

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

**In the Matter of the Petition to Revoke Probation Against:**

**JOHN HILLIARD SINGH, Respondent**

**Agency Case No. 1-215141274**

**OAH Case No. 2020090129**

**PROPOSED DECISION**

Wim van Rooyen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on January 13 and 14, 2021, from Sacramento, California.

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

Ernest H. Tuttle, IV, Attorney at Law, represented John Hilliard Singh (respondent), who was present at hearing.

Evidence was received, the record closed, and the matter submitted for decision on January 14, 2021.

## **FACTUAL FINDINGS**

### **Credential**

1. On July 1, 2017, the Commission issued respondent's current Clear Single Subject Teaching Credential with Music and English authorizations (credential). The credential will expire on July 1, 2022, unless renewed or revoked.

### **Current Discipline**

2. On November 15, 2017, complainant, in her official capacity, filed an Accusation seeking to discipline respondent's credential based on alleged unprofessional conduct, immoral conduct, commission of acts involving moral turpitude, and evident unfitness for service. More specifically, complainant alleged that, on March 18, 2015, respondent conducted a music class at Cypress Elementary School (Cypress) in Tulare, California. When a fourth-grade student disrupted the class, respondent grabbed the student's shirt near the shoulder area, dragged the student by his shirt to a new place to sit in front of the class, and roughly sat the student down.

3. The matter proceeded to hearing before ALJ John DeCure on May 29, 2018. On July 13, 2018, Judge DeCure issued a Proposed Decision concluding that complainant established by clear and convincing evidence that respondent had inappropriately physically handled the Cypress student. Judge DeCure found unpersuasive respondent's testimony denying that "anything at all had happened," branding the student witnesses as "liars," and accusing the other teachers and administrators as "harboring biases against him." Judge DeCure further concluded that respondent's conduct constituted unprofessional conduct and demonstrated evident

unfitness for service, but did not amount to immoral conduct or acts involving moral turpitude.

Additionally, Judge DeCure found the existence of aggravating circumstances in the form of prior written warnings and reprimands, as follows:

(a) On March 10, 2010, the Central Unified School District (Central Unified), a previous employer, issued a Letter of Concern to respondent regarding an incident in which he hugged a female student. Respondent was directed not to engage in inappropriate physical contact with students and to maintain a "hands off" approach.

(b) On June 6, 2012, Central Unified issued a Letter of Reprimand to respondent for making inappropriate statements of a sexual nature to another district employee. This issue involved respondent commenting to a female teacher about her feet and toes, and later revealing to her that he had a "foot fetish." Although the other teacher was not offended, she requested to have no further contact with respondent.

(c) On November 30, 2012, Central Unified issued a Letter of Reprimand to respondent for touching two female students on the cheek, placing his hands on their hands, and rubbing their faces while instructing them in music. Respondent was again directed to refrain from physically touching students.

(d) On December 3, 2012, Central Unified issued a 45/90 Day Notice for Unprofessional Conduct and Unsatisfactory Performance to respondent for the incidents described in (a) through (c), and for his reported ongoing physical touching of students while instructing them in music.

(e) On June 12, 2013, Central Unified issued a Letter of Concern to respondent regarding the above-stated concerns.

Based on the foregoing, Judge DeCure analyzed the factors outlined in *Morrison v. State Board of Education* (1969) 1 Cal.3d 214 and adopted by California Code of Regulations, title 5, section 80302 (*Morrison* factors); found that respondent's conduct demonstrated unfitness to teach; and determined that cause existed to discipline his credential.

Judge DeCure concluded that outright revocation of respondent's credential was unwarranted. Instead, the public could be adequately protected by staying revocation of respondent's credential and imposing a three-year period of probation, including the following conditions:

[¶] . . . [¶]

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

[¶] . . . [¶]

4. During the period of probation, respondent shall maintain a strict "hands off" policy, refraining from making physical contact with students except in the event of a medical or student-safety emergency.

[¶] . . . [¶]

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

[¶] . . . [¶]

Finally, Judge DeCure emphasized that:

[T]he simple issue of treating students in a "hands off" manner has eluded respondent, who has yet to grasp that "hands off" is an unequivocal directive, not a judgment-call issue subject to his personal discretion. Respondent has yet to accept responsibility for his conduct or take concrete, appropriate steps to guard against its recurrence. To succeed going forward, he must do so now.

