

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

In the Matter of the Accusation Against:

CHRISTINE DEANN WATTE BECK, Respondent

Agency Case No. 2-505088054

OAH No. 2024030417

PROPOSED DECISION

Matthew S. Block, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on September 3, 2024, by videoconference from Sacramento, California.

Phillip L. Arthur, Deputy Attorney General, represented Amy Reising (complainant), Deputy Director of the California Commission on Teacher Credentialing (Commission).

Michael P. Smith, Attorney at Law, represented Christine Deann Watte Beck (respondent), who appeared.

Evidence was received, the record closed, and the matter submitted for decision on September 3, 2024.

FACTUAL FINDINGS

Jurisdictional Matters

1. On October 6, 1981, the Commission issued respondent a Certificate of Clearance. It expired on November 1, 1986, and has not been renewed. On December 24, 1982, the Commission issued respondent a Clear Multiple Subject Teaching Credential. It expired on January 1, 1988, and has not been renewed. On June 6, 1985, the Commission issued respondent a Life Multiple Subject Teaching Credential (credential). The credential was in full force and effect at all relevant times and does not expire.

2. On February 6, 2024, complainant signed and thereafter filed an Accusation against respondent. The Accusation alleges cause to discipline respondent's credential based on: (1) unprofessional conduct; (2) evident unfitness for service; (3) immoral conduct; and (4) acts involving moral turpitude. More specifically, the Accusation alleges respondent subjected her credential to discipline by: (1) physically striking a student on two separate occasions; (2) tugging on the hood of a student's jacket, thereby applying pressure to the child's throat; (3) placing her hands on three different children to physically move them; and (4) yelling at children or speaking to them in an angry or frustrated tone. As factors in aggravation, complainant alleges respondent's misconduct involved multiple acts demonstrating a pattern of misconduct, and that she significantly harmed a child trusted to her care, the public, or the educational system.

3. Respondent timely filed a Notice of Defense to the Accusation. The matter was set for 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.

Complainant's Evidence

4. From October 1, 2022, through June 29, 2023, respondent was employed by the Tulare School District as a kindergarten teacher at Heritage Elementary School (Heritage) in Tulare, California. M.C. was a student in respondent's class. M.C.'s mother, B.Q., testified¹ at hearing.

5. Shortly after the school year started, M.C. told B.Q. respondent struck her on the hand and head. B.Q. reported the incident to the school on October 5, 2022. Gabriela Jimenez served as the Heritage Vice Principal during the 2022-2023 school year. She was responsible for conducting teacher observations and student discipline. She was also tasked with investigating M.C.'s allegations against respondent.

6. Ms. Jimenez testified at hearing. She explained that when allegations are made against a teacher, the standard protocol is to speak with the teacher to get their account of the incident. When Ms. Jimenez spoke with respondent, she denied striking M.C. Respondent explained that M.C. was not doing her work, and respondent patted her on the hand to encourage her to do so. According to Ms. Jimenez, respondent's account of the incident sounded "harmless."

7. On October 11, 2022, B.Q. met with Ms. Jimenez, respondent, and Heritage Principal Elaine Sewell to discuss the matter. Respondent again denied striking M.C. and maintained she merely patted M.C. on the hand to encourage her to

¹ Janice Burt provided Spanish interpretation.

do her work. B.Q. explained that since her daughter first mentioned the incident, she would periodically wake up at night and say respondent's name aloud. B.Q. felt this showed M.C. was afraid of respondent, which led her to believe M.C. was telling the truth about respondent hitting her. Ms. Sewell told B.Q. that the entire situation seemed like a "misunderstanding." At the conclusion of the meeting, B.Q. felt like no one who was present believed what she and her daughter reported.

8. On January 17, 2023, a parent complained that respondent had pulled on the hood of their child's jacket, which caused pressure to the child's neck. On January 24, 2023, B.Q. contacted the school and reported M.C. told her respondent struck her in the stomach. She also said M.C. was afraid to go to school because respondent made her do things she did not want to do. At B.Q.'s request, M.C. was placed in a different kindergarten class a short time later. According to B.Q., M.C.'s demeanor and attitude about going to school improved after she was removed from respondent's class.

9. Also on January 24, 2023, Ms. Jimenez conducted a 30-minute observation of respondent teaching her kindergarten class, though she was unable to recall at hearing whether the observation occurred before or after she learned of B.Q.'s second complaint. During the observation, she observed respondent place her hands on three different students. In one instance, respondent placed both her hands on a child's upper arm and forcefully turned her around. In the other two instances, respondent grabbed two children by the wrist and forcefully led them from one location to another in the classroom. According to Ms. Jimenez, respondent was frustrated with the three children because they were not following directions.

