

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

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

ALEJANDRO SANCHEZ MORALES, Respondent

Case No. 2-12815141

OAH No. 2020090735

PROPOSED DECISION

Marcie Larson, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter telephonically and by video conference on January 26 through 28, 2021, and September 1, 2021, from Sacramento, California.

Jeffrey Phillips, Deputy Attorney General, represented complainant Mary Vixie Sandy, Ed.D., Executive Director of the Commission on Teacher Credentialing (Commission), State of California.

Respondent Alejandro Sanchez Morales represented himself at the hearing.

Evidence was received, the record closed, and the matter was initially submitted for decision on September 1, 2021. On September 9, 2021, an order was issued re-opening the record and directing complainant to file and serve a jurisdictional document missing as part of Exhibit 1. Complainant submitted the document.

Respondent did not file an objection. On September 20, 2021, the record closed and the matter was submitted for decision.

FACTUAL FINDINGS

Jurisdictional Matters

1. On May 26, 2015, the Commission issued respondent a Preliminary Single Subject Teaching Credential, (Single Subject Credential), which expired on June 1, 2020.

2 On or about August 26, 2013, the Commission issued respondent a Certificate of Clearance (Certificate), which expired on September 1, 2018.

3. On or about September 9, 2019, the Commission received an application from respondent for a Clear Single Subject Teaching Credential. Respondent certified under penalty of perjury to the truthfulness of all the statements in the application.

4. By letter dated November 22, 2019, Ani Kindall, Attorney for the Commission, informed respondent that on or about November 13 through 15, 2019, the Committee of Credentials (Committee) "found probable cause to recommend the revocation of [his] teaching credential(s) and all other certification documents and denial of [his] application." Respondent was informed of his right to challenge the Committee's decision and request a hearing. Respondent timely requested a hearing.

5. On August 13, 2020, complainant, acting in her official capacity, signed and thereafter filed the Accusation and Statement of Issues. Complainant seeks to deny respondent's application, and revoke all credentials, certificates, and authorizations issued to respondent, based on allegations that while on a non-district

sponsored education trip to Costa Rica, he committed acts constituting moral turpitude and unprofessional and immoral conduct. Generally, complainant alleges respondent allowed students to drink alcohol, respondent drank alcohol with a chaperone parent M.M., kissed M.M. in front of students and was seen by a student performing oral sex on M.M. Complainant further alleged respondent sexually assaulted M.M. because she was too intoxicated to consent to the sexual conduct.

6. The matter was set for an evidentiary hearing before an Administrative Law Judge of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Costa Rica Trip

7. In approximately August 2015, respondent was hired to teach Spanish at Johansen High School (Johansen), part of the Modesto City Schools. He continued to teach Spanish through the spring of 2018. In early 2018, respondent advertised to the students in his Spanish classes that he was organizing a trip to Costa Rica. The trip was arranged through EF Tours, a private tour company. The trip was not sponsored by Johansen or the Modesto City Schools. EF Tours trained respondent how to be a group leader for the Costa Rica trip he was planning.

8. The trip to Costa Rica was scheduled to take place from March 27 until April 3, 2018. Johansen students were on spring break from March 24 until April 2, 2018. As a result, students who attended to trip would miss several days of school. Respondent held at least one student meeting and one parent meeting after school to discuss the trip with interested students and parents. He also put up a poster advertising the trip and set out pamphlets about the trip in his classroom for students

to take and review. Respondent sent emails to his students' parents and guardians informing them about the trip.

9. Parent chaperones M.M. and L [REDACTED] and seven of respondent's students signed up for the trip to Costa Rica. The students included L [REDACTED]'s daughter K [REDACTED], M.M.'s daughter L.B., L [REDACTED], I [REDACTED], A [REDACTED], J [REDACTED], and G [REDACTED].¹ Respondent did not know M.M. prior to the trip. L [REDACTED], I [REDACTED], and A [REDACTED]² testified at hearing concerning the events that occurred in Costa Rica.

10. On March 27, 2018, the group met at San Francisco International Airport and travelled by plane to Costa Rica. They arrived in Costa Rica on March 28, 2018. Upon arriving at the airport, the group was met by a guide who transported them to the Buena Vista Lodge (Lodge) where they were to stay for the entire trip. The group was assigned various cabins to sleep in during their one-week stay. Respondent had his own cabin. The chaperones also had their own cabins. M.M.'s daughter L.B. stayed in her mother's cabin. The remaining female students were assigned one cabin and the male students another.

EVENTS ON MARCH 29, 2018

11. The first day of the trip, the group had dinner at the Lodge and visited by the pool. The following day on March 29, 2018, the group left the Lodge to explore the town and visit a hot spring. The group returned to the Lodge for dinner. After dinner the students sat on the patio near the bar. Respondent and M.M. were seated next to

¹ Initials and first names are used to protect the privacy of the individuals.