4. On October 5, 2018, the Commission adopted Judge DeCure's Proposed Decision, which became effective November 4, 2018. Respondent did not seek further review of the Commission's decision, which became final.

## **Conduct on Probation**

5. Pursuant to the Commission's decision, respondent's probation period started on November 4, 2018, and was scheduled to end November 3, 2021. His case was assigned for probation compliance monitoring to Berenice Oseguera, a Commission Special Investigator, who testified at hearing.

6. Ms. Oseguera mailed respondent a packet of probation documentation and conducted a telephonic orientation with respondent on December 7, 2018. At the orientation, she reviewed, and answered respondent's questions concerning, his probation terms. Respondent specifically asked her if the "hands off" policy still permitted him to "high five" his students, and she responded no, because it did not fall under the exception of a medical or student-safety emergency.

7. According to Ms. Oseguera, respondent was compliant with all conditions of probation, except for conduct underlying a complaint filed by one of respondent's students, A.M. concerning a May 11, 2019 incident, discussed below.

### **MAY 11, 2019 INCIDENT**

8. A.M. testified at hearing. A.M. is currently in high school, but in May 2019 was a 13-year-old, seventh-grade student in respondent's soprano/alto choir class at Divisadero Middle School (Divisadero) in the Visalia Unified School District (VUSD).

9. On Saturday, May 11, 2019, A.M.'s choir and two other Divisadero choirs went on a field trip to Valencia, California to participate in a choir competition and visit Six Flags Magic Mountain (Six Flags), where the competition awards ceremony was set to take place. The field trip involved approximately 70 students and several chaperones, who were transported by two school buses.

10. A.M.'s choir won second place at the competition. At the awards ceremony, A.M. became emotional when another student, with whom A.M. had previously had conflict, was selected to accept the award on behalf of A.M.'s choir. Respondent asked A.M. why she was upset and whether she was OK. When A.M. explained why she was upset, respondent asked whether she was "on medication," which A.M. found offensive.

11. Around 7:00 or 8:00 p.m. that evening, the buses left Six Flags to return to Visalia. A.M.'s bus had one central aisle, with two seats on either side of the aisle. A.M. sat towards the center of the bus, in a left side window seat. No one was seated next to her on the left side aisle seat, but two other students were seated across the aisle in the right side aisle and window seats. Respondent was not on A.M.'s bus when the buses departed Six Flags.

12. After a rest stop, respondent entered A.M.'s bus and eventually sat down next to A.M. Respondent asked A.M. if she was doing OK after the prior awards ceremony incident, and A.M. assured him that she was doing better. She offered to have respondent listen to a song on her phone that she thought would be good for their choir to sing. They used separate, but connected earbuds to listen to the music; A.M. kept one earbud in her ear, and respondent put the other earbud in his ear.

13. A.M. only started feeling uncomfortable when respondent kept moving closer to her until his leg touched hers, prompting A.M. to move her leg away. Respondent then started falling asleep, initially attempting to rest his head on her shoulder or lap, but A.M. prevented that by moving further away towards the window. She also took the earbud out of her ear. Eventually, respondent dozed with his head on the head rest in front of him. At this point, most of the other students on the bus were also asleep, and A.M. could not see any of the chaperones.

14. After respondent woke up, he noticed that A.M.'s shoes were off and that she was only wearing socks. Respondent asked if he could hold her foot, and A.M., who "didn't know how to say no," agreed. Respondent stated that he wanted to guess A.M.'s shoe size, touched the sides of her foot, and incorrectly guessed the size. Respondent then touched the bottom of A.M.'s foot, commenting that her foot's arch was good for wearing heels. Thereafter, respondent asked A.M. if she painted her toenails. When she said "no," respondent told her she should. Although the bus's interior lights were turned off and it was fairly dark inside the bus, street lights permitted A.M. to see respondent's facial expression, which expressed disapproval. Respondent offered to teach her some foot exercises, but A.M. declined. A.M. felt very uncomfortable, because respondent had been holding or touching her feet for approximately 20 minutes at that point.

15. To change the subject, A.M. asked respondent what his Zodiac sign was. Respondent answered that he was a Scorpio, and A.M. told him that her boyfriend was also a Scorpio. Respondent then asked A.M. what she found attractive about Scorpions. A.M. felt that respondent was flirting and instead told him what she hated about Scorpions. Thereafter, respondent mentioned that he wanted A.M. to come in before and after school, and during breaks, to help him with music for the choir. After she agreed, respondent got up and went to sit in the front of the bus.