10. Ms. Jimenez also observed respondent yell at multiple children during the observation. For example, she yelled comments such as "let's not argue," "let's not

pout," and "stop talking!" Ms. Jimenez also observed respondent get very close to a child's face and tell the child to "be quiet" in a stern tone of voice. She was disturbed by these observations and reported them to Ms. Sewell. However, she acknowledged she never observed respondent physically harm a child, and she did not feel respondent's behavior during the observation was so egregious that she needed to interrupt the lesson to stop it.

11. Crystal Woolsey worked as an Instructional Aide in respondent's classroom during the 2022-2023 school year. Based on what Ms. Jimenez told Ms. Sewell she observed in respondent's classroom, Ms. Sewell spoke with Ms. Woolsey on January 26, 2023, to see if she had any concerns about respondent's interactions with students. Ms. Woolsey told Ms. Sewell that respondent would "holler at kids." When Ms. Sewell asked if Ms. Woolsey ever saw respondent place her hands on a child, she began to cry and told Ms. Sewell that respondent would occasionally "grab" children but would never hurt them.

12. Later that evening, Ms. Woolsey called Ms. Sewell to provide additional information. Ms. Woolsey was still emotional, so they agreed to speak at school the next day. When they did, Ms. Woolsey started crying again and told Ms. Sewell that respondent "grabs [children] by the wrist and drags them where she wants them to be."

13. On January 31, 2023, Ms. Woolsey went back to Ms. Sewell and reported that respondent "sometimes charges at children and they get scared and cry." Ms. Sewell asked Ms. Woolsey if she would want her own child placed in respondent's class, and she rapidly shook her head no. Ms. Woolsey apologized for not coming forward about respondent's behavior toward children sooner, but also reiterated she did not "think [respondent] ever wanted to hurt them."

14. Ms. Woolsey testified at hearing. She admitted she only saw respondent charge at a child on one occasion. When asked what she meant by “charge,” Ms. Woolsey explained that respondent walked toward the child briskly. She denied ever seeing respondent run toward a child.

15. Ms. Woolsey observed respondent take a child by the arm on more than one occasion to lead them from one location to another in the classroom. However, she was unsure how many times this occurred. Further, she did not know whether respondent was pulling the child or whether it just appeared she was because the child was attempting to pull away from her.

16. Ms. Sewell testified at hearing. She was the Principal at Heritage for 13 years and recently retired. She is familiar with M.C. and acknowledged her behavior could be challenging. Ms. Sewell did not believe the October 2022 report that respondent struck M.C., and she said so at the meeting on October 11, 2022. Ms. Sewell also does not believe the January 2023 report that respondent struck M.C. in the stomach. In fact, she does not believe respondent ever harmed M.C. in any way.

17. Ms. Sewell spoke with respondent after learning of the allegation that she pulled on the hood of a student’s jacket. Respondent denied doing so, and explained she was simply trying to wake a child who was falling asleep. Ms. Sewell found respondent’s explanation reasonable.

18. Ms. Sewell observed respondent teaching her class on multiple occasions during the 2022-2023 school year and believes she is a good teacher. She never observed respondent lead a student by the hand or wrist in a non-gentle manner. However, she is aware of the allegations that respondent did so and believes Ms. Jimenez’s account of what occurred during the observation on January 23, 2023. Ms.

Sewell spoke with several of respondent's students, who told her respondent did yell in class, but only when children were misbehaving. Ms. Sewell believes it is "possible" that the allegations in the Accusation against respondent have merit. However, she does not believe respondent has ever physically harmed a child.

Respondent's Evidence

19. Respondent testified at hearing. She explained that M.C. was frequently disruptive in class. For example, she would flap her arms, make whimpering sounds, and get up and walk around the classroom during lessons. Respondent believes M.C.'s behavior is consistent with that of an individual diagnosed with autism spectrum disorder. When she shared that belief with B.Q. at the meeting on October 11, 2022, B.Q. strongly denied that M.C. has any developmental disabilities.

20. Respondent is aware of the allegation that she pulled on the hood of a child's jacket. According to respondent, the child's parent accused her of pulling on the hood and then offering the child candy to pacify her. Respondent explained that on the day of the incident, the children were working on an assignment when she noticed the child in question falling asleep. She placed her hand on the child's back and told her to wake up, which startled the child, and she began to cry. Respondent assured the child she was not in trouble, and offered her a piece of Lifesaver candy, which is a tool she often employed to help that particular child focus. When she discussed the incident with Ms. Sewell, Ms. Sewell told respondent she believed her, and said that the child's parent was "a complainer."

