

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

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

**JOSEPH LAWRENCE SINCLAIR,**

**Respondent.**

**Agency Case No. 2-254770661**

**OAH No. 2023030907**

**PROPOSED DECISION**

Administrative Law Judge Deena R. Ghaly, Office of Administrative Hearings (OAH), State of California, heard this matter on June 7, 2023, by videoconference.

Deputy Attorney General William D. Gardner represented Complainant Mary Vixie Sandy, Ed.D., (Complainant), Executive Officer of the Commission on Teacher Credentialing (Commission). Respondent Joseph Lawrence Sinclair (Respondent) represented himself.

Testimony and documentary evidence was received at the hearing. The record was held open until June 21, 2023, for Respondent to submit evidence of good character and until June 28, 2023, for any objection or other response from Complainant. No further evidence was introduced and the record closed on June 28, 2023.

## **SUMMARY**

Complainant seeks to deny Respondent's application for a Preliminary Five-Year Single Subject Teaching Credential on the grounds he made a material misrepresentation in his application, committed an act of moral turpitude, and failed to furnish reasonable evidence of good moral character. Cause exists to deny his application on two of those grounds, making material misrepresentations and failing to furnish reasonable evidence of good moral character. When all the evidence is considered, Respondent did not establish his fitness to hold the credential he seeks. Therefore, Respondent's application is denied.

## **FACTUAL FINDINGS**

1. On February 1, 2021, the Commission received Respondent's application for a Preliminary Five-Year Single Subject Teaching Credential. He seeks to teach physics in secondary schools. Respondent certified under penalty perjury to the truthfulness of all statements, answers, and representation in the application.

2. The Commission is responsible for the credentialing of public school teachers, including issuing credentials such as those for which Respondent applied. (Educ. Code, § 44000 et seq., Cal. Code of Regs, title 5 (Regulation or Reg.), § 80001 et seq.)

3. The Commission evaluates teaching credential applications through its Committee of Credentials (Committee). In the instant case, the Committee determined probable cause existed to deny Respondent's application. Respondent filed a Notice of

Defense challenging the Committee's determination. Complainant issued the Statement of Issues and this matter ensued.

4. The Committee's decision stemmed from its finding Respondent made a material misrepresentation in his application, committed an act of moral turpitude during a domestic altercation, and failed to provide adequate proof of good character.

5. Regarding whether Respondent made a misrepresentation on an application, Complainant contends a statement Respondent included in a written addendum to his application, "[m]y daughter was present in the house, but she was not witness to the argument" (Exh. 6, p. A66), was not true. The argument referenced in Respondent's statement happened on the night of February 2, 2020 and was part of an altercation between Respondent and his wife, M.S. During the altercation, M.S. called law enforcement.

6. Complainant introduced the testimony and arrest report of one of the law enforcement officers who responded to the home of Respondent and M.S. after M.S. called 911, San Luis Obispo Deputy Sheriff's Office James Moore (D.S. Moore). According to D.S. Moore, he interviewed Respondent, M.S., and their daughter. M.S. stated the couple was in the process of separating and argued about whether and where Respondent could store some of his belongings in the house while he made the transition to another residence. According to D.S. Moore, M.S. further stated Respondent dumped some of his belongings on M.S., who was pregnant at the time, and scraped her hand when he slammed a door on her. D.S. Moore observed "minor abrasions" on M.S.'s hand. M.S. also stated Respondent took away her car keys to prevent her from leaving their home with their daughter.

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7. When D.S. Moore questioned Respondent, he noted Respondent did have a car key in his pants' pocket, a single key rather than a key on a key chain with other routinely used keys. According to D.S. Moore, Respondent admitted he may have caused the abrasions on M.S.'s hand as he closed a door between them but it was an accident.

8. D.S. Moore also reported on his interview of Respondent and M.S.'s daughter. According to D.S. Moore, the daughter reported Respondent reading a book to her in her room and then hearing her parents arguing and "Dad being mean to Mom." (Exh. 5, p.A63.)

9. Respondent refutes D.S. Moore's version of the events. According to Respondent, he explained to D.S. Moore he was not trying to prevent M.S. from leaving but was merely taking the vehicle M.S. normally drives because his own had been flooded and was not drivable. Showing D.S. Moore the single key, unattached to a key chain and other keys, was part of his effort to corroborate his explanation as the single key is consistent with a spare, rather than a routinely used key. Respondent also stated he tried to lead D.S. Moore to the vehicle he normally drives to show him the water damage but D.S. Moore refused to allow him to do so and seemed generally uninterested in anything potentially exculpating to Respondent.