16. A.M. described her interaction with respondent on the bus as "the scariest moment of my life." She did not tell her assigned chaperone about the incident before leaving the bus, because her chaperone did not sit near A.M., and A.M. did not know her at all. A.M. also did not tell her family about the incident when she arrived home that night.



## **A.M.'s COMPLAINT TO DIVISADERO**

17. On Monday, May 13, 2019, A.M. discussed the incident with some of her school friends. Although she did not want to "make a big deal about it," her friends convinced her that it was sexual harassment and should be reported to the school. That day, A.M. filed a complaint. The assistant principal reviewed A.M.'s complaint, discussed it with A.M., and requested additional information, which A.M. provided that same day. The written complaint is largely consistent with A.M.'s hearing testimony, except that A.M. wrote that respondent talked about, and played with, A.M.'s feet for "a couple of hours" (as opposed to approximately 20 minutes). The school contacted A.M.'s parents, who then learned about the May 11, 2019 incident for the first time.

18. A.M. never returned to choir class, because she associated choir with her traumatic experience on May 11, 2019. Additionally, many of the other choir students disbelieved her account or blamed her for filing a complaint, noting that respondent "was a great choir teacher" and A.M. "should have just kept it to [her]self." A.M. also stopped composing and listening to music for "a long time" following the May 11, 2019 incident.

## **VUSD's INVESTIGATION**

19. On Monday May 13, 2019, Divisadero referred A.M.'s complaint to Dedi Somavia, then a VUSD Human Resources (HR) Administrator and now VUSD's Assistant Superintendent of HR, who testified at hearing. That same day, Ms. Somavia reviewed the complaint, directed that respondent be placed on paid administrative leave, and began her investigation.

20. As part of her investigation, Ms. Somavia interviewed several students that were on the bus. Although no student contradicted A.M.'s complaint, the other

students did not observe anything, because it was dark on the bus, many were sleeping, and respondent sat in the aisle seat largely concealing A.M. from view of students across the aisle. Additionally, Ms. Somavia was unable to interview A.M., because A.M.'s mother wanted to be present and could not make any scheduled appointment.

21. Ms. Somavia also interviewed respondent in the presence of his union representative. Respondent told Ms. Somavia that he sat down next to A.M. on the bus to check on her after the awards ceremony incident. According to respondent, A.M. was generally a good student, but did not seem to have many friends. After confirming that A.M. was calmer, respondent accepted A.M.'s invitation to share earbuds and listen to music. Respondent was tired, and he "nod[ded] off" or "dozed off listening to her music."

When respondent woke up, he and A.M. talked about horoscopes, anime, costume play, how to get students more involved in choir, the orthotics he obtained while on vacation in Mexico, and foot exercises. When Ms. Somavia asked respondent about touching A.M.'s foot, he was evasive and stated that he did not remember touching it. He also did not remember talking with A.M. about her toes, toenail polish, or high heels. Later in the interview, respondent outright denied touching or holding A.M.'s foot and stated that he only pointed to it.

22. Ms. Somavia never inquired about the existence of video footage from the bus. Although some of the school buses have cameras, she deemed obtaining such video footage futile because, based on her past experience, it cannot show events taking place in individual seats, especially in darkness.

23. At the time of hearing, VUSD had not made a final determination following its investigation. Respondent currently remains on paid administrative leave.

### **SUSPENSION OF RESPONDENT'S PROBATION**

24. The Commission first learned of the May 11, 2019 incident when respondent contacted Ms. Oseguera on August 6, 2019, to inquire whether he was required to disclose his placement on paid administrative leave on his probation quarterly report. When Ms. Oseguera asked respondent if he had touched A.M.'s foot, respondent sounded hesitant and stated that he "didn't think so." Ms. Oseguera informed respondent that he was not required to disclose the incident, because VUSD had not yet taken any final action. Nevertheless, she would discuss the matter with her supervisor.

25. After her conversation with respondent, Ms. Oseguera discussed the matter with her supervisor and obtained documents concerning the May 11, 2019 incident from VUSD. She did not personally interview A.M. or any of the other students on the bus. On or about October 9, 2019, respondent's probation was suspended, pending the filing of a petition to revoke probation.