² Respondent called A [REDACTED] as a witness.

each other at the bar drinking alcohol. There were shots of alcohol on a tray near the students at the patio area. The legal drinking age in Costa Rica is 18 years old. I [REDACTED] and G [REDACTED] were 18 years old. The remaining students were under 18. EF Tours had a policy that prohibited students from drinking alcohol even if the student was 18 years old.

12. L [REDACTED], I [REDACTED], J [REDACTED], L.B., and A [REDACTED] all drank alcohol that evening. Respondent informed some of the students, including I [REDACTED], that if their parents approved, they could drink alcohol. Respondent also stated that he would buy the alcohol, but "not to tell anybody." Respondent observed students under the age of 18 drinking alcohol. He did not inform those students they were not allowed to drink alcohol. During the evening, respondent bought I [REDACTED] one or two shots of alcohol. Respondent consumed at least one shot of tequila. M.M. consumed approximately five alcoholic drinks. M.M. also purchased L.B. alcoholic drinks.

13. At some point in the evening, L [REDACTED], K [REDACTED], and G [REDACTED] returned to their cabins. Respondent asked M.M. and the remaining students to dance. Respondent taught the group a few dance steps. Respondent and M.M. danced together. Eventually, respondent and M.M. returned to the bar. The other students remained near the patio area. Respondent and M.M. began to kiss while they were seated at the bar, approximately 10 feet away from the students. L [REDACTED], I [REDACTED], and A [REDACTED] observed M.M. and respondent kissing. L [REDACTED] and I [REDACTED] described M.M. and respondent as "making out." L [REDACTED] turned away from respondent and M.M. because she was uncomfortable seeing her teacher and M.M. kiss. The kissing went on for over one minute. I [REDACTED] observed respondent leaning toward M.M. while they were kissing.

One of the students commented that respondent and M.M. were kissing. L.B. saw her mother and respondent kissing. L.B. became upset and left the patio area.

█ and L.B. were not friends before the trip. However, █ followed L.B. to the pool area of the Lodge because he could see she was upset and he did not want her to be alone. L.B. was upset and embarrassed that her mother and respondent were kissing. M.M. was married to L.B.'s step-father. Respondent was also married. After talking, █ and L.B. walked toward the bar area to find M.M.

14. █, A█, and J█ also left the patio after they saw respondent and M.M. kissing. They went to J█'s cabin and then went looking for L.B. at her cabin. J█ walked ahead of █ and A█ to M.M. and L.B.'s cabin. He came back to █ and A█ and told them respondent and M.M. were at the cabin and to walk away. L.B. and █ then approached J█, █, and A█. J█ told L.B. not to go to her cabin. L.B. ignored J█'s direction and walked toward her cabin. █ also went with L.B.

█ and L.B. approached M.M.'s cabin. It was dark outside but there were lights from inside the cabin illuminating the patio in front of the cabin. █ saw M.M. lying on her side on the cement patio. Her leggings were pulled down to her knees and her vagina area was exposed. Respondent was on his hands and knees. His head was in between M.M.'s legs, with his face positioned in front of her vagina. It looked to █ that respondent was performing oral sex on M.M. He did not hear M.M. making any sounds. █ explained that he "felt really uncomfortable and froze up" when he saw respondent and M.M. L.B. yelled "what are you doing?" Respondent jumped up, adjusted his pants, and stated that he could "explain" and that "it was not what it looked like." Respondent then started walking towards █ and L.B. and said, "let's talk." L.B. told respondent to "get away" and she ran off.

15. █ followed L.B. to the pool area. She called her aunt to tell her what happened between respondent and M.M. L.B.'s aunt told █ to take L.B. and M.M.

back to their room and lock the door. L.B. and I walked to M.M.'s cabin. The lights inside were on, but the door was locked. They knocked on the door, but the cabin was empty. M.M. did not answer. I and L.B. turned around to leave and saw respondent walking up behind them. Respondent asked I and L.B. where M.M. was. L.B. responded that respondent was the last person to see M.M., so he should know. Respondent walked away and said that he would find M.M. At some point during the conversation, L.B. told respondent that she was going to call the police and let the school know what had happened.

I and L.B. followed respondent. I believed that respondent knew where to find M.M. I and L.B. stayed some distance away from respondent so they could see him, but he would not be able to see or hear them. I and L.B. followed respondent on a pathway covered by trees and bushes. Respondent turned down a path. I and L.B. came around the corner of the path and saw M.M. on the ground. One of her arms was above her head. Her bikini bottom was pulled up high around her waist and was twisted. M.M. was mumbling, but I could not understand any words. I saw respondent try to pick M.M. up off the ground. Respondent then dropped M.M. to the ground. Respondent saw L.B. and I standing behind him. Respondent told L.B. that they needed to talk. He reached out to grab L.B. while he was trying to pick up M.M. off the ground. L.B. ran away and I followed her to his cabin.