10. Respondent was ultimately charged with two felonies, violating Penal Code section 273.5 (corporal injury to a spouse) and Penal Code section 236 (false imprisonment). The criminal court ruled there was insufficient evidence to sustain the felony corporal injury to a spouse charge. Through a plea deal, the false imprisonment charge was reduced to a misdemeanor. On August 30, 2021, in the California Superior Court in San Luis Obispo County, the Respondent pled to a less serious crime, violating Penal Code section 415, subdivision 1 (disturbing the peace). The court's sentence was

a \$222 fine and community service. Respondent maintained he fulfilled the terms of his sentence.

11. Besides addressing the issue of his daughter's whereabouts during the altercation with M.S., Respondent wrote the following in his statement to the Committee.

On the evening of 2/2/2020, I was getting ready to drive to Marin for a teaching colleague's funeral the next day. My wife and I got into an argument and due to a misunderstanding, the police were called. My wife was pregnant at the time . . . I . . . regret any disturbance of the peace to my wife and I sincerely regret that my daughter was present in the same house. I will actively avoid any situations like this in the future. I believe that the measure outlined in the sections below, of completing couples counseling and community service, allowed me to reflect and improve. I still pay for and attend couples counseling.

Nevertheless, I have always maintained that I am innocent of the charges. I am very grateful that my wife, [M.S.] has always supported me throughout the legal process and she is glad that the proceedings are over.

[¶] . . . [¶]

I have always maintained extremely rigorous professional standards as a teacher. I have never before had a complaint of this nature at work or in my home life. I place the safety

of minors and students as my top priority and I fully comply with all background check requirements. I am able to stay composed and professional in a wide range of situations and school settings. I very much hope that my credential application is successful as I am committed to being an excellent and professional teacher. I am grateful to my wife and family for supporting me in this goal.

(Exh. 6, pp. A66-A67.)

12. Respondent also gave a recorded interview in connection with the Committee's investigation of his application. During the interview, one of the Committee members asked how M.S.'s hands were injured. Respondent replied M.S. had been chasing him throughout the house and as he ran away from her, he closed doors of rooms behind him and she pounded on those doors. Though he did not see her get hurt, due to the loud banging, Respondent assumed it happened when she was pounding on the doors he closed between them.

13. During his testimony at the hearing, Respondent denied injuring M.S. in any way and reiterated he never attempted to prevent her from leaving. On the contrary, to the extent there was domestic violence in his relationship with M.S., it was M.S., not Respondent who was the instigator.

14. Respondent further maintained he spent years, including the period of the altercation and even during the time the Committee was reviewing his application, when embarrassment and shame prevented him from fully revealing the truth about his application. Regarding the application, Respondent stated he stands by his answer on the application addendum: Respondent's daughter did not witness his argument

with M.S. Respondent further stated his daughter was asleep in her bed until M.S. woke her shortly before calling the police. was not involved in the dispute between himself and M.S. but, rather, was sleeping in her bed while the two argued and was only awakened and brought out of her room by M.S. just before M.S. called law enforcement.

15. Respondent is currently teaching mathematics and physics at a private school in San Luis Obispo and has taught at two others in the area. Respondent stated he is particularly interested in teaching in a public school setting because he attended and succeed at Oxford University in England even though he did not have the benefit of the expensive non-governmental schools most of his fellow students attended. Respondent believes he can help public school students reach similar educational goals and achievements here.

16. Respondent reiterated his denial of ever trying to keep M.S. from leaving their home. Respondent also argued the fact that, as D.S. Moore confirmed, the key in his pocket was single, unattached to house keys and the like, was consistent with his version of events in that a single, unattached key is more likely the spare key. If he wanted to prevent M.S. from leaving, he would take her full set of keys.

## **LEGAL CONCLUSIONS**

1. Proceedings held to decide issues regarding denial or discipline of a teaching credential are conducted in accordance with Chapter 5 (commencing with Section 11500) of the Government Code. (Educ. Code, § 44246.) Once an administrative agency presents evidence supporting the denial of an application for licensure, the burden falls upon the applicant to demonstrate rehabilitation and

fitness to hold the license. The standard of proof is a preponderance of the evidence.  
(Evid. Code, §§ 115, 500.)