### **Petition to Revoke Probation**

26. On March 2, 2020, complainant, in her official capacity, signed and thereafter filed a Petition to Revoke Probation. Complainant contends cause exists to revoke respondent's probation and impose the stayed revocation of his credential pursuant to Probation Condition No. 10, because respondent failed to maintain a "hands off" policy with students, in violation of Probation Condition Nos. 2 and 4.

27. Respondent timely filed a Notice of Defense. The matter was set for an evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

## **Respondent's Evidence**

28. Respondent testified at hearing. He obtained his initial teaching credential in 2005. He first started teaching at VUSD in August 2015. Since August 2016, he has been the choir teacher at Divisadero, his main school site, and also teaches music at two elementary schools in VUSD.

29. Respondent acknowledged his prior discipline by the Commission. He disagrees with Judge DeCure's findings and decision, subsequently adopted by the Commission, and does not feel like he "got a fair shake." He continues to vehemently deny the misconduct underlying his prior discipline, except that he admits having had a conversation with an adult teacher regarding his foot fetish. Nevertheless, he has learned to be more cognizant of the teaching environment and to "watch my back." Additionally, he appreciated that his credential was not revoked outright. Respondent understood, and believes he fully complied with, all his probation terms.

30. At the May 11, 2019 Six Flags awards ceremony, respondent felt bad for A.M. when she became upset and explained that the award was for the whole group, not any particular student. He had never seen A.M. that upset before and thus asked her whether she was on any medication. He also reassured her that she was a good student and a valued member of the choir.

31. Respondent admits that he sat down next to A.M. on the bus ride home, asked her whether she was doing OK after the award ceremony incident, and she assured him she was "doing better." He also agreed that the bus was relatively dark

when he sat down next to A.M., because the interior lights had been turned off. However, his version of subsequent events significantly differs from A.M.'s version.

32. According to respondent, he and A.M. then talked about various subjects, including horoscope signs, anime, costume play, how to get students more involved in choir, the approaching summer vacation, the orthotics he obtained while on vacation in Mexico, and foot exercises he was required to do. Respondent demonstrated the foot exercises, but never asked A.M. to perform them. He never touched A.M.'s foot or any other part of her body, never attempted to guess her foot size, and never talked to her about painting her toenails. While talking with A.M., respondent also intermittently talked with the two students sitting in the same row across the aisle.

Towards the end of their conversation, A.M. offered respondent an earbud to listen to one of the songs on her phone, which she believed would be a good song for the choir to learn. Although they shared her earbuds, the earbuds stretched a sufficient distance, and he did not have to sit "really close" to her. Respondent listened to about three or four songs before he "nodded off" briefly, leaning his head against the headrest in front of him. He never put his head on A.M.'s shoulder or lap, and his leg never touched hers.

When respondent realized he was "nodding off," he got up, because it was "not a good situation" to be falling asleep on the bus next to a student. He returned to his own seat at the front of the bus, where he remained until they reached their destination. Respondent estimated that he sat next to A.M. on the bus for a total of approximately 20 to 30 minutes. He has had no further interaction with A.M. since then.

33. According to respondent, there was nothing inappropriate about his May 11, 2019 interaction with A.M. He believes A.M. is lying, possibly because she was upset with him over the awards ceremony incident.

34. In December 2019, while on paid administrative leave, respondent obtained a master of arts degree. Respondent is passionate about teaching music and strongly desires an opportunity to return to teaching.

## **Analysis**

35. At hearing, respondent challenged the adequacy of VUSD's investigation, because Ms. Somavia never interviewed A.M. or obtained any available video footage from the bus's camera. Additionally, respondent also challenged the Commission's assessment, because Ms. Oseguera never interviewed A.M. or any other witnesses. Respondent's concerns are unfounded, because the court gives no deference to ultimate conclusions, if any, reached by Ms. Somavia or Ms. Oseguera. Instead, the court independently reviews the record evidence presented at hearing.

36. A.M.'s and respondent's versions of the May 11, 2019 incident are irreconcilable as to whether respondent inappropriately touched A.M. Thus, as a threshold matter, it is necessary to determine which version is more credible.

## **CREDIBILITY EVALUATION**

37. It is well-settled that the trier of fact 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 [citations omitted].) 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 *Nevarov v. Caldwell* (1958) 161 Cal.App.2d 762, 777.) Moreover, the trier of fact may reject the testimony of a witness, even an expert, although not contradicted. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 890.) The testimony of "one credible witness may constitute substantial evidence." (*Kearl v. Bd. of Medical Quality Assurance* (1986) 189 Cal.App.3d 1040, 1052.)

