late May and early June of 2014, Mr. Jimenez, one of the school administrators, summoned students to the office in pairs over the course of several days. O█ told Respondent that the principal was asking questions about him and about what happened in the classroom. When Mr. Jimenez finished questioning students, Respondent was surprised to be called to the school office and questioned by police officers about his

discipline style and his classroom. After he was questioned by the police, the officers told him that from their perspective, the investigation was over. Then, Principal Bolado came in and instructed him to immediately report to Local District South.

36. Elsa Bolado has worked for the District for 31 years. She is currently the principal of Hollenbeck School. She served as the principal of Graham from 2013 to 2018. She was a District teacher for 18 years. Ms. Bolado served as an English Language Learner (ELL) coordinator, a Title I coordinator, and a literacy coach. She holds a K-12 teaching credential and an administrative credential. Ms. Bolado also earned a Master's degree in Curriculum and Instruction. Her assignment as the Graham principal for the 2013-2014 school year was her first administrative assignment. She sees her job as primarily providing for the safety of the students and the wellbeing of the school personnel, evaluation of teachers and staff, and serving as the school site representative to the District. Ms. Bolado testified about the mandatory training for all teachers and staff at the beginning of the school year. During the training, the District's policies and procedures including the child abuse, code of conduct, sexual harassment, corporal punishment, ethics and bullying, were reviewed. Attendance, payroll and the school literacy goals were also discussed. A second more intensive mandatory child abuse training was held in March each year.

37. Ms. Bolado remembers Respondent as always being cordial and professional. She conducted his formal evaluation and had been in his classroom regularly. Ms. Bolado received a complaint from student E█ toward the end of the second semester. He complained that Respondent made him use his chair as a desk and made him kneel with his hands behind his back in the corner. She also received a second complaint from E█'s mother by telephone concerning E█ being excluded from a pizza party. She advised his mother that she needed to speak to E█ directly.

38. Ms. Bolado testified that E█ was upset and a little sad when he came to her office. She did not remember his parents being present. He was a very active child. She described him as "very active", "playful" and "a leader in the yard." He was not shy and never displayed disrespectful behavior to her nor did she know him to be untruthful. Because there were allegations of possible child abuse, she was advised to report the complaint to the Los Angeles County Sheriff's Department. The complaint was not consistent with her impressions of Respondent. From her observations during the evaluation and walk-throughs, Respondent appeared to be calm and his students appeared engaged in the work. She had not received any previous complaints about Respondent and was under the impression that the students liked Respondent. However, based upon her interview of E█, she believed something had happened in the classroom. When there are allegations, principals have been instructed to contact the Sheriff's department and the local district office. Principal Bolado made the required reports and calls. After the sheriffs interviewed E█, the officers told Ms. Bolado she could handle the matter administratively. Once she received authorization to proceed administratively, Ms. Bolado asked Gabriel Jimenez, the Title I coordinator, to assist her with the investigation because the school did not have an assistant principal and Mr. Jimenez held an administrative credential.

39. Ms. Bolado interviewed E█ in her office and asked him to write a statement. She was present when E█ wrote his statement and told him to "write what you just told me." She also asked him to identify other students that were witnesses. E█'s May 28, 2014, statement said "He toke me at the wall and grape me bake of my nick and was still grab me all wae to the wall. Wen I was siting done I at my chair. He was He sidetopush my chire back and site down at my kneese." (Exh. 9). He also identified O█, J█ and D█ as potential witnesses. When she received E█'s statement, she called the operations coordinator for guidance. When more than three students are named as witnesses, the principals are supposed to call the coordinators and determine whether the entire class needs to be interviewed. Principal Bolado and Jimenez generally called the students in one at a time. The boys that were identified were the first students interviewed. Then, additional members of the class were brought in for interviews. Bolado did not remember if the entire class was interviewed.

40. According to Ms. Bolado, Respondent's class was comprised of ELL level 1 and 2 students that were struggling academically. Some of the students could not write a legible statement. In those instances, Ms. Bolado and Mr. Jimenez transcribed statements and confirmed the accuracy of the transcription with the students. When statements were transcribed, the transcriber signed the statement at the bottom.

STUDENT WRITTEN STATEMENTS

41. Except for E█, who was interviewed by Ms. Bolado alone in her office, all students were interviewed individually in an empty classroom with Mr. Jimenez and/or Ms. Bolado. Principal Bolado's testimony was inconsistent as to whether she was present during the interviews of O█ and D█. She recalled reading the statements made by O█ and D█ during the investigation. O█'s statement was illegible and unintelligible. Jimenez interviewed O█ and transcribed his statement as: "He put me to the rug and put my leg to knees just because I didn't read my book. He grabbed me by the neck. He grabs D█ by the neck and puts him on his knees." (Exh. 1.)

42. Exhibit 3 is a statement dated May 28, 2014 which purports to be from student D█ M. The written statement is partially illegible. As transcribed by Mr. Jimenez, the statement provided: "The teacher says to go to the time out in the rug or wall. He puts me kneeling facing the wall. He also makes J█, O█ and E█ get on their knees. I saw Mr. Beltran grab O█ on the neck and he said ouch." (Exh. 3.) In his testimony at the hearing, D█ denied that Exhibit 3 was his statement and denied that Respondent had done any of the things set forth in the statement. D█ and his father, both testified at hearing that Respondent was an excellent teacher and had helped D█ in many ways including dealing with bully behavior from other students. D█ and his father both credibly and candidly testified that D█ had some behavior problems in school and had a tendency to copy the bad behavior of other students such as making noises in class, play fighting and not completing his work. Their clear recollection of D█'s experience, their admission of D█'s challenges, and their warm feelings about Respondent supported Respondent's

testimony about his conduct as a teacher. Jimenez did not testify at the administrative hearing and there was no evidence to rebut D [REDACTED]'s denial of the statement.

43. J [REDACTED]'s May 29, 2014 statement provided: "icoy ioiok yraysars tcit isroe; olot ieitio olot ieitio oot TiBHyor ioqo iBSDIHYA otozz iese neet." Mr. Jimenez transcribed the statement as "He makes me cry. He holds me from the neck hard. He screams to everybody. He tells us to be quiet. He makes me kneel facing the wall." (Exh. 3.)

44. J [REDACTED] A.'s statement dated May 29, 2014 provides: "I now that ween kind of knids get in troble he gets from the sih when we in troble Next wen he gets us from the nike he puts us in timeout and put us seeing the wall. Then some times he puts us outside. Last he sell as you go to your chair. When we go to timeout he pus us kneling. Some times he takes are chrae away and tales us to kneling." (Exh. 5.) J [REDACTED] did not testify at the administrative hearing and his statement was admitted solely as administrative hearsay.

45. A [REDACTED]' statement dated June 2, 2014 provides: "When people get in trouble they put them in the coner. When they don't pay auttenchen that the teacher says to sit down in the carpet. The Kids that they don't linsen the teacher sends them outside in the Hallwya. When the kids talk loud the teacher tells them to be quiet. When the kids are bade the teacher graves them when the kidsa are bad the teacher tells them to put there heads down." (Exh. 5.) A [REDACTED] did not testify at the administrative hearing and his statement was admitted solely as administrative hearsay.

46. X [REDACTED]'s statement dated June 2, 2014 provides: "E [REDACTED] and O [REDACTED]. When E [REDACTED] bes mad Mr. beltran takes his cher. When O [REDACTED] gets in trabl. Mr. Beltran Yells at him. And E [REDACTED] and O [REDACTED] alwase fite. And E [REDACTED] trose water. I E [REDACTED] and O [REDACTED] alwses talk about Mr. Beltran. I thery get in trubl. Amd O [REDACTED] bes men to me to. And bull. Whem they tack is char they sit on there nes." (Exh. 6.) X [REDACTED] did not testify at the administrative hearing and her statement was admitted solely as administrative hearsay.

47. O [REDACTED]'s statement dated June 2, 2014, provides: " When O [REDACTED] and E [REDACTED] and D [REDACTED] get in Trouble Mr. Beltran gravs hthem form the neck When E [REDACTED] sits rong on his chari Mr. Beltran takes away his chair and sometime eric nees her and E [REDACTED] crys. They go to timeout sometimes they go the carpet and face the wall and stand up and face the door." (Exh. 7.) O [REDACTED] did not testify at the administrative hearing and her statement was admitted solely as administrative hearsay.

48. R [REDACTED]'s statement dated June 2, 2014, provides: "Wen E [REDACTED] and o [REDACTED] and D [REDACTED]. get in Trouble mr. Beltran Puts them in ter his at ter desk." (Exh. 8.) R [REDACTED] did not testify at the administrative hearing and her statement was admitted solely as administrative hearsay.

49. I [REDACTED]'s statement dated June 2, 2014, provides: "Mr. Beltran puts E [REDACTED] on his nees because E [REDACTED] dsint lisin to Mr. Beltran. E [REDACTED] sits on the corpit facing the wall. Sum times E [REDACTED] stancce up and zene Mr. Beltran takes away his chair. E [REDACTED] sits on his nees and

does his work." (Exh. 10.) J█████ did not testify at the administrative hearing and his statement was admitted solely as administrative hearsay.

50. J█████'s statement dated June 2, 2014, provides: "When O█████ does something bad Msr. Beltran tells him. To go sit on the carpet or put his head down in the table. To D█████ he tells him the same thing. But to E█████ he tells him the same thing too. But sometimes wen he is not using his chair Msr. Beltran tells him to sit on his nese and. Then E█████ tells Msr. Beltran that he has learn is lein. To J█████ he tells him to put his head down. Or to face the wall. Sitting Kriss cross applessos." (Exh. 11.) J█████ did not testify at the administrative hearing and her statement was admitted solely as administrative hearsay.

51. B█████'s statement dated June 2, 2014, was provides: "E█████ has to sit in the floor on his because he do not lizen to the teacher. Some times E█████ is on and he sit on the floor." Ms. Bolado transcribed the statement as: "E█████ has to sit on the floor on his knees. Sometimes E█████ losee his chair and he sits on his kness and he does his work." (Exh. 12.) B█████ also drew a picture of E█████ on his knees at his desk. B█████ did not testify at the administrative hearing and her statement was admitted solely as administrative hearsay.

52. J█████'s statement dated June 2, 2014 provides: "O█████ talks a lot that's why he gets in trabale. Mr. Beltran gets him from the neck hard. E█████ gets in trabale a lot. E█████ goes to the coner and faces the wall. D█████ gets in trabale because he hits D█████ a lot. D█████ goes to time out." J█████ drew pictures. J█████ did not testify at the administrative hearing and his statement was admitted solely as administrative hearsay.

53. J█████'s undated statement was unintelligible. Mr. Jimenez transcribed his statement as: "O█████ doesn't do his work. The teacher gets mad and he screams at him. Even E█████ gets in trouble because he talks a lot and he brings toys. The teacher tells him to look at the wall and not to look at other people and make him sit on the carpet." (Exh. 14.) J█████ did not testify at the administrative hearing and his statement was admitted solely as administrative hearsay.

54. J█████'s statement dated June 2, with no year indicated, provides: "Wen a kid gets in chuh Mr. Beltran pets him in taime out. Or he gets him frem the nege. Or some tame he sdrems to the kids. Or he gets he from the shatter. Or gets a book and slase the book in his tabl. Or gets the get hane hard. Pets him out cyde. Or has the kids hade vetry hookd. Or he takes him to the offist." (Exh. 15.) J█████ did not testify at the administrative hearing and his statement was admitted solely as administrative hearsay.

55. Principal Bolado had not received any prior complaints from any of the students including J█████, whose mother worked as a campus aide at Graham. Ms. Bolado opined that the statements obtained from Respondent's students seemed consistent. She was not aware that any of them knew what the interviews were about in advance or that they had talked to each other; however, there was no evidence that the students were admonished not to talk about the investigation or their interviews. The interviews were started on May 23, 2014, with E█████ and concluded on June 2, 2014 with the majority of students interviewed on

the last day. Ms. Bolado did not take any notes for the interviews because the District instructs the principals not to take notes. The District staff relations department, not Principal Bolado, determined which student statements were used. After interviewing O [REDACTED] and D [REDACTED], she had concluded something wrong happened. When two or more students come in with the same complaint she assumes the truth of their statements notwithstanding the fact that these particular students did not have a reputation for honesty. Additionally, the students were known to be friends. After meeting with personnel from the staff relations department, she agreed that it was appropriate to issue a Conference Memorandum and to discipline Respondent based upon the statements of the students.

CONFERENCE MEMORANDUM DATED NOVEMBER 3, 2014

56. On November 3, 2014, Principal Elsa Bolado issued a Conference Memorandum to Respondent summarizing a conferences held on October 3, 2014 and November 3, 2014 attended by Respondent, Principal Bolado, Juan Alfayate, Field Director and Carl Joseph, UTLA union representative. In the Conference Memorandum, Ms. Bolado summarized quotations from interviews with students E [REDACTED] R., O [REDACTED] C., J [REDACTED] R., J [REDACTED] A., D [REDACTED] M., B [REDACTED], I [REDACTED], X [REDACTED], J [REDACTED] and O [REDACTED] A. concerning allegations that Respondent grabbed students by the back of the neck, made them sit or kneel on the carpet and/or face the wall and screamed. The statements were taken during the period of May 23, 2014 to June 2, 2014.

57. During the conference, Respondent's UTLA representative denied all allegations and requested copies of the statements, notes and additional information.

58. Principal Bolado provided Respondent with assistance and guidance including a directive to "not touch, handle, or grab, students, unless it is for their immediate safety." She also provided him with copies of the District Code of Conduct with Students, Board Resolution Reaffirming Respectful Treatment of All Persons; California Standards for the Teaching Profession, Standard Two which addresses Creating and Maintaining Effective Environments for Student Learning by (i) establishing a climate that promotes fairness and respect and (ii) establishing and maintaining standards for student behavior; Bulletin 1347.0 "Child Abuse and Neglect Reporting Requirements" and Bulletin 5046.0 entitled "Abolition of Corporal Punishment" and directed him to Adhere to the those bulletins and policies. (Exh. 17.)

TESTIMONY OF GRAHAM STUDENTS

59. E [REDACTED] R. is a 13-year-old seventh grader who attends middle school in the District. He previously attended Graham Elementary School. E [REDACTED] testified that he was in Respondent's third grade class, but in fact, he was in Respondent's second grade class. E [REDACTED] testified that he did not remember second grade, but remembered Respondent's third grade class. E [REDACTED]'s memory was sketchy about details and time, but he testified that he remembered that Respondent "would put circles in a jar until the class filled it up then they could have a party." He also testified that if someone was bad, Respondent "grabbed us by

the neck and put us in the corner to stare at the corner." E [REDACTED] testified that Respondent grabbed him by the neck, below the hair line, and dragged him to the corner, forced him down on his knees to make him look at the corner for 5 to 10 minutes. He also testified that Respondent made him kneel on the floor. E [REDACTED] saw O [REDACTED] and J [REDACTED] taken to the rug for time out. E [REDACTED] testified that on a scale of 1 to 10, kneeling on the floor hurt at a level 6. E [REDACTED] was angry, sad, embarrassed and about to cry at the time. When school ended he sometimes locked himself in his room and cried for five or ten minutes. E [REDACTED] remembered that the class had a pizza party and he was outside of the classroom crying because he was the only one who had been excluded. When some teachers saw him, he told them some things that he did not clearly recollect when testifying, and the teachers took him to the principal's office. He spoke to the principal, wrote a statement and spoke to the police.