2. The [C]ommission may deny any application for the issuance of a credential or for the renewal of a credential made by any applicant who falls under any of the following categories.

[¶] . . . . [¶]

(e) Has committed any act involving moral turpitude.

[¶] . . . . [¶]

(g) Has intentionally practiced or attempted to practice any material deception or fraud in his or her application.

(h) Fails or refuses to furnish reasonable evidence of identification or good moral character.

[¶] . . . . [¶]

Any denial pursuant to subdivisions (a) to (e), inclusive, shall be based upon reasons related to the applicant's fitness to teach or fitness to perform other duties for which that applicant is certificated, or competence to perform the duties which the credential would authorize the applicant to perform.

(Educ. Code, § 44345.)

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## **First Cause for Denial – Material Deception in a Commission Application**

3. Complainant's allegation Respondent committed a material deception when stating his daughter was in the house but did not witness the altercation between Respondent and M.S. is supported by the evidence. It strains credulity to believe a young child would sleep through the events Respondent described - he and his wife running through the house, Respondent slamming doors, and M.S. pounding on them – yet be up and alert enough to answer D.S. Moore's questions.

## **Second Cause for Denial – Act of Moral Turpitude**

4. Complainant's allegation Respondent committed an act of moral turpitude is based on the felony charges initially brought against him. However, mere filing of criminal charges is not evidence that the charges are true. Here, the only evidence of the Respondent committing these serious crimes are D.S. Moore's hearsay statements about what M.S. and the daughter told him. Such hearsay statements can be used to explain or supplement direct evidence but cannot, on their own, establish the elements of a claim or charge. (See, Gov. Code, § 11503, subd. (d); *Lake v. Reed* (1997) 16 Cal4th 448,461.)

5. The crime for which Respondent did incur a conviction, disturbing the peace, does not meet the criteria to be an act of moral turpitude. "Moral turpitude has also been described as any crime or misconduct committed without excuse, or any 'dishonest or immoral' act not necessarily a crime. [Citation.] The definition depends on the state of public morals and may vary according to the community or the times, as well as on the degree of public harm produced by the act in question. [Citation.]" (*Clerici v. Department of Motor Vehicles* (1990) 224 Cal.App.3d

1016, 1027;”) Moral turpitude has also been described as the “‘general readiness to do evil.’” (*Donley v. Davi* (2009) 180 Cal.App. 4th 447, 458.) Making enough noise to disturb other people is not commendable or desirable behavior but it cannot be readily described as dishonest or evil. This is especially the case when considered in the context of the further requirement of a teacher credentialing case where conduct cannot be characterized as involving moral turpitude unless it indicates a teacher is unfit to teach. (See, *Morrison v. State Board of Education (Morrison)* (1969) 1 Cal.3d 214, 229.)

6. In making this determination, the Commission may consider such matters as: (1) The likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity anticipated; (2) The proximity or remoteness in time of the conduct; (3) The type of credential held or applied for by the person involved; (4) The extenuating or aggravating circumstances surrounding the conduct; (5) The praiseworthiness or blameworthiness of the motives resulting in the conduct; (6) The likelihood of the recurrence of the questioned conduct; (7) The extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the person involved, or other certified persons; (8) The publicity or notoriety given to the conduct.

7. Applying the relevant factors, the conduct was private, unrelated to Respondent’s teaching duties, has no relation to Respondent’s plans to teach physics in secondary school, does not directly implicate his ability to effectively teach and maintain the proper demeanor in a classroom setting, is serious and concerning, particularly given that his young daughter was in proximity and his wife, pregnant, was vulnerable to stressful or loud situations but again, private and not necessarily indicative of Respondent’s conduct and character as a teacher.

### **Third Cause for Denial – Failure to Provide Sufficient Proof of Good Character**

8. Respondent has failed to provide any proof of good character, beyond his own testimony. Particularly considering Respondent's non-credible statement about his daughter's involvement, Respondent's uncorroborated statement are inadequate. Given the burden on applicants to prove their fitness for licensure, Respondent's application for a teaching credential cannot be granted at this time.

### **ORDER**

Respondent Joseph Lawrence Sinclair's application for a Preliminary Five-Year Single Subject Teaching Credential is denied.

DATE: **07/28/2023**

*Deena R. Ghaly*  
Deena R. Ghaly (Jul 28, 2023 10:08 PDT)

DEENA R. GHALY

Administrative Law Judge

Office of Administrative Hearings