

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

**In the Matter of the Statement of Issues Against:**

**VIRGINIA MARY VELASQUEZ, Respondent.**

**Agency Case No. 2-114443888**

**OAH No. 2022010206**

**PROPOSED DECISION**

Administrative Law Judge Holly M. Baldwin, State of California, Office of Administrative Hearings, heard this matter on March 7, 2022, by videoconference.

Deputy Attorney General Amber N. Wipfler represented complainant Mary Vixie Sandy, Ed.D., Executive Director of the Commission on Teacher Credentialing.

Respondent Virginia Mary Velasquez represented herself.

The record closed and the matter was submitted for decision on March 7, 2022.

**FACTUAL FINDINGS**

**Background and Procedural History**

1. The California Commission on Teacher Credentialing (Commission) is responsible for the issuance of teaching credentials, including teaching permits.

2. Respondent Virginia Mary Velasquez applied for a 30-Day Substitute Teaching Permit. The application was signed by respondent on January 31, 2020, and received by the Commission on February 24, 2020.

3. Respondent's application was considered by the Committee of Credentials at its July 21-23, 2021 meeting. On July 30, 2021, the Commission notified respondent of the decision by the Committee of Credentials that found probable cause to recommend denial of the application.

4. Respondent requested an administrative hearing.

5. Mary Vixie Sandy, Ed.D., signed the Statement of Issues on December 1, 2021, in her capacity as the Executive Director of the Commission, seeking to deny respondent's application based on a criminal conviction involving acts of moral turpitude.

## **Conviction and Underlying Conduct**

6. On December 11, 2017, respondent was convicted in the Superior Court of California, County of Alameda, on a plea of no contest, of felony forgery, in violation of Penal Code section 470, subdivision (d). Imposition of sentence was suspended, and respondent was placed on formal probation for three years, on terms and conditions including serving 30 days via an electronic monitoring program in lieu of jail time, attending classes and drug testing as directed by her probation officer, not bidding on public contracts, and paying fines and fees.

7. The facts of the underlying offense are that in early 2013, respondent submitted falsified documents to Alameda County in support of her application for the Small Local Emerging Business (SLEB) program. The program requires that applicants

have a fixed office with a street address in Alameda County, for at least six months prior to certification. Respondent presented six rent checks and a lease agreement to the county as proof that her business had an office on 14th Street in Oakland from June through November 2012, but those documents were falsified. Respondent's business was granted SLEB certification in April 2013, which entitled her to preferential bidding status on county contracts. Respondent received a \$17.5 million contract. The county discovered in 2017 that the checks from respondent's business had been falsified, leading to her prosecution and conviction.

8. On March 3, 2020, respondent was granted early termination of probation and her conviction was reduced to a misdemeanor and dismissed pursuant to Penal Code sections 17, subdivision (b) and 1203.4 (often called "expungement").

## **Respondent's Evidence**

9. Respondent operated her former company, TeamPersona, for 25 years. The company provided temporary staffing services, especially during election seasons, and she did business with Alameda County for a number of years.

10. Respondent testified that she was given additional points in the bidding process for having an office located in Oakland, but she believes that her business would have won the contract anyway. Respondent contends that nobody suffered as a result of her conduct.

11. Respondent admits that falsified checks were submitted to show her business had a local office, but she maintains that the forgery and submission of the falsified documents were done by her staff without her knowledge. In her testimony, she blamed her former accountant for misappropriating funds.

12. Respondent was rarely in the office during 2012, due to her own illness and her family caretaking responsibilities. It was her practice to let her assistant send emails under her signature without reviewing the attachments, because she was overwhelmed. Respondent admitted that she lacked oversight of her business operations due to her personal issues, but that as CEO it was her responsibility to know where her company's offices were located.

13. Respondent stated that she pleaded no contest to the forgery charge because she could not afford to pay her attorney to fight the criminal case. She insists that she had no personal knowledge of the wrongdoing, but also maintains that her plea constitutes an acceptance of responsibility for her company's misconduct.

14. Respondent has no other criminal record.

15. After the conviction, respondent closed down her business.

16. Respondent stated that she has long wanted to be a teacher. Respondent considers herself to be a person of integrity and not a danger to children. She has been a scout leader for Girl Scout, Cub Scout, and Girl BSA Scout troops.

17. Respondent has been working as a private school teacher since October 2021. She teaches math, United States history, and civics in a middle/high school for children with special needs, providing one-on-one instruction.