60. J [REDACTED] is a seventh grade student at Thomas Edison Middle school. He attended Graham Until fifth grade. J [REDACTED] testified that he was in Respondent's third grade class at Graham not his second grade class when he was seven years old. J [REDACTED] was noticeably nervous and constantly moving his hands and feet during his testimony. At one point, he appeared to hide his head under his hands and put his head down. J [REDACTED] had difficulty making eye contact with the attorneys and the Commission members. J [REDACTED] remembered that Respondent had classroom rules. One of the rules was to be respectful. He did not really like Respondent because of how he treated the students. He testified that Respondent screamed a lot, grabbed students by the neck, threw them "like a baseball" on to the carpet, pushed students and generally "he looked like a really mean guy," and had an "angry weird face every day." J [REDACTED] testified that when Respondent pushed students "it wasn't that hard." J [REDACTED] laughed when other students got in trouble in Respondent's class. He thought it was funny until he was the one who got in trouble. J [REDACTED] got angry when Respondent grabbed him by the neck because he grabbed him with a lot of pressure. J [REDACTED] estimated that on a scale of 1-10, Respondent grabbed him at a level 9 and it hurt. J [REDACTED] was placed in time out many times. Usually, he was asked to stand by the door to the classroom. Sometimes he was required to face the wall or the corner for up to 15 minutes. Respondent required him to keep his hands behind his back.

61. J [REDACTED] also testified that Respondent screamed "sit down" "pay attention" "do your work" to O [REDACTED], J [REDACTED], E [REDACTED] and J [REDACTED]. The conduct made him feel uncomfortable and sad. J [REDACTED] testified that he used to cry in class because of Respondent's behavior. J [REDACTED] testified that one day he got tired of Respondent's behavior and told one of the adults on the playground. They sent him to the office to write it down. J [REDACTED] reviewed his statement, (Exh. 3), and confirmed that Mr. Jimenez's transcription at the bottom was a correct rendition of what he told Mr. Jimenez. He did not tell Mr. Jimenez that Respondent made him put his hands behind his back. He also did not tell Jimenez that he thought Respondent had videotaped him pulling fibers from the rug. However, he did tell his parents about the alleged videotape and he thought they seemed surprised.

62. J [REDACTED] had recent telephone conversations and Instagram exchanges with some of the other students from Respondent's classes to discuss what they remembered

about Respondent and to discuss the proceedings against Respondent before giving his testimony.

63. O [REDACTED] C. is a 13 year-old seventh grader. He attended Graham from kindergarten through sixth grade. He was in Respondent's second grade class until Respondent left at the end of the year. Respondent discussed the class rules with the students frequently. In Respondent's class, students were given praise and stickers as rewards for being good. When students misbehaved in class, Respondent told them to "do your work." When O [REDACTED] was misbehaving, Respondent came close to his face, approximately three inches from his ear, and whispered in his ear to "stop talking," "do your work" or "go to the rug". Respondent also "lightly grabbed" students by the neck below the hair line and put them on the rug to sit down in a criss-cross style. Respondent also made students stand straight by the wall for up to 10 minutes. O [REDACTED] recalled being placed on the rug, multiple times each week. O [REDACTED] saw Respondent grab other boy students by the neck including J [REDACTED], D [REDACTED], D [REDACTED], E [REDACTED] and J [REDACTED]. O [REDACTED] did not remember Respondent ever raising his voice to students.

64. O [REDACTED] remembered one incident in which Respondent grabbed E [REDACTED] by the neck and pushed E [REDACTED] to the rug. E [REDACTED] did not want to sit down, tripped over a pole near one of the tables and fell on his butt and leg. E [REDACTED] sat down when he fell and did not say anything that O [REDACTED] remembered. O [REDACTED] did not remember E [REDACTED] falling from a chair or using his chair seat as a desk. O [REDACTED] remembered that J [REDACTED] cried one time when Respondent put him on the rug. O [REDACTED] also remembered that D [REDACTED] was sent to another class sometimes. O [REDACTED] estimated that Respondent grabbed him by the neck about 30 times. He estimated that Respondent grabbed E [REDACTED] by the neck about 20 times, J [REDACTED] 30 times, D [REDACTED] 20 times, J [REDACTED] 20 times, and D [REDACTED] 15 times. O [REDACTED] did not like Respondent's class because he felt left behind and in one instance he felt that Respondent did not respond to his request for help.

65. O [REDACTED] remembered being summoned from recess to speak to the principal. She asked "what did Mr. Beltran do to everybody" and told him to write it down. First, he talked with Ms. Bolado in her office and then she had him write a statement. He remembered being asked "What happened" and after writing the statement Ms. Bolado asked him if the statement was true. He responded that it was true. When O [REDACTED] returned to class, he told Respondent that the principal was asking about him. He also told all of his classmates and other students that Principal Bolado was asking about Respondent and what he had told Principal Bolado. He approached Bolado more than once to ask what had happened to Respondent after he left Graham and asked if he had been arrested. O [REDACTED] maintained contact with D [REDACTED], J [REDACTED], J [REDACTED] and E [REDACTED] and discussed Respondent after he left Graham up until they all left Graham at the end of sixth grade.

66. D [REDACTED] M. attended Graham from first through fourth grades. He was in Respondent's second grade class. D [REDACTED] testified that Respondent was a good teacher and taught him "honorable lessons" and "how to behave in class." D [REDACTED] liked Respondent's class and found it to be "fun" because Respondent would read aloud. D [REDACTED] did not remember Respondent doing anything to hurt any of the students or raising his voice. D [REDACTED]

did remember that Respondent got mad at the boys sometimes, but not "super mad." D [REDACTED] remembered being escorted to another classroom for a few minutes when he misbehaved. D [REDACTED] testified that J [REDACTED] was not a truthful person, had bullied him and blamed him for saying curse words that J [REDACTED] had said. D [REDACTED] did not like Principal Bolado because she had made him apologize to J [REDACTED] when J [REDACTED] was bullying him. D [REDACTED] believed that Principal Bolado was "a bad principal." D [REDACTED] testified that he would have told his parents if Respondent had hurt him. D [REDACTED] denied writing or giving the statement set forth in exhibit 2. He stated that he did not have a signature at that time and did not sign exhibit 2. D [REDACTED] remembered O [REDACTED], J [REDACTED], E [REDACTED] and R [REDACTED] from Respondent's class. D [REDACTED] considered J [REDACTED] loud and a bully. J [REDACTED] was sent to other classes occasionally. O [REDACTED] had been D [REDACTED]'s friend, but later bullied him. D [REDACTED] also remembered O [REDACTED], J [REDACTED] and X [REDACTED] and did not think that they would lie about Respondent.

NOTICE OF UNSATISFACTORY ACT/NOTICE OF SUSPENSION

67. On December 18, 2014, the District, through Principal Pedro Garcia, issued a Notice of Unsatisfactory Act for the period of August 2013 to May 2014 concerning the allegations made by E [REDACTED], O [REDACTED], J [REDACTED], J [REDACTED], and D [REDACTED] M. The Notice of Unsatisfactory Acts set forth two causes against Respondent: (1) Unprofessional and Immoral Conduct and (2) Persistent Violation or Refusal to Obey the School Laws of the State or Reasonable Regulations prescribed for the government of the public schools by the state Board of Education or by the Governing Board of the School Employing him. The Second cause was based upon alleged violation of the District's (1) Employee Code of Ethics, (2) Board Resolution regarding respectful treatment of all personal, (3) Employee Code of Conduct with Students and (4) Bulletin 5747: Abolition of Corporal Punishment. (Exh.18.) Respondent also received a Notice of 15-day suspension on December 18, 2014. Respondent appealed the suspension and has not served a suspension. (Exh. 19.)

EXPERT TESTIMONY

68. Respondent's expert, Bradley McAuliff, appeared by video conference. Mr. McAuliff is a professor of psychology at California State University, Northridge and an adjunct professor at the University of Southern California Law School. Professor McAuliff has done extensive research in the area of suggestibility in young children. (Exh. 520.) Professor McAuliff provided valuable insight to the Commission. According to McAuliff, age and cross-contamination are two of the biggest issues when questioning children. The younger the children, the more likely that they are vulnerable to suggestibility. Additionally, children with learning differences are also more susceptible than typically developing children. Professor McAuliff reviewed the transcript of Ms. Bolado's hearing testimony, the witness statements and the Conference Memorandum. He expressed concern that the questions asked by Ms. Bolado and Mr. Jimenez may have confirmation bias and cross-contamination (i.e. confirmation of the information suspected or provided from other interviews) which impacted the questions and the conclusions derived from the information. Professor McAuliff opined that he suspected that the shift of the focus of the written student statements over the period of May 23 to June 2 should be a concern.

69. Professor McAuliff opined that the focus of the statements became more narrow as time went on indicative of more narrow focused questions and directions designed to elicit certain information consistent with the information derived from previous interviews. Thus, evidencing confirmation bias and cross-contamination which likely tainted the interviews. Best practices for interviewing students are: 1) setting ground rules to decrease the deference to adults; 2) rapport building; and 3) allowing students to give a narrative. Some of the written statements have a focus that suggests there was direction or highlighting by the interviewers. This may have been inadvertent and unintentional. According to Professor McAuliff, it is also a good practice to record statements. Here, by design, there is not much contemporaneous information about what was said by the adults to elicit the written statements. By design, there are no notes or recordings of the interviews so that it is not possible to determine the context in which the statements were given, precursor instructions or conversations that occurred between the students and the interviewers.

CONCLUSIONS REGARDING CONDUCT AT GRAHAM

70. Upon deliberation, the Commission determined that the evidence offered by both parties established that Respondent was an experienced elementary school teacher handling a challenging class of level 1 and 2 ELL students who were struggling academically. Respondent was also contending with a group of very active, disruptive male students. The preponderance of the evidence demonstrated that Respondent used a variety of strategies and tactics to deal with the academic and behavioral challenges posed by his students. Among the tools Respondent used was a “time out” which involved moving a student to another location or standing by a wall, or sitting on a rug or at a classroom center so that the student had time to think about their actions until Respondent finished lessons with other students and addressed the subject student directly. The testimony of the students at hearing was inconsistent about the character of Respondent’s “grab” of the students by the neck. The testimony ranged from hard with a lot of pressure, to a light touch to no “grab” at all.

71. While it was not established that the students intended to lie about their interactions with Respondent, the truth of what they purportedly observed was not established by a preponderance of the evidence. Three of the four students had reputations for being untruthful and two were prone to making false reports about classmates to authority figures. Additionally, a significant amount of time had elapsed from when the alleged events occurred and the hearing testimony and their recollections were inconsistent about timelines and details. Moreover, D [REDACTED] contradicted the statements. Under these circumstances and given the totality of the evidence, it is more likely than not that J [REDACTED], O [REDACTED] and E [REDACTED] exaggerated when describing Respondent’s actions. When the written statements are examined closely with the witness testimony and in light of the credible expert testimony provided by Professor McAulliff about the potential for suggestibility, confirmation bias and cross-contamination from the way the questioning was conducted, and the students’ conversations amongst themselves, it cannot be concluded that the District met its burden.

72. The preponderance of the evidence established that Respondent most likely used a physical prompt in the form of a hand at the shoulder or neck to get the subject student's attention and guide them to the "time out" location. If the location was a rug or carpet, Respondent did insist that the students sit down cross-legged in a "criss-cross applesauce" position. This was not a "grab" or physical harm or intimidation to the students and did not violate any of the District's many policies. However, it may not have been best practices. Similarly, using "time outs" was not in violation of any of the District's policies, but may not have constituted "best practices" for a teacher of Respondent's experience level. The term "yelling" is subjective and implies that someone raises their voice to an inappropriately loud level. The Commission did not conclude that Respondent raised his voice to an inappropriate level at any time, but it is likely that Respondent was required to directly address J [REDACTED], E [REDACTED], O [REDACTED], D [REDACTED] and some of their friends, and likely in a stern voice, for a variety of reasons including to get students' attention, to stop dangerous behavior, etc., none of which would have been inappropriate in these circumstance. Similarly, the Commission concluded that the preponderance of the evidence did not establish that Respondent required the students to kneel or put their hands behind their back. This is not to say that the students did not in fact kneel or hold their hands behind their back or use a chair as a desk as a self-selected alternative to sitting or standing as instructed.

SPECIFIC CHARGES RELATED TO GRAHAM

73. In the Accusation, the District made specific charges related to Respondent's conduct at Graham. The Commission's determination of these charges is based upon factual findings 5-72. Those charges are addressed below:

74. It was established by a preponderance of the evidence, as alleged in Charge 1 (b) of the Accusation, that during the period of August 2013 through May 2014, Respondent made student E [REDACTED] R. stand facing the wall as part of a time out.

75. It was not established by a preponderance of the evidence, as alleged in Charge 1 (a)(c) and (d) of the Accusation, that during the period of August 2013 through May 2014, Respondent did the following to second grade student E [REDACTED] R:

- (a) Grabbed the back of his neck "hard" while walking him to the wall.
- (c) Made him kneel, causing him pain.
- (d) Screamed at him.

76. It was not established by a preponderance of the evidence, as alleged in Charge 2 of the Accusation, that during the period of August 2013 through May 2014, Respondent Beltran did the following to Second grade student O [REDACTED] C:

- (a) Grabbed his neck, causing him pain.

- (b) Made him kneel because he did not read his book.
- (c) Yelled at him.

77. It was not established by a preponderance of the evidence, as alleged in Charge 3 of the Accusation, that during the period of August 2013 to May 2014, Respondent Beltran did the following to Second grade student J [REDACTED] R.:

- (a) Grabbed his neck "hard," causing him to cry.
- (b) Made him kneel facing the wall.
- (c) Screamed at him.

78. It was not established by a preponderance of the evidence, as alleged in Charge 4 of the Accusation, that during the period of August 2013 to May 2014, Respondent Beltran did the following to Second grade student J [REDACTED] A.:

- (a) Grabbed his neck and put him in timeout "seeing the wall."
- (b) Removed his chair and made him kneel during the timeout.
- (c) Made him stand outside.

79. It was not established by a preponderance of the evidence, as alleged in Charge 5 of the Accusation, that during the period of August 2013 through May 2014, Respondent Beltran did the following to Second grade student D [REDACTED] M.:

- (a) Grabbed his neck.
- (b) Made him kneel facing the wall.

80. It was not established by a preponderance of the evidence that any of Respondent's conduct as described above, was egregious. Nor was it established that his conduct constituted an offense listed in Education Code section 44932, including, but not limited to Penal Code sections 11165.2-11165.6.

August 28, 2015 Conference Memorandum

81. The parties stipulated that Respondent participated in an August 28, 2015 conference with Local District South Administrator Pedro Garcia wherein Mr. Garcia directed Respondent to adhere to all of the District policies, specifically, but not limited to, the District's Code of Conduct with Students, Child Abuse and Neglect Reporting Procedures Policy, Employee Code of Ethics, Board Resolution on the Respectful Treatment of All Persons, Teacher Job Description, Sexual Harassment Policy, Bullying and Hazing

Policy and California Standards for the Teaching Profession. The Conference was memorialized in an August 28, 2015 Conference Memorandum which was issued to Respondent. There was no discipline imposed upon Respondent.

Simon Rodia Continuation High School

82. Rodia was in a transition period and suffered from a chaotic environment during Respondent's tenure there. Regina Awtry was the Principal when Respondent first arrived at Rodia. Many of the students did not like Principal Awtry and had circulated a petition to have her removed. Ms. Awtry warned Respondent to be wary of the students and told him that some students had voiced concerns that they were uncomfortable with him. Ms. Awtry warned Respondent that the students "would throw their own grandmother under a bus." He understood this to be a caution to him since he had primarily taught at the elementary level and was not familiar with the continuation high school student population. Principal Awtry did not give him any specific criticism, details or the names of the students that were uncomfortable.