38. A.M.'s testimony and demeanor at hearing were sincere and convincing, and she appeared genuinely traumatized by the May 11, 2019 incident. (Evid. Code, § 780, subd. (a).) Her hearing testimony was also largely consistent with the written complaint she submitted to VUSD (*Id.*, sub. (g)), except for her statement in the complaint that respondent talked about, and played with, A.M.'s feet for "a couple of hours." Although unlikely that the incident lasted hours, it is entirely plausible that it felt like hours to a 13-year-old student effectively trapped on a dark bus next to an authority figure.

Moreover, A.M. had no plausible reason to invent her account of inappropriate touching. (Evid. Code, § 780, subd. (f).) She did not know about respondent's disciplinary history and probationary status. Although she may have been initially upset with respondent about the awards ceremony incident, all parties agree that A.M. had calmed down and was doing better on the return bus journey, even inviting respondent to listen to music on her phone. That A.M. continued to harbor serious anger and thus contrived a detailed account of respondent inappropriately touching her foot, without any prior knowledge of respondent's foot fetish, strains credulity.

Contrary to respondent's argument, A.M.'s failure to immediately inform her parents regarding the May 11, 2019 incident does not necessarily undermine her credibility. A.M. explained that she initially did not want to "make a big deal about it,"

but that her friends later convinced her that the incident was serious enough to report to the school. Such behavior is not incompatible with the shock and embarrassment a young, middle-school student may have experienced given the nature of the incident.

39. By contrast, respondent's testimony and demeanor at hearing were guarded and defensive. (Evid. Code, § 780, subd. (a).) Although he unequivocally denied touching A.M.'s foot or any other body part, his prior denials to Ms. Somavia and Ms. Oseguera were hesitant, equivocal, and evasive, at times stating that he "didn't think so" or did not remember. (*Id.*, subd. (h).) Additionally, respondent's testimony concerning the chronology of events on the bus differed from the previous account he provided to Ms. Somavia. Moreover, given his probation, which included a specific requirement to maintain a "hands off" policy with students, respondent had a significant personal interest in denying A.M.'s allegations of inappropriate touching. (*Id.*, subd. (f).)<sup>1</sup>

40. In sum, based on the record as a whole, A.M.'s version of the May 11, 2019 incident is more credible than respondent's version. In light of that credibility determination, the court proceeds to analyze whether cause exists to revoke respondent's probation.

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<sup>1</sup> Although respondent's prior instances of inappropriately touching students were considered in determining the appropriate degree of discipline, as discussed below, they were not considered in assessing respondent's credibility concerning the May 11, 2019 incident giving rise to the Petition to Revoke Probation.



## **CAUSE TO REVOKE PROBATION**

41. Probation Condition No. 2 required respondent to comply with all terms and conditions of his probation. Additionally, Probation Condition No. 4 required respondent to maintain a strict “hands off” policy, refraining from making physical contact with students except in the event of a medical or student-safety emergency. Finally, Probation Condition No. 10 permits the Commission to set aside the stayed revocation order and revoke respondent’s credential if he violates any probation condition during the term of probation.

42. Given the foregoing, complainant established that respondent violated Probation Condition Nos. 2 and 4 by inappropriately touching A.M. on May 11, 2019, and that such touching did not occur in the context of a medical or student-safety emergency. Thus, cause exists to set aside the stayed revocation order and revoke respondent’s credential pursuant to Probation Condition No. 10 of the Commission’s October 5, 2018 decision.

## **APPROPRIATE DISCIPLINE**

43. Complainant also persuasively argued that revocation of respondent’s credential is the appropriate discipline when the *Morrison* factors are considered. Those factors are: (1) the likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity anticipated; (2) the proximity or remoteness in time of the conduct; (3) the type of credential held or applied for by the person involved; (4) the extenuating or aggravating circumstances surrounding the conduct; (5) the praiseworthiness or blameworthiness of the motives resulting in the conduct; (6) the likelihood of the recurrence of the questioned conduct; (7) the extent to which disciplinary action may

inflict an adverse impact or chilling effect upon the constitutional rights of the person involved, or other certified persons; and (8) the publicity or notoriety given to the conduct. (*Morrison*, supra, 1 Cal.3d at p. 229; Cal. Code Regs, tit. 5, § 80302.) Each factor is addressed below.