18. Respondent submitted two letters of support.

(a) Porfirio Alejandro Diaz wrote a letter dated December 8, 2020. He has known respondent for nearly 40 years, and admires her integrity, selflessness, and resilience. He described the challenges respondent faced caring for family members

and providing for her family, and her volunteer activities. He hopes respondent can “put her legal troubles behind her.”

(b) Mayra Bautista wrote a letter dated November 22, 2019. She had known respondent for more than 7 years at that time. Bautista and respondent were both active in the Hispanic Chamber of Commerce in Contra Costa County. Bautista described respondent as responsible, reliable, generous. The letter does not reflect knowledge of respondent’s conviction.

## **LEGAL CONCLUSIONS**

1. The standard of proof applied in this proceeding is a preponderance of the evidence and the burden is on respondent to show she is qualified for the credential she seeks to obtain. (*Martin v. Alcoholic Beverage Control Appeals Bd.* (1959) 52 Cal.2d 238; Gov. Code, § 11504; Evid. Code, §§ 115, 500.)

2. Education Code section 44345, subdivision (e), authorizes the Commission to deny an application for a credential if an individual has committed any act involving moral turpitude. Respondent’s forgery conviction and the underlying conduct are acts of moral turpitude and provide cause for denial of her application. Cause for denial of the application was established in light of the matters set forth in Factual Findings 6 and 7.

3. California Code of Regulations, title 5, section 80302, subdivision (a), sets forth the factors to be used in determining the relationship between an applicant’s misconduct and fitness to perform the duties of a credential, which are sometimes referred to as the *Morrison* factors. (See *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 229-230.) These factors include, but are not limited to: the likelihood that

the conduct may have adversely affected students, teachers, or the educational community, and the degree of the adversity; the proximity or remoteness in time of the conduct; the type of credential sought; extenuating or aggravating circumstances surrounding the conduct; praiseworthiness or blameworthiness of the applicant's motives; likelihood of recurrence; the extent to which disciplinary action may inflict an adverse impact or chilling effect upon constitutional rights; and the publicity or notoriety of the conduct. Only the most pertinent *Morrison* factors need be considered in a particular case. (*West Valley-Mission Community College Dist. v. Concepcion* (1993) 16 Cal.App.4th 1766, 1777.)

4. California Code of Regulations, title 5, section 80300, subdivision (b), sets forth aggravating factors, including that the misconduct evidences multiple acts of wrongdoing or a pattern of misconduct, the misconduct was surrounded by or followed by bad faith or dishonesty, and the individual demonstrated indifference towards the consequences of the misconduct.

5. California Code of Regulations, title 5, section 80300, subdivision (m), sets forth mitigating factors including: absence of a prior record of adverse action over many years of educational service coupled with misconduct that is not deemed most serious; lack of harm to the object of the misconduct; emotional or physical difficulties suffered by the individual; a demonstration of good character attested to by references who are aware of the extent of the misconduct; actions taken by the individual demonstrating remorse and recognition of the misconduct; and the nature and extent of subsequent rehabilitation.

6. In this case, respondent's conduct occurred nearly 10 years ago, although it came to light and resulted in a conviction more recently. The misconduct was a sophisticated forgery scheme perpetrated against the county, to obtain preferential

bidding status. Respondent's contention that nobody was harmed is unpersuasive. The motives involved in the misconduct are blameworthy, not praiseworthy.

Of greatest concern is that respondent has consistently minimized the severity of her wrongdoing and failed to accept responsibility. She stated she had no knowledge of the forgery, and that she only pleaded no contest because she lacked the funds to go to trial, but the offense to which she pleaded requires the intent to defraud. Fully acknowledging the wrongfulness of one's actions is an essential step toward rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Respondent may not attempt to impeach or collaterally attack her conviction under the guise of explaining the circumstances surrounding her offense and plea. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.) Respondent's lack of insight and indifference to the consequences of her misconduct, the dishonesty surrounding the offense, and the multiple falsified documents are all additional aggravating factors.

Given all of the above circumstances, it would be against the public interest to grant respondent's application.

## **ORDER**

Respondent Virginia Mary Velasquez's application for a 30-Day Substitute Teaching Permit is denied.

DATE: 04/05/2022



HOLLY M. BALDWIN

Administrative Law Judge

Office of Administrative Hearings