83. Ms. Awtry left Rodia mid-year due to an unspecified medical issue and never returned. After Ms. Awtry's departure, the school had a series of interim principals with tenures of a few months or less. Respondent, the Office manager Irma Medina, Respondent's colleague teacher Evelyn Mendoza, and Dr. Ramirez, the Local District East Director, were on the interview committee for the new principal. Teacher Adrian Martinez had provided leadership and assistance to the various interim principals and had taken significant responsibility for the packing and movement of Rodia from the Jordan campus to the South East campus. He had hoped to be the new principal. The committee ultimately decided to hire Victorio Gutierrez to serve as the school's principal effective in August of 2016.

84. Mr. Gutierrez had served as the principal of View Park High School for four years, Alonso/Johnson Community Day School for four years and assistant principal of Roosevelt High School. Mr. Gutierrez had been a social studies teacher and the dean of discipline at South Gate High School. He holds an administrative credential, a bilingual K-12 credential, a single subject social studies credential and a special education credential. According to Mr. Gutierrez, the principal's job is providing a safe environment for students, parents and staff and to evaluate teachers. At Rodia, his job included representing the District's policies, working with the community and the limited resources available at the school.

85. Rodia had nine large instruction rooms in a two story facility. Two of the first floor rooms were used for the cafeteria and the library. Two additional rooms were used for Room 110, which was Respondent's classroom and the adjoining classroom which was the science classroom occupied by Ms. Mendoza. Principal Gutierrez described Rodia students as "at risk students and they are the ones that fall through cracks, young parents, drug addicted, the neediest kids in the district-with the lowest budget." According to Mr. Gutierrez, generally the students were forced to come to Rodia because they were behind in

credits or had behavior problems. Rodia had policies to contact parents about attendance, profanity, and dress code violations. The students had a limited amount of time to make up credits and either return to their prior schools or graduate from Rodia.

86. Students frequently “cut” class by not attending, staying in the bathroom or “jumping” the school fence and leaving during breaks or passing periods. Classroom equipment had also been stolen. This included iPads, science equipment and math equipment. (Testimony of Respondent, Gutierrez, Martinez, Ruther, Mendoza and Student Kimberly). Teachers were asked to supervise and observe students to reduce the tardies, truancies and thefts. It was not uncommon for teachers to stand at the classroom door or watch to see if students went to the restroom or office as they said they would. (Testimony of Respondent, Gutierrez, Martinez, Ruther, Mendoza).

87. Principal Gutierrez provided training on the District policies each year. The Child Abuse policy and the Sexual Harassment policies were the subject of considerable discussion each year. According to Mr. Gutierrez, the District was on high alert for such issues after an infamous case of child abuse at Mira Monte elementary school. District staff receive two mandatory yearly training on child abuse. Violations of any of the District policies (i.e. bullying, hazing, harassment, child abuse) were to be reported to the teacher and/or a principal immediately.

88. During his first year at Rodia, Gutierrez was overwhelmed. There were five teachers and Gutierrez to supervise all of the students. Gutierrez sometimes served as a teacher when there were too many students in a class or a student needed to be moved from a particular class. In addition to the normal duties of a principal, Gutierrez was in the midst of hiring teachers, attempting to secure funds for additional personnel, and organizing the campus. Gutierrez had two disagreements with Respondent about (1) supervision; and (2) moving his classroom to the second floor. Gutierrez asked Respondent to move to the second floor to accommodate another teacher who relied upon the elevator because of a disability. Respondent objected to moving to the second floor, so Gutierrez did not press him any further or direct him to do so. The second disagreement was over lunchtime supervision and eventually involved UTLA intervention.

89. Rodia students were in class from 8:00 a.m. to 12:58 p.m. with lunch from 11:36 a.m. to 12:06 p.m. Prior to Mr. Gutierrez’s tenure at Rodia, teachers had lunch at the same time as the students and were not required to supervise students. Mr. Gutierrez instituted a lunch supervision requirement and made the teacher lunch period from 1:00 p.m. to 1:45 p.m., after students were no longer on campus. Ms. Ingrid Vadalla, the UTLA area chapter chair, met with Principal Gutierrez to resolve the dispute. Respondent was the leader on behalf of the majority of the teachers. Ms. Vadalla had a vivid recollection of Mr. Gutierrez making a comment to her with respect to Respondent. He said, “You have won the battle, but you have not won the war.” She found this to be odd and unnecessarily adversarial. (Testimony Vadalla). Mr. Gutierrez admitted that he was frustrated with Respondent’s rigidity on the supervision issue. Respondent felt that there was a substantial change in Gutierrez’s attitude toward him after that. As an example, he cited that Principal

Gutierrez had obtained funding for teachers to work with students for one additional week after the conclusion of the school year. Initially, all of the teachers were scheduled to work the week and received additional compensation for the time. Mr. Gutierrez abruptly determined that Respondent would not be needed for the additional week and sent him home. All of the other members of the Rodia teaching staff received the opportunity to work for an additional week of compensation. (Testimony of Respondent). During the hearing, Gutierrez rationalized that he could run the Edgenuity program, that Respondent was usually responsible for, by himself and save money by not paying Respondent and that it was not a personal decision, instead it was a financial decision. (Testimony of Gutierrez).

90. After their lunch, teachers were required to participate in daily staff meetings from 2:00 p.m. to 2:50 p.m. The meetings focused on growth, resources, student study team issues, professional development, special projects and WASC accreditation. Mr. Gutierrez noted that Respondent sometimes arrived back at school a few minutes late from lunch, but always stayed late in the afternoon. Mr. Gutierrez liked Respondent and was grateful to Respondent for his role in hiring him as principal. Mr. Gutierrez's office was next to Respondent's classroom on the first floor. They occasionally talked casually about their families, cars, motorcycles and sometimes about students. Mr. Gutierrez described Respondent as being awkward in an odd, formal way. He also used odd phrases such as "How can I be of assistance." He attributed Respondent's demeanor to his long history as an elementary teacher and being new to the continuation school environment. Respondent's classroom was next to Mr. Gutierrez's office and he frequently visited the classroom and observed Respondent teaching. The students were usually in their assigned seats working and the class was quiet. Mr. Gutierrez was impressed with Respondent's inventory control system for the laptop computers. Respondent assigned each student a seat with a number and the number corresponded to the number on the laptop. When Principal Gutierrez first arrived at Rodia, Respondent had the classroom set up with student desks facing a whiteboard and his desk was in front in the corner. At some later point, Respondent moved his desk to the back of the class. He also brought in a sofa for a reading area.

91. Respondent taught a variety of classes on a computer platform known as Edgenuity. The platform allowed students to recover credits in a variety of subjects and was available seven days a week, 24 hours a day. Students were able to access the platform from their cellphones and computers. When students failed a test or were otherwise locked out of the platform, Respondent was required to reset the platform so students could regain access. Many of Respondent's students were seniors and had a short time frame to complete the necessary credits to graduate. At times, the students needed their access restored during the weekends and during non-school hours. Initially, Respondent told them to email him at his District email address. Respondent did not have ready access to his District email on his cellphone and therefore student's had to wait until Respondent checked his District email in order to proceed in their programs. Several students asked Respondent if they could send him text messages when they were needed to have their access restored. Solely for the educational purpose of rapidly responding to the students' needs during his off hours, Respondent gave the students his personal cellular telephone number. He received and

responded to text messages solely for educational purposes and did not have telephone conversations with students. (Testimony Respondent, Student K [REDACTED].)

92. Respondent watched his students closely. He had been warned about technology and equipment thefts. He was also vigilant about the school's no-cellular telephone policy. He frequently caught students using their telephones and made them put them away. At one point, the school had a policy that all cellular telephones had to be checked in and left at the front desk in the morning. The policy was discontinued when some telephones were stolen from the front desk. Respondent's classroom was orderly, calm and generally quiet, except homeroom when students were allowed to circulate a little more freely. Originally, Respondent had his desk in the front of the classroom, but later moved it to the rear near the door so that he could see what the students were doing on their computers and to monitor the entry and exit of students from the classroom. (Testimony of Respondent.)

93. Respondent attended a Restorative Justice training with his colleagues. In the training, the teachers were taught to try to raise self-esteem and make a human connection with students so that they felt acknowledged. Part of the strategies that the teachers were instructed to use included giving the students positive reinforcements and compliments and being more social with the students to engage them and anchor them in the school community. (Testimony of Respondent, Ruther and Martinez.)

94. Respondent is a relatively formal person. His implementation of the strategies and practices was awkward and clumsy. He complimented both male and female students and attempted to make small talk with them. He complimented L [REDACTED] when she wore her hair down. L [REDACTED] had very beautiful long hair. Respondent wanted to acknowledge that L [REDACTED] had given some thought to her personal appearance. He also complimented N [REDACTED] on her glitter eye shadow when she wore a dramatic makeup style. Respondent was aware that N [REDACTED] had experienced some trauma and thought the compliment would be encouraging to her. Respondent also commented on a "Notorious BIG" rapper T-shirt that one student wore because he remembered the music artist from his youth and thought it was interesting that someone of this generation would wear such a shirt. Respondent also told one student that a hoodie with an image of rapper Tupac Shakur giving the middle finger was not appropriate attire. Respondent also remembered providing bottled water to a student who had forgotten her water bottle. He spoke to student H [REDACTED] about her Native Mexican-American heritage several times, including one instance in which he allowed her to substitute something related to her heritage for a standard assignment. He also encouraged her to seek scholarships and continue her education. Respondent encouraged many students to continue their education. He often explained to them how his education had impacted his life.

95. Respondent is known to maintain a calm demeanor even when students are upset. Respondent testified about an interaction with student X [REDACTED]. According to Respondent, X [REDACTED] was talking with student L [REDACTED] and other friends and generally not following classroom rules. When Respondent directed him to go to the office, X [REDACTED] became upset and started yelling and accusing Respondent of looking at L [REDACTED] inappropriately.

Because X [REDACTED] was moving towards the door of the classroom to leave as he made his comments and was following instructions to leave, Respondent stood silently and allowed him to leave. He did not believe it was appropriate to respond to X [REDACTED]'s comments. (Respondent's testimony). In another incident, Student L [REDACTED] refused to complete the five recordings she needed to complete the Spanish class and received credit. Respondent had excused N [REDACTED] from making the recordings for undisclosed reasons. L [REDACTED] did not want to make the recordings and wanted to be excused as N [REDACTED] had been. Respondent gave her some options on how to approach the recordings, but did not excuse her. L [REDACTED] became angry and never finished the required recordings.

96. After Principal Gutierrez had been at Rodia for approximately a month, he began hearing complaints and comments from teachers and students that Respondent had a history of making female students uncomfortable and that they did not want to go to his class. Primarily, he heard this from the office manager, Irma Medina, and from the science teacher, Evelyn Mendoza. In the beginning, Mr. Gutierrez attributed the comments and rumors to Respondent's awkward and overly formal demeanor and his strict discipline style. He also was aware that the students frequently complained about other teachers and started rumors about them. This was corroborated by testimony from Adrian Martinez and the statements of Esther Hall and Nancy Daza.³ (Exhs. 38 and 24.) Gutierrez attempted to talk with a few students about the reports, the students were not cooperative and did not want to make complaints. When Medina made him aware of consistent complaints to her from female students and their reluctance to attend Respondent's classes, he told her to obtain statements from the students. (Testimony of Gutierrez and Mendoza.) Ms. Mendoza also reported complaints she heard to Gutierrez. Mendoza never saw Respondent stare or otherwise act inappropriately with a student. However, she did find him to be a little strange and reduced her interactions with him after the student complaints. She told him of the student complaints early on but did not give him any of the student names. (Testimony of Mendoza.)

97. Gutierrez delegated the task to Medina because she was female, had a relationship with the girls, many of which hung around the office and felt that they would be more comfortable with her. Additionally, Gutierrez was extremely busy with his own work and carrying a student caseload of his own.

98. Irma Medina testified at hearing. She had been with the District since 1986 and Rodia since 2016. She and Principal Gutierrez were the only staff in the office. She heard the female students hanging around her office talk about Respondent and the word most often used was "weird." On Gutierrez's instruction, she separated the students and had them write statements about their experiences with Respondent. The students did not want to return to Respondent's class so she allowed them to remain in the school office with her.

³ Teacher Nancy Daza also prepared a written statement dated August 31, 2017 acknowledging that she heard the students complain about Respondent staring at their butts and breasts and were uncomfortable in his class. Ms. Daza did not testify at the administrative hearing. Her statement was admitted solely as administrative hearsay.

Some of the students regularly came to her office and referred to her as “mom.” Some students were assigned to the office as assistants and some also had her personal phone number. She tried to care for the students and took on the role of confidant since the school did not have a counselor or psychiatric social worker available most days. Ms. Medina gathered statements from current students and had former students contacted for statements as well. (Testimony of Medina.) Medina and Respondent were not particularly friendly with each other. When Medina insisted his art students move to the library, they were upset and he allowed them to confront her directly and complain about the move. She was very upset that the students confronted her directly. (Testimony of Respondent.)

WRITTEN STATEMENTS OF RODIA STUDENTS

99. N [REDACTED] R.’s written statement dated “Sep. 2017” provided: “I am writing this letter to inform you of inappropriate gazes a teacher at Simon Rodia Continuation High School has made to my fellow peers at school several students have been a victim of Mr. Beltran’s gazes in the classroom area. I’ve witness this teacher eyeball students such as S [REDACTED] (last name redacted) and H [REDACTED] (last name redacted). I had both peers in the same class which is Spanish that Mr. Beltran instructs. As a student sometimes you need help with something or sometimes just may have a question to ask. These two students would go up to Mr. Beltran’s desk to ask of whatever they may have needed and as they walked away from his desk back to their assigned seats I spotted Mr. Beltran scrutinize those two girls butts. I may say I believe this teacher has a type of student he likes to examine because S [REDACTED] and H [REDACTED] are both plumped shaped girls. (Exh. 25.) N [REDACTED] R. did not testify at the administrative hearing. Her statement was admitted as administrative hearsay only.

100. C [REDACTED] S. prepared a written statement dated September 5, 2017. In her statement she wrote: “Mr. Beltran told me ‘You’re a pretty girl and I like your style’.” The way he said it made everything awkward. This was during class; I was next to his desk when this had happened. He also used to stare a lot. I would catch him looking at me sometimes as well.” (Exh. 26.) C [REDACTED] did not testify at the administrative hearing. Her statement was admitted as administrative hearsay only.

101. L [REDACTED] B. prepared a written statement dated September 5, 2017. L [REDACTED] wrote that she was in Respondent’s Spanish class. She wrote “Mr. Beltran would stare at me when I get up. Mr. B would get really close when having communication sometimes with no communication. [He] [w]ould ask about personal business referring to my relationship. [M]anny students would come up to me and tell me he is staring at me, manny girls would feel uncomfortable being his class myself as well. One day a student and friend of mine did stand up for me in class to Mr. B and told him to ‘stop looking at L [REDACTED] when she gets up, no girl likes to be checked out.’ Mr. B did not say a word also did not deny his action. The student named X [REDACTED] did get called in the office and did get in trouble for defending me, the principal at the time Ms. Awdrey told him not to get in things that’s not his bussinesss that she doesn’t have that many to be firing teachers. When talking to guy friends he would get mad and stay around hearing and butt in the conversation. After the incident with the

principal no student said anything, I didn't say anything because Ms. Awdrey wasn't going to do anything." (Exh. 27.)