21. Respondent denies ever handling a child in an angry or physically aggressive manner. She denies ever dragging a child from one place to another but acknowledges leading them by the hand or arm if they are being disruptive in class.

Respondent has never charged at a child. She will walk “rapidly” toward a child if she believes it is necessary, but not in an angry manner. Other than the allegations at issue here, respondent has never received any complaints about her physical interactions with students or the way she speaks to them in her entire career as a teacher, and she has no disciplinary record with the Commission.

Analysis

22. Complainant bears the burden of proving the causes for discipline alleged in the Accusation by clear and convincing evidence. Complainant alleges respondent subjected her credential to discipline by: (1) physically striking M.C. on two separate occasions; (2) tugging on the hood of a student’s jacket, thereby applying pressure to the child’s throat; (3) placing her hands on three different children to physically move them; and (4) yelling at children or speaking to them in an angry or frustrated tone.

23. Complainant failed to prove respondent struck M.C. on either occasion. B.Q. testified her daughter did not like respondent and seemed to enjoy school more once she was removed from respondent’s class. That testimony, however credible, is insufficient to conclude that respondent physically struck M.C. There were no eyewitnesses to either of the alleged incidents. M.C. did not testify at hearing. The only evidence introduced in support of the allegations were M.C.’s out-of-court statements to her mother.

24. In administrative hearings, hearsay evidence may only be used to supplement or explain other non-hearsay evidence. Hearsay evidence is not sufficient, in and of itself, to support a factual finding unless it would be admissible over objection in civil actions. (Gov. Code, § 11513, subd. (c).) The evidence of M.C.’s

statements to her mother do not supplement or explain other non-hearsay evidence and are therefore insufficient to support a factual finding that the allegations are true.

25. Complainant also failed to prove respondent tugged on the hood of a child's jacket, thereby applying pressure to the child's throat. The only evidence in support of the allegation was the initial parent report. The child did not testify, and there were no eyewitnesses to the alleged act. Moreover, respondent's explanation of the incident in her testimony at hearing was reasonable.

26. Complainant proved the allegation that respondent placed her hands on children and moved them using some degree of physical force. Although Ms. Woolsey stated she did not believe respondent intended to harm any of the students, she acknowledged there were multiple occasions she observed respondent grab a child by the wrist or arm and move them from one place to another. Moreover, Ms. Jimenez observed respondent forcibly move three different children during her observation because she was frustrated that they were not following directions.

27. Complainant also proved the allegation that respondent yelled at children or spoke to them using an angry or frustrated tone. Ms. Woolsey credibly testified that respondent would routinely yell in the classroom, which is consistent with her initial statement to Ms. Sewell that respondent would "holler at kids." It is also consistent with the statements of the children Ms. Sewell interviewed during her investigation, who indicated that respondent would yell at children when they were misbehaving or refusing to follow directions. Moreover, Ms. Jimenez observed respondent yelling at children on multiple occasions during her formal observation on January 24, 2023.

28. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, the California Supreme Court concluded that a teaching credential cannot be disciplined for immoral conduct, unprofessional conduct, or conduct involving moral turpitude “unless that conduct indicates [the educator] is unfit to teach.” (*Id.* at p. 229.) The Court outlined factors to consider when determining whether an educator’s conduct demonstrates unfitness to teach, which have been codified in California Code of Regulations, title 5, section 80302, subdivision (a). The factors are:

- (1) the likelihood that the conduct may have adversely affected students or fellow teachers, and the degree of such adversity anticipated;
- (2) the proximity or remoteness in time of the conduct;
- (3) the types of credentials held or sought by the person involved;
- (4) any extenuating or aggravating circumstances surrounding the conduct;
- (5) the praiseworthiness or blameworthiness of the motives resulting in the conduct;
- (6) the likelihood of recurrence of the questioned conduct;
- (7) the extent to which disciplinary action may have an adverse impact or chilling effect on the constitutional rights of the person involved, or other teachers; and
- (8) the publicity or notoriety given to the conduct.

Likelihood of Adverse Effects on Students or Other Teachers

29. In this case, respondent's practice of yelling at kindergarten students and physically moving them by force likely had an adverse effect on the students, who are at an impressionable age and still developing emotionally. It also had an adverse effect on the Heritage employees who witnessed the misconduct.

Proximity or Remoteness in Time of Conduct

30. The misconduct proven at hearing occurred in January 2023.

Types of Credentials Held or Sought

31. Respondent has held a Life Multiple Subject Teaching Credential for nearly 40 years, which authorizes her to teach children of different ages in a variety of school settings. It is imperative that she possess the temperament to exercise sound judgment, even when frustrated.