### **Adverse Effect**

44. Respondent's conduct harmed A.M., because she was traumatized and dropped out of choir classes. Additionally, she stopped composing and listening to music for an extended period of time. Furthermore, the Divisadero school community was harmed, because respondent has now been on paid administrative leave for almost two years without providing any educational benefit to Divisadero.

### **Proximity or Remoteness in Time of Respondent's Conduct**

45. Respondent's May 2019 conduct is still relatively recent. Additionally, any lapse in time since then is irrelevant, because respondent has been on paid administrative leave without access to any students during that period.

### **Type of Credential Held**

46. Respondent's credential permits him to teach Music and English. Music instruction inherently provides an opportunity for close interaction with students, including potential inappropriate touching. Thus, respondent's credential involves a higher degree of risk.

### **Extenuating or Aggravating Circumstances**

47. There are no extenuating circumstances. In terms of aggravating circumstances, respondent has been cautioned and reprimanded on numerous prior

occasions regarding his inappropriate touching of students. On October 5, 2018, he was formally disciplined and placed on probation by the Commission for placing his hands on a student. The May 11, 2019 incident involving A.M. is just the latest in a continued pattern of misconduct involving inappropriate touching of students. To date, respondent fails to accept any responsibility for his misconduct, casting himself as a passive victim of lying students, vindictive colleagues and administrators, and judges who refuse to give him a “fair shake.”

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

48. Respondent’s subjective motives for physically touching students are unknown. Even assuming, without deciding, that respondent harbors no depraved or other malicious intent, his continued pattern of inappropriately touching students is unacceptable and cannot be tolerated.

### **Likelihood of Recurrence**

49. Of all the *Morrison* factors, the likelihood of recurrence of respondent’s conduct most heavily favors revocation here. After numerous cautions and reprimands, which failed to curb respondent’s misconduct, the Commission placed respondent on probation with a strong admonition to maintain a strict “hands off” policy with students. Nevertheless, just over six months into his probation period, respondent inappropriately touched A.M. Thus, respondent’s track record strongly suggests that he is unable to control his behavior, even under the strictures of probation.

## **Any Adverse Impact or Chilling Effect On Constitutional Rights**

50. This factor is inapplicable. Respondent's conduct does not involve protected speech, protected conduct, or any other Constitutional rights.

## **Publicity or Notoriety Given to Respondent's Conduct**

51. There was no evidence that the May 11, 2019 incident garnered any publicity or notoriety in the community at large. However, A.M. credibly testified that other choir students learned of her complaint and some treated her adversely for filing the complaint.

## **Summary**

52. After carefully considering the *Morrison* factors and the record as a whole, the court concludes that respondent is unfit to teach. Moreover, the Commission cannot be adequately assured that respondent will comply with the terms of his probation if it were reinstated and/or extended. Respondent's continued pattern of misconduct strongly suggests that he will again inappropriately touch students if permitted to keep his credential, even with probationary conditions. Thus, revocation of respondent's credential is necessary to protect public health, safety, and welfare.

## **LEGAL CONCLUSIONS**

1. Complainant has the burden of proving by a preponderance of the evidence that cause exists to revoke respondent's probation. (*Loan Star Security & Video, Inc. v. Bur. of Security & Investigative Services* (2012) 209 Cal.App.4th 445, 454

["While the board is required to prove the allegations in an accusation by clear and convincing evidence, it is only required to prove the allegations in a petition to revoke probation by a preponderance of the evidence."].) A preponderance of the evidence means "evidence that has more convincing force than that opposed to it." (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

2. Based on the Factual Findings as a whole, and specifically, Factual Findings 35 through 42, respondent violated Probation Condition Nos. 2 and 4 by failing to maintain a "hands off" policy with A.M. Therefore, cause exists to set aside the stay order and impose the stayed discipline of revocation of respondent's credential pursuant to Condition No. 10 of the Commission's October 5, 2018 decision.

3. Based on the Factual Findings as a whole, and specifically, Factual Findings 43 through 52, respondent is unfit to teach, and revocation of his credential is necessary to protect public health, safety, and welfare.

## **ORDER**

The Petition to Revoke Probation against respondent John Hilliard Singh is GRANTED. The Clear Single Subject Teaching Credential with Music and English authorizations issued to respondent is REVOKED.

DATE: February 12, 2021

*Wim van Rooyen*  
Wim van Rooyen (Feb 12, 2021 14:30 PST)

WIM VAN ROOYEN

Administrative Law Judge

Office of Administrative Hearings