102. J [REDACTED] R. prepared a written statement dated September 5, 2017. In her statement she wrote: "Mr. Beltran told me names like Amor sito and has looked at me up and down I felt very unfotable and this happened when we had to come to Saturday school hes always picking on me and I have seen him looking at other girls as well. I also heard that he told one of the students he liked her shirt and that she had to take it off." (Exh. 28.) J [REDACTED] did not testify at the administrative hearing. Her statement was admitted as administrative hearsay only.

103. I [REDACTED] Z prepared a written statement dated September 5, 2017. In her statement she wrote: "I don't feel comfortable working in Mr. Beltran's classroom sometimes because he stares a lot. I've hear rumors that he tells my friends inappropriate things or makes them uncomfortable and I'm scared that he will tell me those inappropriate thins. When he stares he like checks us out and I don't think its right for a teacher to be doing that to his students." (Exh. 29.) I [REDACTED] did not testify at the administrative hearing. Her statement was admitted as administrative hearsay only.

104. D [REDACTED] R. prepared a written statement dated September 6, 2017. In her statement she wrote with regard to Respondent: "would stare at me in a weird way that would make me feel uncomfortable. He would look at me up and down every time I would be sitting down he always get near me and try to be in my space. He would come too close to me when I would stay afterschool he would try to be like next to me even when I would have questions I would go up to him and he would stare at me when I would go sit down but he would look at me just from the back. People would tell me after class." (Exh. 30.) D [REDACTED] did not testify at the administrative hearing. Her statement was admitted as administrative hearsay only.

105. L [REDACTED] N. prepared a written statement dated September 7, 2017. In her statement she wrote: "Well when I started bring my hair down he asked me if I notice guys being nicer and that he liked how I had my hair [...] I ... didn't pay attention because I feel like he's just trying to be nice but there was a couple times where I witnessed him speaking to a student in a way he shouldn't have been. Beltran told the student 'I like how you put the glitter you look cute.' And saying she should wear it more often. He also told one of my friends they looked like 'cute cholos.'" (Exh. 31.)

106. H [REDACTED] A. prepared a written statement dated September 7, 2017. In her statement she wrote: "When I first enrolled in is class he would always squat down next to me and ask me stuff about my family being Native Mexican American. [I]t got to the point where it was an everyday thing, talking about how there was a lot of money left and how I should go claim it. One day an old student J [REDACTED] M told me that Mr. Beltran would stand in the back and just stare at me, when I was sick I kept getting up to get tissue and every time I would he would be looking at me and J [REDACTED] would always tell me he would stare to the point where he got caught by J [REDACTED] and he just try playing it off by offering J [REDACTED] help. I checked

out of his class and I didn't want to enroll back in because he would make everything super uncomfortable, especially when I would run into him, he only would stare at me constantly. [H]e never tried anything. He never touched me, he would just stare and ask stuff about my family. (Exh. 32.) H [REDACTED] did not testify at the administrative hearing and her statement was admitted as administrative hearsay only.

107. P [REDACTED] O. prepared a written statement dated September 7, 2017. P [REDACTED] wrote: "What I know is when I used to be in [B]eltran's class he would stare at [H] [REDACTED] walking back to her desk. [A]t first I didn't pay attention but he would do it often. To one point I would sit in front of his desk and he would just stare at me. I would look at my laptop cause I felt uncomfortable. There was this one girl not sure her name but he would go up to her and just look at her while asking her something and keep walking. When I just took my new phone I had a little plug to it he got it and looked at it I told him what it was he kept looking at it and was too close. I moved slowly cause it was uncomfortable." (Exh. 33.) P [REDACTED] did not testify at the administrative hearing and her statement was admitted as administrative hearsay only.

108. K [REDACTED] B., brother of Student L [REDACTED] B., prepared an undated written statement which was likely prepared on September 5, 2017, the same day as the written statement of his sister. At the top of the statement "Grad Year -2016" was handwritten. In his statement, K [REDACTED] wrote: "I had Mr. Beltran for 2nd period I was taking Spanish 2B at the time. My sister L [REDACTED] had the class as well. Many students noticed Mr. Beltran looked at some of the female students in a weird way. He would stare for abnormal periods of time. He would sometimes pick on them to do things like pass out paper which isn't weird at all except he never seems to make the male students do things like that. It bothered me the way he looked at my sister and one of my friends pointed it out to him one day. My friend E [REDACTED] pointed it out that Mr. Beltran would stare at my sister and other girls. E [REDACTED] got sent to the office but Mr. Beltran didn't deny what E [REDACTED] said to him. Many girls would talk about the way he looked at them." (Exh. 34.) K [REDACTED] did not testify at the administrative hearing. His statement was admitted as administrative hearsay only.

109. A [REDACTED] M. wrote an undated statement. In her statement she wrote: "the first semester of junior year I got switched of Mr. Beltran's class for the reason that I was feeling very uncomfortable in his class the reason why was because he would always stare at me and other girls and that would just make me feel really unsafe. So I went to Ms. Medina and let her know what was going on and they pulled me out of his class." (Ex. 35.) A [REDACTED] did not testify at the administrative hearing. Her statement was admitted as administrative hearsay only.

110. F [REDACTED] A. wrote an undated statement. In her statement she wrote: "Beltran is a nice guy but when it comes to females he's a little too nice and sometimes oversteps his boundaries[.] [T]he first time anything strange happened was I was coming out of his class to go to my next and his other period students were coming and he called her and said-'wow you look beautiful today N [REDACTED]' which was kinda weird for a teacher to say to a female student. The next situation I can remember is I had to go around and take pictures of

teachers for the newspaper and when I went back to his classroom he asked me to take 4 because he didn't like the way the others would come out but yet he never moved positons. In the end he told me to pick one for the newspaper and keep the rest for myself as if I would want or need pictures of my teacher." (Exh. 36.) F [REDACTED] did not testify at the administrative hearing. Her statement was admitted as administrative hearsay only.

111. L [REDACTED] A. wrote a statement dated September 8, 2017. In her statement she wrote: "So like always I went to my fourth period and I got my computer that was assigned for me and then Mrs. Beltran like always took roll and when he was done he started walking around the class and once he got to w[h]ere I was seat[ed] he passed by me but stood behind me looking at my chest [.] I started to get nervous and I purposely coughed so that he would get the idea I notice him then he walked forward and turned around to face me and said "wow that blouse really looks nice on you" but as he said that I looked at him with a disgusted face and he smiled at me but not a friendly smile it was more like a creepy one and then he left to take a seat at his desk but I would feel his gaze looking and me and I turned around to make sure and in did he was looking." (Exh. 37.) L [REDACTED] did not testify at the administrative hearing. Her statement was admitted as administrative hearsay only.

TESTIMONY OF RODIA STUDENTS

112. L [REDACTED] B. testified at the hearing. She was a student at Rodia from 2014 until she graduated on June 7, 2017. She came to Rodia as a sophomore with freshman credits. She had Ms. Walton as a teacher until Ms. Walton left the school and was replaced by Respondent. Ms. Walton's class was also in room 110. Respondent was L [REDACTED]'s Spanish teacher for almost two years. Her brother K [REDACTED] was also in the class until 2016 when he graduated. L [REDACTED] had liked Respondent's class because she was able to use computers and many of her friends including A [REDACTED], K [REDACTED], F [REDACTED] and X [REDACTED] were in the class. She became uncomfortable in the class when some of her friends told her that Respondent looked at her butt each time she got up. Her brother told her to remain in her seat because he did not like that Respondent was looking at her butt and his friends were commenting on it. She was not sure what to think about the comments so she began watching Respondent to see if he looked at the butts of female students. One day she saw him look at her friend A [REDACTED]'s butt and then she was convinced that he had also looked at her butt as her friends had said. After that, the students began watching Respondent to see if he was looking at the butts of female students. L [REDACTED] believed that Respondent frequently looked at her friend A [REDACTED]'s butt. A [REDACTED] had an hour glass figure and was often absent from class. She believed he stopped when he realized the students were watching him.

113. L [REDACTED] did not feel comfortable in Respondent's class and did not want him close to her after that. She felt that Respondent would stand too close, by her shoulder or behind her when he was looking at her work. Once, he whispered to her that her open button exposed her breast. L [REDACTED] did not respond to Respondent's comment and was flush from embarrassment. He talked to her about staying on task and told her "you are better than you do." He never talked to her about her phone because she did not take it out in class. Overall, she did not feel that he understood personal space boundaries. Other students teased her and

told her that Respondent “just likes you,” “he acts like your dad,” “he doesn’t like guys talking to you,” and “he keeps looking at your ass.” She was bothered by the comments and subsequently became angry when Respondent told her to turn over the photos she had on her notebook depicting her exchanging a kiss with her boyfriend. Respondent told her the photos were “inappropriate.” L█ also recounted an incident in which her friend X█ got in trouble in class and then started a scene with Respondent. As he exited the class, X█ yelled something to the effect of “stop looking at L█. No girl likes to be checked out like that.” Respondent did not respond to X█’s comments. L█ was upset because she thought that Respondent should have said something or made a denial. The incident was embarrassing to her.

114. L█ confided in her science teacher, Ms. Mendoza about her discomfort with Respondent and about the incident with X█ around the time that it occurred. She felt like she had a bond with Mendoza and spoke to her a few times. Ms. Mendoza reported all of the concerns raised by L█ to Principal Awtry (Testimony of Mendoza). L█ also told her parents. She was upset that no one did anything about Respondent’s staring. L█ testified that she did not want to be in Respondent’s class. She circulated a petition to have Principal Awtry removed because she did not like a lot of things Ms. Awtry did. There were also petitions to have various teachers removed. She did not sign all of them. L█ admitted that she spent a lot of time planning parties and making money from throwing parties, but denied ever coming to school under the influence of alcohol or drugs. L█ did not prepare a written statement while she was a student. She was contacted by the school to come in and write a statement after she graduated and wrote a statement at that time. (Exh.27.) She also took her brother K█ with her to write a statement. (Exh. 35.)

115. L█ N. testified at hearing. She attended Rodia for two years from 2016 until she graduated in June of 2018. She is currently attended a community college. L█ had two Spanish classes and a health class with Respondent. Initially, L█ did not have a problem with Respondent, but after a while she found him “very weird.” She found his comments and the way he expressed himself to be strange and it made her uncomfortable. As an example, she mentioned that he complimented her on her hair when she wore it down one day and commented about her makeup. She also found it strange that he asked her if she noticed he had opened the door for her and asked whether she had been getting extra attention from others because of her hairstyle. She also found his comment to her friend N█ about liking N█’s eyeshadow to be strange and inappropriate because he was a teacher and older. As another example of Respondent’s weird comments, she mentioned that on a hot day N█ complained about the room being too hot and Respondent suggested that she should take off her jacket. L█ thought it was inappropriate because she was not sure that N█ had anything on under the black hoodie she was wearing at the time.

116. L█ testified about a second incident when she and her four friends were walking toward Respondent’s classroom during lunch planning to go inside to eat their lunch. Respondent was standing outside his door and made a comment to the effect of “cute chola” directed at her friend C█ S. According to L█, the term “chola” denotes a gang lifestyle and someone who wears baggy clothes and hoop earrings. L█ testified

that she and her friends were not “cholas” and the use of the term was offensive and weird. C [REDACTED] also commented to L [REDACTED] that it was “weird” for a teacher to make such a comment. The students turned and went in another direction after Respondent’s comment. L [REDACTED] testified that she watched Respondent to see if he was staring at the butts of female students as was rumored. She testified that Respondent looked at female students as they were leaving the room or moving around the classroom. She felt that she has “caught him” looking a few times. There was a lot of talk among the female students about Respondent when L [REDACTED] and some of the other students were making written statements for Mr. Gutierrez. She was not asked to make a statement, but volunteered to do so when she found out other students were doing so. (Exh. 31.)

117. Respondent caught L [REDACTED] using her cellphone in class and made her put it away. She was also angry with him because he insisted that she complete the recordings required in her Spanish class, but N [REDACTED] had been excused from making the recordings. Respondent’s class was quiet, but students would talk during their break. Respondent never raised his voice to the class. When break was over, she would often sit on the bench instead of going into the class. Respondent would talk to her and insist that she go in. L [REDACTED] did not feel that she learned anything from Respondent because the classes were all on the computer.

118. M [REDACTED] L., a former student at Rodia from 2015 to June of 2016, testified at the administrative hearing. M [REDACTED] was in Respondent’s Health, Spanish 1, Spanish 2 and Art History classes. Depending upon the day of the week, she was in his class for one or two periods per day. She found Respondent to be a “very good teacher,” “very respectful to any students that needed help and respectful.” Respondent encouraged her and gave her assistance to complete her Health class. He also helped her sign up for college and encouraged her to study child development. M [REDACTED] is proud to be an early childhood teacher now and credits Respondent with motivating her to graduate and “pushing me toward this career.” M [REDACTED] remembered Respondent welcoming students to the class at the door, walking around to see if anyone needed help and then sitting at his desk. She never heard him make any inappropriate remarks or look at anyone inappropriately. He usually said hello to the students or gave a high- five greeting. She felt that he was very respectful and the students were usually respectful to him

119. K [REDACTED] was a student at Rodia from January 2016 to July 2016. She had one or two class periods each day with Respondent. She thought Respondent was “great.” He was the teacher she had the most trust in and had a great relationship with him. Respondent concentrated on helping the students that were working. She was working very hard to finish her credits in time to graduate. Respondent was very helpful and stayed with her on the last day to make sure she was able to complete her classes. She had his personal cellular telephone number to text him when she needed access to the Edgenuity program. She once tried to call him, but he did not answer his telephone. Respondent was strict and required everyone to remain in their seats at their computers. He stood at the door and watched who came and went from the classroom. She never heard him make any inappropriate remarks or look at students inappropriately. He caught her using her phone

once in class and made her put it away. Respondent was very formal and had a strict classroom. Sometimes he would make a casual remark such as a compliment. K [REDACTED] did not make many friends at Rodia. She felt that there was a lot of gossip at the school. She heard gossip that Respondent was "creepy", but no one would tell her why he had been labeled as "creepy." She knew that he was not considered one of the favorite teachers. He frequently caught students ditching and trying to "jump the fence" which made him unpopular. She felt that the female students in the classroom were more serious than the male students and Respondent seemed to help them more because they were more motivated to finish because many of them were already parents.

120. F [REDACTED] is 22 years old. He was Respondent's student at Rodia during the 2014 to 2015 school year. He considered Respondent to be a good teacher. F [REDACTED] considered Respondent a role model. Respondent gave him good advice and kept him "from getting into a lot of trouble." Respondent behaved normally with students and made some small talk. F [REDACTED] sat with a group of male students in Respondent's homeroom. Respondent sometimes talked to them about motorcycles and sports. Respondent was a strict teacher and some of the girls did not like him because he made them put their makeup and telephones away. F [REDACTED] never saw Respondent looking at girls' butts or breasts. He does remember a group of girls which included L [REDACTED] that did not like Respondent and said they were going to start a petition to get rid of him saying that he was looking at their butts and breasts. The same group had circulated a petition to have principal Awtry removed also. F [REDACTED] remembered seeing Harley motorcycle catalogues and magazines in the classroom.