Extenuating or Aggravating Circumstances

32. Neither the Education Code nor the applicable regulations specify what constitutes "extenuating circumstances." However, California Code of Regulations, title 5, section 80300, subdivision (m), defines "mitigating factor" as "an event or circumstance which demonstrates that the public, school children and the profession would be adequately protected by a more lenient degree of adverse action or no adverse action whatsoever." California Code of Regulations, title 5, section 80300, subdivision (b), lists aggravating factors, the presence of which indicate a greater degree of discipline is necessary to protect students and the teaching profession. These factors include, in pertinent part: (1) a prior record of adverse action; (2) that the misconduct significantly harmed a child, the public, or the educational system; and (3)

the credential holder demonstrated indifference toward the consequence of the misconduct.

33. Respondent has no prior record of discipline with the Commission. There is no evidence that her misconduct significantly harmed a child, the public, or the educational system. Although respondent denies the allegations against her, she did not demonstrate indifference to the seriousness and potential consequences of the misconduct.

Praiseworthiness or Blameworthiness of Motives

34. Yelling at kindergarten students and moving them by force was not praiseworthy. However, as discussed above, it appears respondent only did so when the children were misbehaving or refusing to follow directions, and it never resulted in physical injury to a child. Moreover, some of the conduct occurred when Ms. Jimenez was observing respondent. Under those circumstances, it would be unreasonable to conclude respondent's motive was to harm children. Rather, her behavior is consistent with her stated motive of redirecting children away from disruptive behavior.

Likelihood of Recurrence

35. Respondent is no longer employed at Heritage. As such, it is unlikely that she will encounter the students she taught there in an educational setting. However, the evidence at hearing established that respondent is prone to yelling at children who misbehave and to maintain order in the classroom, which she must learn to control if she is to continue teaching.

Chilling Effect

36. It is highly unlikely that disciplining respondent's credential for the behavior proven at hearing will have a chilling effect on the constitutional rights of respondent or other educators.

Publicity or Notoriety Given to Conduct

37. There was no evidence introduced to establish that any publicity or notoriety was given to the allegations proven at hearing.

Conclusion

38. When all the evidence is considered, complainant established respondent engaged in unprofessional conduct by yelling at kindergarten children and physically leading them by the wrist and arm. Complainant also established that the misconduct involved multiple acts of wrongdoing with several different children. However, that evidence alone is insufficient to conclude that respondent is clearly unsuitable to teach due to a fixed, non-remediable character trait, or that she engaged in immoral conduct or acts of moral turpitude. Complainant also failed to establish respondent's misconduct significantly harmed a child trusted to her care, the public, or the educational system.

39. Analysis of the factors described in *Morrison* indicates respondent's conduct demonstrates an unfitness to teach and thus constitutes unprofessional conduct for purposes of disciplinary action under Education Code section 44421. However, respondent has been a teacher for over four decades and has no prior disciplinary record. The more serious allegations that she struck a child were not proven at hearing. Under these circumstances, revocation of respondent's credential

would be unduly punitive. The purpose of an administrative disciplinary action is not to punish the licensee for her misconduct, but rather to ensure she does not exercise her license privileges in derogation of the public interest. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164.) In this case, a public reproof is sufficient to protect the public health, safety, and welfare, and provide respondent notice that similar behavior in the future may result in further discipline.

LEGAL CONCLUSIONS

1. Complainant bears the burden of proving the allegations in the Accusation by clear and convincing evidence to a reasonable certainty. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Brooks* (2008) 169 Cal.App.4th 176, 190.)

2. Pursuant to the Education Code, commencing with Section 44000, and California Code of Regulations, title 5, commencing with Section 80000, the Commission is responsible for credentialing teachers in public schools in California, issuing credentials, and taking adverse action against applicants and credential holders.

3. Education Code section 44421 provides:

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

serving in the public school system, or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

4. Education Code section 44345 provides in part:

The Commission may deny any application for the issuance of a credential or for the redential of a credential made by an applicant who falls under any of the following categories:

[¶] . . . [¶]

(e) Has committed any act involving moral turpitude.

[¶] . . . [¶]

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 which the credential would authorize the applicant to perform.

5. Moral turpitude has been described as "any crime or misconduct committed without excuse, or 'any dishonest or immoral' act not necessarily a crime." (*Clerici v. Dept. of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1017.) Moral turpitude has also been described as the "'general readiness to do evil.' [Citation]" (*Donley v. Davi* (2009) 180 Cal.App.4th 447, 458.)