121. H [REDACTED] is F [REDACTED]'s cousin and was also a student in Respondent's class in 2015. H [REDACTED] had Respondent for Spanish once a week. He found Respondent to be a good teacher and very helpful. He never saw Respondent looking at students inappropriately. H [REDACTED] was aware that a group of students did not like Respondent and were trying to get him "kicked out." Respondent sent students to the office if they were disruptive or not completing their work. Respondent insisted that students remain on task and working during the class. Some of the students referred to him as "annoying" or "boring" and did not want to be in the class.

TESTIMONY OF RODIA TEACHERS

122. Evelyn Mendoza has been the science teacher at Rodia since August of 2015. Her class was connected to Respondent's by a door that usually remained closed. She had previously taught ninth grade Science at Crenshaw high school. She has been the Title 1 designee at Rodia since 2016. Respondent was already a teacher at Rodia when she arrived. In the beginning there were only five teachers at Rodia and they frequently had lunch together. When Mendoza first arrived Ms. Awtry was the principal. Principal Awtry left in November of 2015 and was followed by a series of five interim principals. Mr. Gutierrez became the principal in 2017. Initially, Ms. Mendoza spent a lot of time with Respondent and Adrian Martinez, another male teacher at lunch. As time went by, more teachers were hired and she found female friends on the staff and consequently spent less time with Respondent. Early on, she was one of two female teachers and students confided in her

about a variety of things including suicidal feelings, lost family members and depression. L█ B. and J█ L. complained to her about not feeling comfortable in Respondent's class and complained that he stared at them a lot.

123. She told the girls that Respondent was probably trying to manage classroom behaviors. She knew that Respondent had a reputation of being a strict teacher. The girls insisted that was not the case. It was not unusual for students to gossip about teachers and make negative remarks about them. They frequently ridiculed Martinez as having a robotic voice and commented about the math teacher's sexuality. The students were also vocal about their dislike of Ms. Awtry. Ms. Mendoza reported the concerns raised by the girls to Principal Awtry. Ms. Mendoza recalled that Respondent made one strange comment to her in passing and that she felt that on one occasion he inadvertently invaded her personal space, but generally she had no problems with Respondent. She told Respondent that some students had complained that he made them uncomfortable because he stared or looked at them inappropriately. He was quiet and did not respond. She did not give him the names of the students and she did not investigate their claims. Mendoza frequently overheard student conversations about Respondent staring at girls. Each time she heard the comments she reported them to the administrators: Awtry, Fernandez, the interim principal, and the psychiatric social worker. The last time she heard a comment about Respondent was when students Maite and Caroline were discussing Respondent's behavior. She reported what she heard to Principal Gutierrez. Mr. Gutierrez did not ask her any questions, but she was later interviewed by two District investigators. She prepared a written statement in September of 2017.

124. Adrian Martinez has been a District employee for 15 years. Currently, he serves as the Dean of Students at Mervyn Dymally High School. Previously he taught at South East High School, Roybal High School, Richard Alonzo Community Day School and Rodia. He worked at Rodia for four years from August of 2013 to July of 2017. Mr. Martinez has a Bachelor's degree in Social Services from University of the Pacific, a Master's degree in Education from the University of Phoenix and a Master's degree in Educational Administration from Concordia University. He holds a single subject credential, a tier 1 administrative credential and certificates in anger management counseling and drug/alcohol counseling. Mr. Martinez began his work at Rodia before Principal Awtry was hired and while the school was on the Jordan High School Campus.

125. Mr. Martinez was placed in charge of many aspects of the physical move of the school from the Jordan High School Campus to its new home on the South East High School campus. He had all of the contents of the school moved from the Jordan campus to the South East campus. This included many boxes of books, papers, magazines, office supplies, records and folders. Many of the boxes were labeled and he could easily direct where those boxes were to be placed. There were also large quantities of unlabeled boxes and many unlabeled boxes of magazines that were packed by the art teacher and others. Respondent did not work at Rodia at the time and was not involved with the move. Mr. Martinez directed many of the boxes to be placed in the physical education room, which later became a text book room. Other boxes were placed in the school office and in Room 110,

the classroom used by Ms. Walton and later by Respondent which was next to the principal's office. Because there were so many boxes and limited time to have the items moved, Mr. Martinez had the movers place them in any open and empty spaces available.

126. While Ms. Walton occupied Room 110 it was full of "junk" in all of the cabinets, storage and closets. Mr. Martinez was aware of this because he regularly made the rounds of the school to make sure the windows were closed and things were secure on behalf of Ms. Awtry, the principal, who was elderly and in failing health. Mr. Martinez was also aware that Ms. Walton was the subject of either an investigation or disciplinary action. He recalled that she was on suspension for five days, after which Respondent was hired. Quite a while after Respondent had been teaching at Rodia, Walton came to retrieve her belongings. There was some controversy about whether some of her belongings and files were missing. Martinez was aware that she did not take all of her things and remembers that she brought some boxes with her. Room 110 was never cleaned out after Ms. Walton left and boxes from the initial move to the South East campus remained in the classroom.

127. After Ms. Awtry left the school, Mr. Martinez and Respondent helped the various interim principals to the extent they could. Each interim principal was limited to a 30-day stint at the school. The environment was chaotic during the 2015-2016 school year. A substitute teacher was brought in for six weeks at the end of the school year and Mr. Martinez was relieved of classroom duties so that he could assist the various interim principals and to establish some continuity for the students. During this time, Mr. Martinez observed each classroom to see what the students were doing and to monitor any discipline issues. Respondent's class was in order and the students were on task. Respondent was generally at his desk or walking around monitoring student progress. He was a strict teacher and made sure that the students followed the rules. He was always calm. He stood by his door and welcomed students. They frequently made negative remarks or started rumors about teachers. The students frequently gossiped about teachers including Respondent. Students frequently complained about teachers being weird or strict. Mr. Martinez was not a fan of Ms. Mendoza, he felt that she gossiped about her colleagues and spread rumors.

128. Respondent and Adrian Martinez walked around during lunch and nutrition break. They walked around to check on the students. Respondent usually stood by the door to his classroom at the before class to welcome students. He was a very strict teacher and had classroom control. He was always calm and never lost his temper. Mr. Martinez was impressed with his demeanor and patience.

129. Mr. Martinez was familiar with students L [REDACTED], L [REDACTED] and R [REDACTED]. He heard L [REDACTED] say that Respondent was mean and too strict. According to Mr. Martinez, L [REDACTED] came to school under the influence of alcohol or drugs with bloodshot eyes on several occasions. She was sent home for being under the influence and for dress code violations. Mr. Martinez considered L [REDACTED] to be a flirt and a gossip. L [REDACTED] had been upset about what she perceived as a battle between Ms. Awtry and Ms. Walton, Respondent's predecessor. L [REDACTED] voiced that she thought Principal Awtry was "a fat racist." According to Mr. Martinez, L [REDACTED] and L [REDACTED] were part of a group of Hispanic students that supported Walton in her dispute with Awtry.

L [REDACTED] felt that Respondent was one of Awtry's allies and resented that Respondent replaced Walton. F [REDACTED] gossiped and complained about all of the teachers. She did not like Respondent, the English teacher or the Math teacher. Martinez had her in class and as part of an afterschool study program. He opined that F [REDACTED] was manipulative and attempted to flirt with older men. F [REDACTED] was almost removed from Rodia for dress code violations and fighting. Although she was given a second chance, Martinez did not recall her graduating.

130. Mr. Martinez described the Restorative Justice training as a training to encourage positive interactions. The training was intended to provide positive feedback to students who generally did not receive positive reinforcements. Teachers were supposed to give compliments when appropriate, make positive comments, be personable and encourage the students.

131. Marie Ruther retired from the District. She worked for the District for 20 years during two separate stints. Ms. Ruther worked as a pool substitute at Rodia during the 2016-2017 school year and was a regular math teacher at Rodia for the 2017-2018 school year until her retirement in March of 2018. She had a good relationship with Respondent. She observed him with students and thought he had good classroom control and management. All of the desks were in rows, the students were in their seats and Respondent was seated in the back of the class where he could see exactly what each student was doing. She opined that Respondent was very professional. She never saw him yell at a student and would have confronted him had she seen him do so. Adults including the principal and visitors from the District office visited the classes unannounced.

132. Ruther has a long history of work in the motorcycle industry and as a motorcycle enthusiast. She knew Respondent had a motorcycle and had spoken with him about it. Ruther also had motorcycle and car magazines. Ruther opined that Respondent was not a true biker because his motorcycle was not customized.

133. She went to the Restorative Justice training with Martinez and Respondent. According to the training, the teachers and the school were the social network and support for the students. Ruther came from a humble background and did not receive a lot of family support for her education. She felt strongly about the need to build the self-esteem of the students and encourage them. She spent a lot of time in the mornings encouraging students to eat breakfast. She understood that many students had food insecurity, some were homeless and some others were in foster care or abusive homes. The Restorative Justice training taught them to compliment the students when appropriate.

134. Ms. Ruther described Respondent as a "religious catholic man" and a "union guy." She was aware of Respondent's discussions with Principal Gutierrez about lunch supervision. She and most of the teachers agreed with Respondent. As a result of his complaints, the teachers were given a longer lunch hour after the students left in exchange for supervision of the student lunch. Respondent always helped if there was a problem at lunch, but she did not remember him having a supervision station like the other teachers. She sometimes went to lunch with the group of teachers. Respondent was always a

gentleman, never was inappropriate and never stared at women. She interacted with him often at school. She had been in his class numerous times. Sometimes, she went to his classroom to retrieve items that students had taken without permission or to get his help with Edgenuity. At the time, there were only four teachers and they were in constant communication about the students. She always felt comfortable with him. Ms. Ruther described a constant flow of rumors among the students about all of the teachers. As examples, she stated she was aware of erroneous rumors that the students circulated that she believed in “flat earth” and was a “Trump supporter.”

135. Ruther gave extensive testimony about the magazines at Rodia. According to Ruther, there were magazines in the library, the English classroom, the social studies room, and in the teacher’s room. Ruther had seen magazines throughout the school. Magazines were used for art projects and also in some of the classrooms. Ruther observed some very old magazines in the library. Teachers and students donated magazines. Ms. Ruther also donated magazines. If she had motorcycle magazines which had girls in bathing suits she would donate those, but not any magazines where women were partially nude. She did not go through the magazines page by page. Ms. Walton, the teacher who occupied room 110 before Respondent, had magazines in the classroom and in the closets. Ms. Ruther observed many old magazines in the closets of the school. After Respondent left, the teachers started cleaning out the closets. She cleaned out two closets before she retired. All teachers had the same key that would open all of the classrooms except the science classroom. Respondent’s classroom was used by other groups in the evenings. Additionally, the janitors, security guards and information technology personnel had free access to all of the classrooms in the evenings. A computer was stolen from Ruther’s classroom after hours on one occasion.

136. Esther Hall was a substitute teacher assigned to Rodia in September of 2016. Ms. Hall did not testify at the administrative hearing, but did prepare a written statement dated September 8, 2017. The statement was admitted solely as administrative hearsay. In relevant part, she wrote:

In September of 2016 I was assigned as a pool teacher at Simon Rodia. During my first week since I had no classroom and no assigned classes, I tutored students from the math classes either outside at the lunch tables or in the library. At the end of one period, I told the small group of students that they needed to go to their next class. No one wanted to leave and one student said, ‘I don’t like him. I think he stares at my breasts.’ I asked if she had told anyone about this and she said, ‘No, they wouldn’t do anything if I did. He’s creepy.’

The other students did not want to leave either. One said that another teacher was also ‘creepy’ and a ‘moron.’ Another teacher had ‘bad breath.’ Another girl said Mr. Beltran was ‘fat’ and she didn’t like looking at him. Everyone in the group said that they didn’t like any of the teachers, but Mr. Gutierrez was ‘OK’. I didn’t know any of the teachers yet but was skeptical about the students’ characterizations of them.

I did not perceive this conversation as a case of child abuse or posing a threat to anyone except perhaps the teachers who received negative, disparaging remarks across the board. To me it was just another feeble attempt by students to escape the confines of their classrooms.

(Exh. 38.)

DISTRICT INVESTIGATION

137. Kandice Galata is currently an investigator with the District Office of Inspector General. She has held that position for eleven months. Previously, she was an investigator with the District's Student Safety Investigation Team for eight years. In that capacity, Ms. Galata interviewed Principal Gutierrez, A [REDACTED] L., Irma Medina, Evelyn Mendoza, teacher Esther Hall, teacher Nancy Daza, Students A [REDACTED] C., A [REDACTED] M., F [REDACTED] A., N [REDACTED] G., L [REDACTED] N., C [REDACTED] S., N [REDACTED] R., H [REDACTED] A., J [REDACTED] R., and Respondent. I [REDACTED], A [REDACTED], L [REDACTED], and S [REDACTED] were not students at the time and were not interviewed. Galata's report and the summaries of interviews therein were admitted solely as administrative hearsay. Galata was not a peace officer and her report did not meet the threshold requirements for admission pursuant to *Lake v. Reed* (1997) 16 Cal. 4th 448. The interview summaries contained in the report were admitted as administrative hearsay only. The interview summaries were generally consistent with the written statements and hearing testimony. Ms. Galata noted that as part of the investigation, Respondent's classroom computer was subjected to a forensic examination which "did not reveal any violations of the Responsible Use Policy." In the interview, Respondent provided explanations and denials consistent with his hearing testimony and written responses to the Conference Memorandum. The interview summaries were generally consistent with the written statements and hearing testimony except as follows:

A. A [REDACTED] M. clarified that she did not believe that Respondent's comments were sexual, he did not stare at her breasts, she felt uncomfortable, not unsafe and she never heard Respondent say anything inappropriate to female students. She also clarified that when Respondent stared at female students it was only for a few seconds and that his staring was not sexual or scary, but it made the students uncomfortable.

B. F [REDACTED] A. clarified that she took Respondent's comment about keeping photographs literally but he could have been joking.

C. J [REDACTED] clarified that she thought Respondent looked at her often and in a sexual way.

D. A [REDACTED] M. was reported to have stated that she thought that Respondent "was a cool teacher", "complimented both male and female students" and that she did not see anything wrong with his comments. It was also noted that she felt Respondent stared at female students in class, but no one in particular, gave

her a “cold stare” once when she was standing outside the classroom, but it was not creepy, just awkward.

138. Ms. Galata findings and conclusions were that some students felt uncomfortable because Respondent stared at them for long periods of time and commented on their appearance or attire which they thought was inappropriate. Some female students felt uncomfortable witnessing Mr. Beltran staring at other female students. She also noted that Respondent denied allegations, but admitted that he sometimes complimented both male and female students on their hair or attire to acknowledge them and make them feel comfortable. (Exh. 40.)

CANDY JAR

139. Respondent’s wife gave him a jar of Hershey’s kisses for Valentine’s day. She labelled the jar with a note that said “Kisses for when I’m not around.” (Exh. 42; Testimony of Respondent and Johanna Beltran.) Respondent treasured her thoughtful gift and had it with him at work. It was usually either in his backpack, a desk drawer or a closet. He did not share the candy with his students and did not leave it on his desk or in public view. When he was removed from Rodia, he was not allowed to gather his things and left the candy jar and some other mementos from elementary school students and a pencil cup that his wife had decorated with photographs of his son’s first year in his classroom. The items were never returned to him. (Respondent’s testimony.) When Ms. Medina went to Respondent’s classroom to see what he had in his closets and desk that could be used in other classes, she found the jar behind his desk. She was upset by the presence of the jar behind Respondent’s desk and testified that it “triggered her.” She and others threw away and redistributed items from Respondent’s classroom. (Testimony of Medina, Ruther, B [REDACTED] C.)