6. Education Code section 44440, subdivision (b), provides:

The suspension or expiration of any credential, its surrender without the written consent of the commission, or a revocation pursuant to Section 44423 does not deprive the commission of its authority to do any of the following:

- (1) Institute or continue a disciplinary proceeding against the credential holder upon any ground provided by law.
- (2) Enter an order suspending or revoking the credential.
- (3) Issue a public reproof or private admonition to the credential holder.

7. California Code of Regulations, title 5, section 803000, states in part:

[¶] . . . [¶]

- (b) "Aggravating factor" is an event or circumstances which demonstrates that a greater degree of adverse action for an act of professional misconduct is needed to adequately protect the public, schoolchildren or the profession. Aggravating factors may include, but are not limited to, the following:

[¶] . . . [¶]

- (2) that the misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct;

[¶] . . . [¶]

(4) that the misconduct significantly harmed a child entrusted to the care of a credential holder or applicant, significantly harmed the public or the educational system. . . .

8. As set forth in Factual Finding 28, California Code of Regulations, title 5, section 80302, subdivision (a), identifies the factors to consider “to determine the relationship between the alleged misconduct and the applicant’s or holder’s fitness, competence, or ability to effectively perform the duties authorized by the credential.”

9. The California Supreme Court has recognized that the terms “immoral conduct” and “unprofessional conduct” substantially overlap one another and conduct that constitutes one often includes the other. (*Morrison v. State Bd. of Ed.*, *supra*, 1 Cal.3d 214, 221, fn. 9.) Additionally, in *San Diego Unified School District v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, the court explained:

Moreover, the definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, upon whom are imposed “responsibilities and limitations on freedom of action which do not exist in regard to other callings.” [Citation.]

(*Id.*, at p. 1466.)

10. Immoral conduct is sometimes considered as synonymous with “dishonesty” or a high degree of unfairness. (*Bd. of Education of the San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811.) The court explained in *Palo Verde Unified School District of Riverside v. Hensey* (190) 9 Cal.App.3d 967, 972:

The term “immoral” has been defined as that which is hostile to the welfare of the general public and contrary to good morals. Immorality includes 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.

11. “Evident unfitness for service” means a teacher is 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 on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) “Unlike ‘unprofessional conduct,’ ‘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.” (*Ibid.*)

Cause for Discipline

12. Based on the Factual Findings and Legal Conclusions as a whole, complainant proved by clear and convincing evidence that respondent yelled at the kindergarten students entrusted to her care and placed her hands on several children to physically move them by force. Consequently, cause exists to discipline respondent’s credential for unprofessional conduct pursuant to Education Code section 44421.

13. Based on the Factual Findings and Legal Conclusions as a whole, complainant did not prove by clear and convincing evidence that respondent is not fit,

not adapted to, or unsuitable to teach based on a fixed, non-remediable character trait. Consequently, cause does not exist to discipline respondent's credential for evident unfitness for service pursuant to Education Code section 44421.

14. Based on the Factual Findings and Legal Conclusions as a whole, complainant failed to prove by clear and convincing evidence that respondent engaged in conduct that is indecent, dishonest, depraved, or hostile to the public welfare. Consequently, cause does not exist to discipline respondent's credential for immoral conduct pursuant to Education Code section 44421.

15. Based on the Factual Findings and Legal Conclusions as a whole, complainant failed to prove by clear and convincing evidence that respondent engaged in conduct that is dishonest or immoral, or which evidences a general readiness to do evil. Consequently, cause does not exist to discipline respondent's credential pursuant to Education Code for acts involving moral turpitude pursuant to Education Code sections 44421, and 44345, subdivision (e).

Aggravating Factors

16. Complainant proved by clear and convincing evidence that respondent's unprofessional conduct evidenced multiple acts of wrongdoing involving multiple children. Complainant failed to prove by clear and convincing evidence that respondent's unprofessional conduct significantly harmed a child trusted to her care, the public, or the educational system.

Appropriate Discipline

17. Considering the evidence, a public reproof is the most appropriate discipline in this case. A public reproof is "a warning from the Commission that

conduct is not appropriate for a credential holder or applicant. Following a public reproof, commission of the same or similar misconduct may result in more serious adverse action. It is issued only when adequate to appropriately protect the public, schoolchildren and the profession.” (Cal. Code Regs., tit. 5, § 80300, subd. (p).)

ORDER

Respondent Christine Deann Watte Beck is publicly reproofed for unprofessional conduct.

DATE: October 1, 2024

Matthew Block

MATTHEW S. BLOCK

Administrative Law Judge

Office of Administrative Hearings