MAGAZINES

140. At the administrative hearing, Respondent went through the box of magazines and catalogues that the District claims were retrieved from storage in his former classroom. (Exh. 513.) He identified certain educational magazines and J&B Motorcycle catalogues as belonging to him. (Exh. 513A.) He denied ownership of the remaining magazines which included some magazines which only included motorcycles and cars and other magazines that had semi-clothed, and partially nude photos. For the majority of the magazines, the photos were included a quarter to mid-way through the magazines as advertisements and were not apparent from the cover. Respondent’s wife testified that Respondent did not have motorcycle magazines at home, but did have some parts catalogues and she had not been aware that he had taken them to work. Respondent did all of the automobile and motorcycle maintenance for his family vehicles himself and sometimes ordered parts. (Testimony of Respondent and Johanna Beltran.)

141. Respondent testified that he had magazines in his classroom mostly for art class or free time. Some were old magazines from the school, others were donated from students, teachers and community members. Usually, he looked through magazines before

making them available to his Art class students. Respondent recognized the magazines that were his in two ways. Some he recognized as being those that he had subscriptions to and others that were his or given to him had the name and address label carefully excised. When Respondent looked through the magazines in Exhibit 518, it was relatively easy for him to determine which magazines were his. The magazines that Respondent claimed as his own did not contain any inappropriate photos. There were some motorcycle magazines that Respondent was not immediately sure about, but after careful examination determined were not his. He was not aware of all of the items contained in the closets because he had never cleaned them out. Respondent was adamant that the various motorcycles magazines which contained inappropriate advertisements and photographs were not his and he did not remember seeing them. The Commission noted, as did Respondent, that many of the magazines had a name and address listed on them which did not correspond to Respondent or any of the teachers at Rodia or witnesses in the case. Additionally, many of the magazines were more than 10 years old.

142. At Gutierrez's request, Student B [REDACTED] C. wrote a statement dated March 23, 2018 which stated that "While I was cleaning out the room of Mr. Beltran I found a stack of magazines of choppers and motorcycles in the back closet. I was told to take any art supplies to the art room so I took the magazines and put them on the table in the extra room for kids to use to make posters. I didn't look through them, I just put them on the table." (Exh. 40.)

143. On May 27, 2019, B [REDACTED] C. executed a declaration under penalty of perjury which stated: "I was a student ... in 2017. One of my teachers at Rodia was Julio Beltran. It was a regular class. I never saw him do anything bad or strange. A month or two after Mr. Beltran left Rodia, I was cleaning out his classroom because a new teacher was moving in. It was after school and nobody was with me when I was cleaning out the classroom. I found some boxes with magazines in a locked cabinet under the whiteboard. One of the boxes had 'Beltran' written on the outside. I obtained the key to the locked cabinet from the lady in the school office. I checked a few of the magazines and did not see anything that drew my attention. I did not see choppers. I combined the contents of the boxes into one box. Then I took that box to a room where students do classwork and other activities. About a month later, Principal Gutierrez told me it had choppers and to write something about what I found. I did not see choppers. I wrote the March 23, 2018 letter based on what Mr. Gutierrez told me." (Exh. 519.)

144. B [REDACTED] testified via telephone at the administrative hearing. B [REDACTED] explained that he was a student for approximately one month in Respondent's class for two periods a day. He never saw anything inappropriate and did not see Respondent staring at anyone's butt. B [REDACTED] saw some teachers and Ms. Medina cleaning out Respondent's classroom and volunteered to assist. He was assigned to clean out the closets. He found two boxes of magazines in a locked closet. One box had a few magazines and another had a lot of magazines. One had Respondent's name on it and one did not. B [REDACTED] combined the boxes of magazines. He described them as "normal magazines" and nothing caught his attention. He placed the magazines in the room on the other side of Mr. Gutierrez's office which was used for multiple purposes. B [REDACTED] credibly testified that he did not see "choppers and

motorcycles” magazines. However, Mr. Gutierrez told him that such magazines were there and he wrote what Principal Gutierrez told him because he was in a hurry to leave that day.

CONFERENCE MEMORANDUM DATED APRIL 11, 2018

145. Gutierrez provided all of the statements and information to his local district office. Susan Cuevas, the Staff Relations Field Director advised him on how to proceed and how the District wanted to handle the situation. Cuevas drafted a Conference Memorandum for Mr. Gutierrez’s signature and for him to issue to Respondent.

146. On April 11, 2018, Principal Gutierrez held a conference with Respondent at the Local District East office. Also present at the meeting was Respondent’s union representative Luis Vicente Ovalles and a Staff Relations Field Director Susana Cuevas for the District. During the conference, the following matters from the 2016-2018 school years were discussed: Respondent’s comments to some female students; reports from female students that Respondent stared at their buttocks and breasts making them uncomfortable; reports from the office manager and two teachers that students were reluctant to attend Respondent’s class; and motorcycle and car magazines with semi-clothed women and advertisements for pornography, sex toys and alcoholic beverages were found in Respondent’s classroom. During the conference, Principal Gutierrez provided Respondent with assistance and guidance, and specific directives. Gutierrez issued a Conference Memorandum dated April 11, 2018, which summarized the discussion at the conference and the assistance and guidance, and directives, given to respondent. The Conference Memorandum also identified the various District policies to which respondent was expected and directed to adhere. (Exh. 43.)

147. At the April 11, 2018 conference Principal Gutierrez gave Respondent assistance and guidance, and directives, that included the following:

- A. Be aware of the manner in which you look at students as it may be perceived as being inappropriate.
- B. It is not appropriate to bring magazines or other items to school that are sexual in nature and/or contain sexual content or may be considered inappropriate.
- C. Maintain appropriate and professional relationships with students.
- D. As an employee and representative of the District demonstrate excellence, integrity, and responsibility at all times.
- E. Follow the LAUSD Ethics Policy Statement with attention to the section titled “Actions and Conduct of District Employees.”

F. Follow the LAUSD Employee Code of Ethics with attention to the sections entitled commitment to Excellence, District and Personal Integrity and Responsibility.

G. Adhere to the District Code of Conduct with Students including: avoiding engaging in unprofessional, unethical, illegal, immoral or exploitative behaviors with directly or indirectly with students; making statements that are age-inappropriate, unprofessional or which may be considered sexual, harassing or demeaning; and touching or having physical contact with a student that is not age-appropriate or within the scope of your responsibilities or duties.

H. Review the District Sexual Harassment Policy Bulletin including the section entitled “Examples of Conduct which may result in Sexual Harassment” including visual and physical examples listed in the Policy Bulletin and specifically page 7 of the bulletin wherein it addresses responsibility for “modeling appropriate behavior and creating an environment where student and staff know that sexual harassment and sex discrimination is inappropriate and will not be tolerated” and “cultivate positive relationships with students per the District’s Code of Conduct with Students.”

I. Review the Child Abuse and Neglect Policy including the sections on Willful Cruelty or Unjustifiable Punishment and Sexual abuse, Sexual assault or sexual exploitation.

J. Review the District Bullying and Hazing Policy Bulletin including Section III Discrimination and Harassment and Section V Staff Responsibilities.

148. Principal Gutierrez gave Respondent the following directives: Immediately refrain from staring at female students and having magazines or other items in school that are sexual in nature and/or contain sexual content. He also directed Respondent to maintain appropriate and professional relationships with students, adhere to all District policies and procedures and follow the directions given in the August 25, 2015 Conference Memorandum to refrain from using inappropriate language when addressing students, having physical contact, and looking at student in an intimidating manner, adhere to the Code of Conduct with Students and the District Child Abuse and Neglect Reporting procedures. (Exh. 43.)

149. Respondent prepared a written response to the April 11, 2018 Conference Memorandum on April 16, 2018. Respondent denied that he had done anything inappropriate including looking at students inappropriately. Respondent explained that he did not own the magazines that had inappropriate content. He also explained that the candy jar was a Valentine’s day gift from his wife and he did not display it or share its contents with anyone. Respondent noted that the Conference Memorandum stated that on August 11, 2017, multiple students made reports to the administration, but students did not report to school until August 15, 2017. (Exh. 504.)

150. Respondent also asserted that he attended a District “Restorative Justice” training where he was taught that implementing the values and concepts of Restorative Justice practice in a student setting requires that teachers “acknowledge that relationships are essential to building a successful school community.” Respondent wrote that his interactions with students were made with the intent “to build a safer and more caring school environment” and to “increase awareness of the importance of connectedness to young people.” Respondent wrote that his interactions with A [REDACTED] C., A [REDACTED] M. and A [REDACTED] L. were all meant to foster those values. He also asserted that he has “always committed to ensuring that my teacher-student relationships are positive, professional, and proper.” (Exh. 504.)

151. Principal Gutierrez issued a revised Conference Memorandum on April 19, 2018. Respondent declined an invitation to meet with Mr. Gutierrez a second time. The revised April 19, 2018 Conference Memorandum added excerpts from statements of students F [REDACTED] A., N [REDACTED] G., L [REDACTED] N., C [REDACTED] S., N [REDACTED] R., H [REDACTED] A., J [REDACTED] R., and a summary of an interview with Respondent conducted by Ms. Galata on November 13, 2017. (Exh. 45.)

152. Respondent submitted an additional response to both the April 11, 2018 and April 19, 2018 Conference Memorandum. (Exh. 503.) In this response, he reiterated his previous response, (Exh. 504), and addressed the specific statements attributed to each of the students in the revised April 19, 2018 Conference Memorandum. Specifically, Respondent denied that he stared at students or acted inappropriately and asserted that he always conducted himself in a respectful and professional manner. Respondent asserted that F [REDACTED] A. was enrolled in his class, but did not attend his class in October of 2015. Respondent acknowledged that he gave F [REDACTED] A. and other students bottles of water. Respondent acknowledged that F [REDACTED] A. came in to his class to take photographs for the school paper, took multiple photos and he told her to choose the best one. Respondent also denied calling any students, whispering to students or telling C [REDACTED] S. that she was a “pretty girl” or “chola.” Respondent also denied H [REDACTED] A.’s allegations. Respondent asserted that when H [REDACTED] was having difficulties understanding one assignment, he approached her when she raised her hand, stood by her desk, clarified the assignment which involved characteristics and importance of cultural attire and told her that “she could incorporate her Native Mexican American culture for the assignment.” (Exh. 503.) Respondent also denied that he called J [REDACTED] R. “amorcito,” Respondent concluded his response by stating: “I have always strived to be a great teacher and I have the most respect for my students, my peers and the teaching profession. I am hurt that some have misinterpreted my generosity as otherwise. Year after year I have continued and have been willing to make improvements to growth as a profession[al] educator. I would like to restate that the students’ allegations are untrue and false. I always and will always continue to conduct myself in a respectful, appropriate, and professional manner.” (Exh. 503.) Respondent’s testimony at hearing was consistent with his responses to the Conference Memorandum and his interview with Ms. Galata from the Student Safety Team.

CONCLUSIONS REGARDING RESPONDENT'S CONDUCT AT RODIA

153. The Commission concluded that Respondent was truthful about his conversations and interactions with his students. Respondent commenced working at Rodia in the midst of chaos which worsened over time. He worked in a stressful environment of gossip, innuendo, power struggles between staff members, students and staff, and administration and students, where troubled students were not given any boundaries or structure and few consequences. Layered on top of the chaos was a training in Restorative Justice in which the teachers were instructed to compliment students, make social connections and engage students, but without giving them any real resources or guidance to complete the task. Respondent is a very formal individual who arrived at the hearing each morning in a suit and sat stiffly and expressionlessly staring ahead, often looking over the top of his glasses and listening intently to evidence each day. Based upon the testimony of Respondent, his students, administrators and staff, this was consistent with Respondent's rigid, formal and sometimes awkward demeanor in the classroom. Respondent has been an educator for 20 years, most of which were spent in a kindergarten and elementary school setting. There is no doubt that teaching 16 through 21-year-old students with complicated lives and unsuccessful academic histories that the Rodia students had was a completely new experience for Respondent. Respondent used the tools and strategies that had been successful for him in the past. Primarily he imposed structure and order in the classroom and enforced rules. This gave him the label of "mean" and "strict" and did not make him a popular teacher. Respondent values respect and order and was not particularly concerned about being popular or the friend of all students. However, his awkward attempts at conversation were seen as contrived by the students and the mandate to implement Restorative Justice techniques only exacerbated the situation. Since Rodia had no administrative support for a substantial period of time and then only had an overwhelmed administrator in Mr. Gutierrez, Respondent had no support for his transition.

154. The Commission concluded that Respondent probably stared at students and at the computers to ensure that students were doing what they were supposed to do, and that computers and other equipment were not being damaged, stolen or used for other than the intended purposes. He also was on the lookout for cellphone usage, students applying makeup, students that needed assistance, tardy students, off task behavior and students coming and going from the classroom without permission. Ultimately, only Respondent knows what he was looking at, if anything, when students felt uncomfortable. The Commission acknowledges that L█ felt uncomfortable when her peers teased her whether they accurately or really perceived Respondent to be overly attentive to her or not. The allegations that Respondent was inappropriate with Rodia students are without substance. The evidence presented at hearing consisted of layers of speculation and hearsay upon hearsay. Based upon the evidence presented, it cannot be concluded by a preponderance of the evidence that Respondent was inappropriate with any of his students at Rodia.

155. The Commission evaluated the testimony pursuant to Evidence Code section 780: the demeanor and manner of the witnesses while testifying, the character of the testimony, the capacity to perceive at the time the events occurred, the character of the

witness for honesty, the existence of bias or other motive, other statements of the witness which are consistent or inconsistent with the testimony, the existence or absence of any fact to which the witness testified and the attitude of the witness toward the proceeding in which the testimony is given.⁴

156. Given these factors, the testimony of L█ B. and L█ N. are given little weight in determining whether Respondent actually inappropriately looked or stared at the butts or breasts of L█ B., or any other students. These witnesses generally extrapolated from and relied on hearsay from others and speculated about Respondent's gaze and intent. Each had reason to be biased against Respondent (i.e. L█ did not receive credit for her Spanish class because Respondent would not excuse her from the required recordings, Respondent would not allow L█ to be distracted by photos with her boyfriend and was strict about his classroom rules.) However, the Commission gives weight to their testimony about how they felt about their perception of Respondent and believes that based upon the totality of circumstances in the gossip-laden environment, L█ B. and L█ N. were uncomfortable with Respondent due to what their peers had represented to them and their misinterpretation of Respondent's demeanor. The gossip and speculation based upon hearsay was pervasive and infected most of the written statements from the Rodia students.

157. Great weight was given to Respondent's candid testimony and that of his wife Johanna. Respondent presented as serious, thoughtful and responsive in both direct and cross-examination. He answered all questions posed to him without hesitation. Mrs. Beltran was appropriately circumspect, but responsive and fully answered all questions posed to her. Similarly, the testimony of Martinez and Ms. Ruther were given great weight. Neither had any motive to be untruthful and each was positioned to have unique perspectives on the events and players at Rodia. Students K█, M█, F█ and H█ provided consistent information about Respondent's demeanor and behavior with students and gave important perspectives about the Rodia school culture and student behavior including that of witness L█ B. who reportedly proclaimed that she intended to get Respondent fired.

158. Less weight overall was given to the testimony of Ms. Medina and Ms. Mendoza than to others because they had become ensnarled in the gossip and speculation about Respondent. It was also clear from Ms. Medina's demeanor during her testimony that she was friends with the female students and did not care for Respondent. The Commission credits the testimony of Ms. Medina and Ms. Mendoza in that they accurately recounted what was told to them by students and what they heard from the students. Ms. Galata's testimony regarding her interviews with Respondent and the students was credited as was the testimony of Principal Gutierrez. However, neither had first-hand knowledge of the allegations nor had

⁴ The manner and demeanor of a witness while testifying are the two of the most important factors a trier of fact considers when judging credibility. (See Evid. Code, § 780.) The mannerisms, tone of voice, eye contact, facial expressions and body language are all considered, but are difficult to describe in such a way that the reader truly understands what causes the trier of fact to believe or disbelieve a witness.

they observed Respondent stare at students inappropriately, make inappropriate remarks or possess the subject magazines.

159. With respect to the magazines found in the storage area of Respondent's classroom months after he left the school, the Commission concluded that there was no evidence that the magazines which contained objectionable images belonged to Respondent or were in any way related to Respondent. Based upon the testimony of Respondent, Mr. Martinez, Ms. Ruther and Ms. Medina, there were magazines stored throughout the campus, many of which were still boxed from the campus move from Jordan High School to South East High School. Moreover, there was no chain of custody linking Respondent to the objectionable magazines. As Ms. Medina, student B [REDACTED] and teacher Maria Ruther noted in their testimony, Respondent's personal items were mixed in with other stored items, destroyed and thrown away by Ms. Medina, B [REDACTED] and other teachers and many other people and outside groups had access to the classroom during and after Respondent was assigned the classroom. There is no clear link to Respondent despite the label on the box and without more the preponderance of the evidence does not establish that Respondent had any responsibility for the objectionable magazines.

Specific Charges Related Rodia Students

160. In the Accusation, the District's made specific allegations as to Respondent's conduct at Rodia. The Commission considered the evidence as set forth in Factual Findings 6, 22, 56-58, 67, and 81-159 in reaching its determination of these charges of whether the District met its burden of proof by a preponderance of the evidence as to each allegation. These allegations are addressed below:

161. It was established as alleged in Charge 6 of the Accusation that Respondent gave his personal cell phone number to some of the Rodia students for the sole educational purpose of facilitating their access to the Edgenuity program during evening and weekend hours. Respondent did not converse with the students by telephone. He received text messages from the students when they needed him to reset the computer program for him. However, this did not violate any of the District's policies because it was solely for an educational purpose and facilitated the student's educational program.

162. It was not established by a preponderance of the evidence, as alleged in Charge 7 of the Accusation, that on or about May 2016 to October 2016, Respondent Beltran did any of the following with respect to Student H [REDACTED] A.: stared at her making her feel uncomfortable or squatted next to her desk and talked about her family for 20-30 minutes or the entire class period. It was not established that Respondent stared at H [REDACTED] A. or looking at her inappropriately. However, it was established that H [REDACTED] A. thought Respondent stared at her, did not like it and was uncomfortable because of her belief. It was established that Respondent did speak with H [REDACTED] on more than one occasion about her Native Mexican American heritage, available scholarships and incorporating her cultural experience into one classroom assignment that she was having difficulty with. It was not established by a

preponderance of the evidence that Respondent looked at H [REDACTED] A. inappropriately or for an extended period of time.

163. It was not established by a preponderance of the evidence, as alleged in Charge 8 of the Accusation, that during the period of May 2016 to October 2016, Respondent Beltran engaged in the conduct which constituted a willfully refusal to perform his regular assignments without reasonable excuse, as prescribed by the reasonable rules and regulations of the employing District including the LAUSD Code of Conduct with Students; LAUSD Child Abuse and Neglect Reporting Procedures Policy; the LAUSD Employee Code of Ethics; the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; LAUSD Teacher Job Description; the LAUSD Sexual Harassment Policy or the LAUSD Bullying and Hazing Policy.

164. It was not established by a preponderance of the evidence, as alleged in Charge 8 of the Accusation, that during the period of May 2016 to October 2016, Respondent failed to follow previous administrative directives that he, refrain from having physical contact with students and refrain from looking at students in an intimidating manner.

165. It was not established by a preponderance of the evidence, as alleged in Charge 9 of the Accusation, that during the period of August 2016 to December 2016, Respondent Beltran did the following to student A [REDACTED] M.:

(a) Looked at her in a manner that “creeped her out,” on at least two occasions.

(b) Sat next to her and asked what size her Biggie Smalls graphic shirt was or that he said, “I would ask you to let me have it but it wouldn’t fit me.”

166. It was not established by a preponderance of the evidence, as alleged in Charge 10 of the Accusation, that during the period of August 2016 through December 2016, Respondent engaged in the misconduct alleged in Charge 9 of the Accusation. It was also not established that Respondent failed to follow previous administrative directives that he, refrain from having physical contact with students and refrain from looking at students in an intimidating manner.

167. It was not established by a preponderance of the evidence, as alleged in Charge 10 of the Accusation, that during the period of August 2016 through December 2016, Respondent engaged in the conduct which constituted a willfully refusal to perform his regular assignments without reasonable excuse, as prescribed by the reasonable rules and regulations of the employing District including the LAUSD Code of Conduct with Students; the LAUSD Child Abuse and Neglect Reporting Procedures Policy; the LAUSD Employee Code of Ethics; the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; the LAUSD Teacher Job Description; the LAUSD Sexual Harassment Policy or the LAUSD Bullying and Hazing Policy.

168. It was not established by a preponderance of the evidence, as alleged in Charge 11 of the Accusation, that during the period of August 2016 through September 2017, Respondent stared at Students' buttocks and breasts. It was only established that some students reported that they believed Respondent was staring at their buttocks and breasts and that their belief in the that as fact made them uncomfortable in the classroom.

169. It was not established by a preponderance of the evidence, as alleged in Charge 12 of the Accusation, that during the period of August 2016 through September 2017, Respondent engaged in the misconduct alleged in Charge 11. It was also not established that Respondent failed to follow a previous administrative directive that he refrain from looking at students in an intimidating manner.

170. It was not established by a preponderance of the evidence, as alleged in Charge 12 of the Accusation, that during the period of August 2016 through December 2016, Respondent engaged in conduct which constituted a willfully refusal to perform his regular assignments without reasonable excuse, as prescribed by the reasonable rules and regulations of the employing District including the LAUSD Code of Conduct with Students; LAUSD Child Abuse and Neglect Reporting Procedures Policy; the LAUSD Employee Code of Ethics; the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; LAUSD Teacher Job Description; the LAUSD Sexual Harassment Policy or the LAUSD Bullying and Hazing Policy.

171. It was not established by a preponderance of the evidence, as alleged in Charge 13 of the Accusation, that during the period of August 2016 through September 2017, Respondent looked at student A █ C. with a "cold stare," which made her uncomfortable and caused her to move to another location.

172. It was not established by a preponderance of the evidence, as alleged in Charge 14 of the Accusation, that Respondent engaged in the misconduct alleged in Charge 13 of the Accusation. It was also not established that Respondent failed to follow a previous administrative directive that he refrain from looking at students in an intimidating manner.

173. It was not established by a preponderance of the evidence, as alleged in Charge 14 of the Accusation, that during the period of August 2016 through September 2017, Respondent engaged in conduct which constituted a willfully refusal to perform his regular assignments without reasonable excuse, as prescribed by the reasonable rules and regulations of the employing District including the LAUSD Code of Conduct with Students; the LAUSD Child Abuse and Neglect Reporting Procedures Policy; the LAUSD Employee Code of Ethics; the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; the LAUSD Teacher Job Description; the LAUSD Sexual Harassment Policy or the LAUSD Bullying and Hazing Policy.

174. It was not established by a preponderance of the evidence, as alleged in Charge 15 of the Accusation, that Respondent had motorcycle magazines in his classroom during the period of August 2016 to March 2018, that contained explicit material, including:

- a. Photographs of women:
 - i. Topless, wearing bikini bottoms only.
 - ii. Wearing bikini bottoms but topless with motorcycle parts, their hands, suspenders, or “censor” stars covering their breasts.
 - iii. Wearing bikinis while posing on motorcycles and/or inside of cars, in sexually provocative positions.
 - iv. Topless, standing between two men, with one man sticking his tongue out as if to lick the woman’s breast.
 - v. Wet and topless, hugging each other, while wearing bikini bottoms only.
- b. Advertisements for:
 - i. Pornographic videos, texts, movies and speed dating.
 - ii. Vibrators.
 - iii. Flasks (for alcoholic beverages).

175. It was established that there were motorcycle magazines and catalogues in the classroom, but it was not established that the magazines and/or catalogues contained the images and advertisements alleged in Charge 15 of the Accusation. Moreover, the Commission explicitly finds that the District failed to prove that Respondent was aware of any magazines containing such images in his classroom or in any storage in his classroom. Moreover, there was no material evidence that linked Respondent to the chain of custody of the magazines that contained the alleged images and advertisements.

176. It was not established by a preponderance of the evidence, as alleged in Charge 16 of the Accusation that during the period of August 2016 to March 2018, Respondent engaged in the misconduct alleged in Charge 15, nor that he willfully refused to perform his regular assignments without reasonable cause, as prescribed by the reasonable rules and regulations of the employing District. It was also not established that he failed to adhere to all District policies, including the LAUSD Code of Conduct with Students; the LAUSD Employee Code of Ethics; the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; or the LAUSD Teacher Job Description; or the LAUSD Sexual Harassment Policy.

177. It was established, as alleged in Charge 17 of the Accusation, that on or about August 2016 through March 2018, Respondent maintained a jar of Hershey's kisses in his classroom with a label that read, "Kisses for when I'm not around." It was also established that the jar was given to him as a Valentine's gift from his wife and was not displayed publicly or shared with his students.

178. It was not established by a preponderance of the evidence, as alleged in Charge 18 of the Accusation, that during the period of September 2016 to April 2017, Respondent did the following to student C [REDACTED] S.:

- a. Followed her back to her desk after she approached him to ask a question.
- b. Kneeled next to her.
- c. Whispered that she was a pretty girl and that he liked her style.

179. It was not established by a preponderance of the evidence, as alleged in Charge 19 of the Accusation, that during the period of September 2016 through April 2017 that Respondent engaged in the conduct set forth in Charge 18 or that Respondent failed to follow previous administrative directives, that he refrain from using inappropriate language when addressing students and refrain from having physical contact with students.

180. It was also not established by a preponderance of the evidence, as alleged in Charge 19 of the Accusation, that during the period of September 2016 through April 2017, Respondent failed to adhere to all District policies, including the LAUSD Code of Conduct with Students; the LAUSD Employee Code of Ethics; the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; the LAUSD Teacher Job Description; the LAUSD Sexual Harassment Policy and the LAUSD Bullying and Hazing Policy.

181. It was not established by a preponderance of the evidence, as alleged in Charge 20 of the Accusation, that during the period of September 2016 through April 2017, Respondent lowered his gaze and stared at student C [REDACTED] S.'s breasts whenever she returned a computer.

182. It was not established by a preponderance of the evidence, as alleged in charge 21 of the Accusation, that during the period of September 2016 to April 2017, Respondent engaged in the misconduct alleged in Charge 20 or that Respondent failed to follow previous administrative directives, that he refrain from using inappropriate language when addressing students, refrain from having physical contact with students and refrain from looking at students in an intimidating manner.

183. It was also not established by a preponderance of the evidence, as alleged in Charge 21 of the Accusation, that during the period of September 2016 through April 2017 Respondent failed to adhere to all District policies, including the LAUSD Code of Conduct

with Students; the LAUSD Child Abuse and Neglect Reporting Procedures Policy; the LAUSD Employee Code of Ethics, the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; the LAUSD Teacher Job Description; the LAUSD Sexual Harassment Policy and the LAUSD Bullying and Hazing Policy.

184. It was not established by a preponderance of the evidence, as alleged in Charge 22 of the Accusation, that during the period of September 2016 to April 2017, Respondent commented to student C [REDACTED] S. when he saw her in the office for getting in trouble: "They pick on you because of how you look and how your dress."

185. It was not established by a preponderance of the evidence, as alleged in Charge 23 of the Accusation, that during the period of September 2016 to April 2017, Respondent engaged in the misconduct alleged in Charge 22 or that Respondent failed to follow previous administrative directives, that he refrain from using inappropriate language when addressing students, refrain from having physical contact with students and refrain from looking at students in an intimidating manner.

186. It was not established by a preponderance of the evidence, as alleged in Charge 23 of the Accusation, that during the period of September 2016 to April 2017, Respondent engaged in the misconduct alleged in Charge 22, or that he willfully refused to perform his regular assignments without reasonable cause, as prescribed by the reasonable rules and regulations of the employing District. It was also not established that he failed to adhere to all District policies, including the LAUSD Code of Conduct with Students; the LAUSD Child Abuse and Neglect Reporting Procedures Policy; the LAUSD Employee Code of Ethics; the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; the LAUSD Teacher Job Description, the LAUSD Sexual Harassment Policy and the LAUSD Bullying and Hazing Policy.

187. It was not established by a preponderance of the evidence, as alleged in Charge 24 of the Accusation, that during the period of January 2017 through June 2017, Respondent did the following to student J [REDACTED] R.:

- a. Said, "I'm going to call you 'amorsito' [my love]."
- b. Looked at her in a sexual manner.
- c. Followed her to the door and watched her walk into the restroom, which was near the classroom.

188. It was not established by a preponderance of the evidence, as alleged in charge 25 of the Accusation, that during the period of January 2017 through June 2017, Respondent engaged in the misconduct alleged in Charge 24 or that Respondent failed to follow previous administrative directives, that he refrain from using inappropriate language when addressing

students, refrain from having physical contact with students and refrain from looking at students in an intimidating manner.

189. It was not established by a preponderance of the evidence, as alleged in Charge 25 of the Accusation, that during the period of January 2017 to June 2017, Respondent engaged in the misconduct alleged in Charge 24, or that he willfully refused to perform his regular assignments without reasonable cause, as prescribed by the reasonable rules and regulations of the employing District. It was also not established that he failed to adhere to all District policies, including the LAUSD Code of Conduct with Students; the LAUSD Child Abuse and Neglect Reporting Procedures Policy; the LAUSD Employee Code of Ethics; the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; the LAUSD Teacher Job Description; the LAUSD Sexual Harassment Policy and LAUSD Bullying and Hazing Policy.

190. It was not established by a preponderance of the evidence, as alleged in Charge 26(a) of the Accusation, that during the period of January 2017 through June 2017, Respondent assigned Student N [REDACTED] G. to sit in the front row, directly in front of his desk. It was also not established as alleged in Charge 26(b)(i) and (iv) that Respondent said to N [REDACTED] G. in the presence of other students "Hello Sunshine" and "You look nice. Where are you going? You going out?" It was established as alleged in charge 26(b)(ii) and (iii) that when N [REDACTED] wore glitter eye shadow, Respondent said "I like your eye shadow" and that when she did not wear the glitter eye shadow the next day, Respondent made a comment to the effect of "what happened to you glitter eye shadow? You should bring it, you look nice." Respondent's compliments were sincere, caring and non-sexual intended to boost the self-esteem of a student that had experienced serious trauma.

191. It was not established by a preponderance of the evidence, as alleged in Charge 27 of the Accusation that during the period of January 2017 through June 2017, when Respondent engaged in the conduct alleged in Charge 26(B)(ii) and (iii) that Respondent Beltran failed to follow previous administrative directives, that he refrain from using inappropriate language when addressing students, refrain from having physical contact with students and refrain from looking at students in an intimidating manner.

192. It was also not established by a preponderance of evidence, as alleged in Charge 27 of the Accusation that during the period of January 2017 to June 2017, Respondent engaged in the misconduct alleged in Charge 26, or that he willfully refused to perform his regular assignments without reasonable cause, as prescribed by the reasonable rules and regulations of the employing District. It was also not established that he failed to adhere to all District policies, including the LAUSD Code of Conduct with Students; the LAUSD Child Abuse and Neglect Reporting Procedures Policy; the LAUSD Employee Code of Ethics; the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; the LAUSD Teacher Job Description; the LAUSD Sexual Harassment Policy and the LAUSD Bullying and Hazing Policy.

193. It was not established by a preponderance of the evidence, as alleged in Charge 28 of the Accusation, that during the period of January 2017 through June 2017, Respondent did the following to student F [REDACTED] A:

- a. Put a water bottle on her desk, every day for more than a week, after she forgot to bring a water bottle to school one day.
- b. After F [REDACTED] took a photo of him for the school newspaper, told her to pick the best photo for the school, and to keep the rest for herself.

194. It was established that Respondent gave F [REDACTED] A. and others bottled water and that Respondent placed the bottle back on F [REDACTED] A.'s desk when she returned later in the day after she had left it behind from an earlier class. It was also established that F [REDACTED] took several photographs of Respondent for the school newspaper and he told her to select the best one. Respondent was the only teacher that allowed F [REDACTED] to take a photograph. Additionally, even though F [REDACTED] thought Respondent said to keep the rest of the photographs for herself, she thought he might be joking and not serious about the comment.

195. It was established, as alleged in Charge 29(a), (b), and (c) of the Accusation that during the period of August 2017 through September 2017, Respondent commented to student L [REDACTED] N. When she began wearing her hair down that "I like the way you look with your hair down," "Didn't you notice guys are being nicer to you?" and "I even held the door open today for you."

196. It was not established by a preponderance of the evidence, as alleged in charge 29(d) and (e) of the Accusation, that during the period of August 2017 through September 2017, Respondent commented to student L [REDACTED] N. that "I like the way you look, you look cute," "You should probably put a little something right here," or patted his cheeks implying that she should wear makeup.

197. It was not established by a preponderance of the evidence, as alleged in Charge 30 of the Accusation, that during the period of August 2017 through September 2017, when Respondent engaged in the conduct alleged in Charge 29(a)(b) and (c) that Respondent failed to follow previous administrative directives, that he refrains from using inappropriate language when addressing students. Instead, it was established that Respondent awkwardly attempted to deliver some compliments to a student, consistent with the Restorative Justice training, and the compliments initially were well received, but the sincerity and intent later came into question when other students began to make complaints about Respondent.

198. It was also not established by a preponderance of the evidence, as alleged in Charge 30 of the Accusation that during the period of January 2017 to June 2017, Respondent engaged in misconduct as alleged in Charge 29(d) and (e) nor was it established that conduct that Respondent did engage in as alleged in Charge 29(a), (b) and (c), was indeed misconduct. Additionally, it was not established that Respondent's conduct

constituted willful refusal to perform his regular assignments without reasonable cause, as prescribed by the reasonable rules and regulations of the employing District. It was also not established that he failed to adhere to all District policies, including: the LAUSD Code of Conduct with Students; the LAUSD Child Abuse and Neglect Reporting Procedures Policy; the LAUSD Employee Code of Ethics; the LAUSD Board Resolution on the Respectful Treatment of All Persons; California Standards for the Teaching Profession; the LAUSD Teacher Job Description; the LAUSD Sexual Harassment Policy and the LAUSD Bullying and Hazing Policy.

Respondent's Character Evidence⁵

199. [REDACTED] C. is a 17 years old graduating high school student who was in Respondent's first grade class at Stanford. She testified that she remembered Respondent's class as fun and Respondent never screamed, had students stand in the corner or by the wall and never touched them.

200. Shane Riddle testified on behalf of Respondent at hearing and prepared a letter of support. (Exh. 512.) Mr. Riddle teaches Algebra I at Carson High School. He began teaching in 2002 at Stanford where Respondent was his colleague and served as a mentor. From 2002-2005, he and Respondent taught together. Mr. Riddle found Respondent to be a "total professional" who was genuinely happy to see the students each day. He never saw him be abusive to students. During 2002-2005, Mr. Riddle and Respondent, both of whom were single at the time, socialized together during non-school hours. Mr. Riddle had the opportunity to observe Respondent interact with women on many occasions and always saw him as respectful.

201. Ingrid Villeda has worked for the District for 19 years. She has known Respondent for 12 years as a colleague and through union activities. She and Respondent worked at Stanford. Ms. Villeda's daughter was in Respondent's first grade class. She observed his class many times during her free period because she was concerned about her daughter's adjustment to public school. She observed Respondent to be firm, but gentle with students. Ms. Villeda believed he was well liked by the students and families and had a good reputation for student achievement. She never observed him to be disrespectful to women. He was also very helpful to her daughter in making college choices.

202. Ms. Villeda was a union chapter chair when Respondent was at Rodia. At Rodia, there was an issue about lunch time supervision. The majority of the staff and teachers did not want to supervise students during lunch. She encouraged Respondent to take the lead at the school site and speak to Mr. Gutierrez one to one as the group spokesperson on the issue. She understood most of the staff was afraid of Mr. Gutierrez. She was surprised by some of Mr. Gutierrez's comments when she came to the campus to

⁵ Respondent was limited to three character witnesses not including any percipient witnesses that were also character witnesses.

discuss the lunch supervision issue with him. She specifically remembered him saying something to the effect of “you have won the battle, but not the war.”

203. Mary Pandy is a retired District teacher. She worked at Graham for 35 years. She taught kindergarten, first grade and combination first and second grade classes. Respondent had a classroom next to hers. Although she never observed him teaching in his classroom, she observed him with children whenever the students were out at recess, lunch or on the way to the restroom. He had a calm demeanor, did not raise his voice and had good rapport with the students. She never saw him grab any students by the neck or heard accusations of such conduct.

204. Respondent submitted declarations of support signed under penalty of perjury from Javier Campos, Gloria Fernandez, Janae Garcia, Josie Medrano, Karrie Garcia, Emmanuel Reyes and Sergio Rodrigo Villasenor as well as Shane Riddle. Shane Riddle testified at the hearing and his declaration was referenced in factual finding 155 above. Each of the declarants has known Respondent for an extended period of time. Mr. Campos and Mr. Villasenor are personal friends from outside of the educational community while Gloria Fernandez, Jose Medrano, Karrie Garcia, and Emmanuel Reyes, are experienced educators. Each from his or her own perspective attested to Respondent’s ethical character, kind and giving nature, professionalism, commitment to his community, his family and his students. Jena Garcia is an early childhood educator who has learning disabilities and was mentored and encouraged by Respondent throughout her high school and college education. She also attested to Respondent’s good character and kind nature.

LEGAL CONCLUSIONS

1. The Commission has jurisdiction to proceed in this matter, pursuant to Education Code section 44944⁶ and Factual Findings 1-5.

2. The District has the burden of proof in this matter and the standard of proof is preponderance of the evidence. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1038-1039.)

3. The grounds for dismissal alleged by the District against respondent are unprofessional conduct [Code section 44932, subdivision (a)(2)], immoral conduct, but not limited to egregious misconduct [Code section 44932, subdivision (a)(1) and Code section 44939], evident unfitness for service [Code section 44932, subdivision (a)(6)], persistent violation of or refusal to obey school laws or reasonable regulations [Code section 44932, subdivision (a)(8) and willful refusal to perform regular assignments without reasonable cause, as described by reasonable rules and regulations of the employing district [Code section 44939].

⁶ All further statutory references are to the Education Code unless otherwise indicated.

4. It is settled that the trier of fact—in this case the three members of the Commission—may “accept part of the testimony of a witness and reject another part even though the latter contradicts the part accepted.” (*Stevens v. Parke Davis & Co.* (1973) 9 Cal.3d 51, 67.) The trier of fact may also “reject part of the testimony of a witness, though not directly contradicted, and combine the accepted portions with bits of testimony or inferences from the testimony of other witnesses thus weaving a cloth of truth out of selected material.” (*Id.*, at 67-68, quoting from *Neverov v. Caldwell* (1958) 161 Cal.App.2d 762, 767.) Further, the fact finder may reject the testimony of a witness, even an expert, although not contradicted. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 890.) And, the testimony of “one credible witness may constitute substantial evidence.” (*Kearl v. Board of Medical Quality Assurance*, 189 Cal.App.3d 1040, 1052.)

Unprofessional Conduct

5. The Commission finds that cause does not exist for Respondent’s dismissal, pursuant to section 44932, subdivision (a)(2), for unprofessional conduct. (Factual Findings 6-204.)

6. “Unprofessional conduct” as used in section 44932, subdivision (a)(2), may be defined as conduct which violates the rules or ethical code of a profession or is such conduct that is unbecoming of a member of a profession in good standing. (*Board of Education v. Swan* (1953) 41 Cal.2d 546, 553.)

7. The Commission finds that Respondent did not engage in unprofessional conduct. Respondent engaged in some conduct that did not constitute “best practices” at Graham. He also awkwardly, but sincerely, delivered some compliments to students at Rodia and took a jar of candy gifted to him from his wife with him to Simon Rodia. None of these things individually or in the aggregate constitute unprofessional conduct.

Immoral Conduct

8. The term “immoral conduct” has been defined to include 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. (*Board of Ed. of San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811.)

9. The Commission finds that cause does not exist for Respondent's dismissal, pursuant to section 44932, subdivision (a)(1), for immoral conduct. Respondent did not engage in any form of immoral conduct. (Factual Findings 6-204.)

Evident Unfitness for Service

10. The Commission finds that Cause does not exist for Respondent's dismissal, pursuant to section 44932, subdivision (a)(6), for evident unfitness for service. (Factual Findings 6-204.)

11. Evident unfitness for service means "clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies." (*Woodland Joint Unified School Dist. v. Commission Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) Evident unfitness for service "connotes a fixed character trait, presumably not remediable merely on receipt of notice that one's conduct fails to meet the expectations of the employing school district." (*Id.*)

12. In this case, the Commission determined that Respondent has by nature, a stern, formal demeanor and may appear awkward to teenagers. However, there is no indication that Respondent has a non-remedial defect in temperament. To the contrary, over his twenty-year history as an educator, Respondent has consistently undertaken training and education to better himself and improve the delivery of education to his students. Respondent did not engage in conduct that violated any directives or counseling that he had been given and did not violate any District policies.

Persistent Violation of School Laws and Regulations

13. The Commission determined that cause does not exist for Respondent's dismissal, pursuant to section 44932, subdivision (a)(8), for persistent violation of school laws and regulations. (Factual Findings 6-204.)

14. (A) In *Governing Board of Oakdale Union School District v. Seaman* (1972) 28 Cal.App.3d 77, 82, the court stated: "The word 'persistent' is defined by lexicographers as 'refusing to relent; continuing, especially in the face of opposition . . . stubborn; persevering . . . constantly repeated.' (Webster's New World Dict. (College ed.); see Webster's Third New Internat. Dict.) And in the judicial decisions of this, as well as other states, the word has been interpreted to mean 'continuing or constant.' [citations omitted]."

(B) The court in *Seaman* further explained that 'a single violation of a school board's rules is not of itself cause for the dismissal of a permanent teacher under subdivision (g) of section 13403 [now section 44932, subdivision (a)(8)]. The subdivision pertains to unintentional as well as intentional transgressions, and hence the Legislature, apparently to allow opportunity for a correction, has decreed that a single violation is not sufficient to warrant dismissal; 'it is the persistent disregard' of school rules that the subdivision is designed to regulate." (28 Cal.App.3d at 84 [citation omitted].)

15. The preponderance of the evidence established that Respondent did not engage in a persistent violation of the District's policies and school rules. (Factual Findings 6-204.)

Morrison Factors

16. When the Commission determines that the cause does not exist for dismissal of a teacher, an analysis of the Morrison factors is not required. Here, application of the Morrison factors demonstrates that even had there been cause for dismissal, which there is not, dismissal of Respondent would nevertheless, not be appropriate. Discipline against a teacher must relate to his fitness to teach within the meaning of the factors enumerated in the case of *Morrison v. State Board of Education* (1969) 1 Cal.3d 214. Here, the Commission has found cause does not exist to dismiss Respondent based on any of the alleged causes for discipline. The Commission also considered all the factors suggested by *Morrison* and compared them to the facts established above. Not all *Morrison* factors need be present for the *Morrison* test to be satisfied. (*Governing Board of ABC School District v. Haar* (1994) 28 Cal.App.4th 369.)

17. The *Morrison* case sets forth the following factors for determining a teacher's fitness to teach: (1) the likelihood that the conduct may have adversely affected students or fellow teachers; (2) the degree of such adversity anticipated; (3) the proximity or remoteness in time of the conduct; (4) the type of certificate held by the teacher; (5) extenuating or aggravating circumstances surrounding the conduct; (6) the praiseworthiness or blameworthiness of the motives resulting in the conduct; (7) the likelihood that the conduct in question will recur; and (8) the extent that discipline will cause an adverse chilling impact on the constitutional rights of the teacher involved or other teachers. (*Morrison v. State Board of Education, supra*, 1 Cal.3d at 229.) The *Morrison* factors apply as follows:

- (A) The likelihood the conduct may adversely affect students or fellow teachers. Respondent's conduct did not adversely affect students or fellow teachers. However, the investigatory process used at Graham may have impacted students and the general environment of chaos at Rodia may have had an adverse impact upon students and staff.
- (B) The degree of such adversity. As set forth above, Respondent's conduct was not the cause of any adversity.
- (C) The proximity or remoteness in time of the conduct. Respondent's conduct at issue was recent, having occurred during the period of August 2013 to March 2018.
- (D) The type of teaching certificate held by the party involved. Respondent holds the appropriate credential for the teaching assignments.
- (E) The existence of extenuating or aggravating circumstances, if any, surrounding the conduct. At Graham, Respondent was dealing with a challenging class of ELL students with both academic and behavior challenges. At Rodia, Respondent was new to high school teaching and entered a chaotic school setting with little to no administrative support.

(F) The praiseworthiness or blameworthiness of the motives resulting in the conduct. Respondent's motives were praiseworthy. His conduct was always intended for the benefit of his students.

(G) The likelihood of recurrence of the questioned conduct. This factor does not directly apply to Respondent. However, Respondent is likely to be very circumspect with any comments and conservative about his future disciplinary approaches

(H) The extent discipline may cause adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers. Not applicable.

18. The Commission finds that Respondent did not engage in any misconduct that constitutes cause for discipline. Furthermore, analysis of the above *Morrison* factors, does not demonstrate unfitness for service as teacher in the District.

Disposition

19. Based on the foregoing, the decision of the Commission in this case is that Respondent shall not be dismissed from employment with the District. (Factual Findings 1-204; Legal Conclusions 1- 19.)

ORDER

1. Respondent Julio Beltran shall not be dismissed from employment with the Los Angeles Unified School District.

2. The Accusation is dismissed.

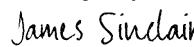
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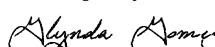
JOHN DOLAN
Commissioner
Commission on Professional Competence

DATED: July 11, 2019

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JAMES SINCLAIR
Commissioner
Commission on Professional Competence

DATED: July 19, 2019

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GLYNDA B. GOMEZ
Administrative Law Judge, Commissioner
Commission on Professional Competence