16. Shortly after they arrived at I's cabin, respondent knocked and asked to speak to I. I told respondent he would talk to him at the pool. Respondent and I walked to the pool together and sat down. Respondent told I that he was sorry and that he "fucked up." Respondent also stated that I could not "blame him" because M.M. was "fucking beautiful" and "fucking sexy." I "cut off" respondent from continuing to talk because it was uncomfortable to hear respondent

speak in that manner. I [REDACTED] told respondent to go back to his room, lock the door, and not come out. Respondent agreed and walked toward his cabin.

17. I [REDACTED] and L.B. eventually returned to M.M.'s cabin. They found M.M. on the floor of the bathroom by the toilet. M.M. was partially undressed and unconscious. I [REDACTED] and L.B. tried to wake up M.M. but could not. They picked her up and moved her to the bed. L.B. asked I [REDACTED] to sleep in their cabin. He returned to his cabin to get a blanket and pillow. Students were in his cabin. Some of the students, including A [REDACTED], went with I [REDACTED] to M.M.'s cabin to sleep for the night. When they arrived, M.M. was awake. She indicated that the last thing she could recall was being by the pool that night before sunset. I [REDACTED] observed that M.M. had bruises "all over her body." A [REDACTED] observed that M.M. had bruising on her arm and around her eyebrow bone.

EVENTS AFTER MARCH 29, 2018

18. At approximately 6:00 a.m. the next morning, respondent knocked on M.M.'s cabin door. No one answered the door. Through the door, respondent asked to talk to L.B. She did not respond. He then asked to speak to I [REDACTED], who responded "no." Respondent left. He then returned an hour or two later and told the students that they were supposed to go on a field trip. L.B. and I [REDACTED] did not go on the field trip. The remaining students attended the field trip. During the field trip, respondent told J [REDACTED], L [REDACTED], A [REDACTED], and G [REDACTED] that he was sorry if the events from the night before made them uncomfortable.

19. The morning of March 30, 2018, M.M. called the resort owners and reported that respondent had sexually assaulted her. The police arrived at the Lodge and took M.M. and L.B. to the hospital and then a police station. Later in the day, an EF

Tour employee picked up [REDACTED] and took him to a hotel in Liberia, Costa Rica. M.M. and L.B. were also staying at the hotel in a different room. [REDACTED] was told that he would be taken to court to give a statement about what he observed. A local judge was not available for a few days. An EF Tours employee told M.M., L.B., and [REDACTED] to contact the American Embassy. They did so. [REDACTED] provided a statement to a judge at the embassy.

Later the same day, respondent was arrested by the Costa Rican authorities and ultimately charged with "sexual abuse against a person of age." When the other students realized that respondent, M.M., L.B., and [REDACTED] were gone, they contacted their parents and guardians. [REDACTED]'s stepfather travelled to Costa Rica and the remaining students finished the trip. The students eventually learned that respondent had been arrested.

20. On March 31, 2018, [REDACTED] flew back to the United States. He took a few days off school to try to recover from the experience. However, upon his return to school, students were talking about the incident, which made him uncomfortable. [REDACTED] continues to suffer from anxiety because he continues to see various images in his mind, including respondent dropping M.M. on the ground, and finding M.M. laying on the ground half-naked with respondent performing what looked like a sex act on M.M.

21. On April 4, 2018, M.M. went to Memorial Medical Center (Memorial) in Modesto, California. M.M. reported that she had been sexually assaulted by respondent. Officers from the Modesto Police Department were dispatched to Memorial to investigate M.M.'s report. An officer met with M.M., who explained that she was in Costa Rica as a parent chaperone for a school field trip. M.M. related what she could recall of the events.

The officer observed that M.M. had a “black left eye, bruises on both arms and legs.” The officer took pictures of the injuries. M.M. was still wearing the clothes she had been in since March 29, 2018. The officer collected the clothes. A nurse conducted a sexual assault examination, which did not reveal “any semen in her vagina or any abnormalities.”

22. On June 20 and 21, 2019, a criminal trial was conducted in Costa Rica. Respondent was represented by counsel. Some students, including I [REDACTED] and A [REDACTED], travelled to the Costa Rican Embassy in Los Angeles to provide testimony. Respondent was “absolved” of any “penalty or responsibility” for the crime of sexual abuse against a person of age. Respondent returned to the United States.

23. Modesto City Schools filed an action against respondent to dismiss him from his position. Respondent and M.M.’s depositions were taken as part of the action.³ Effective on July 26, 2019, respondent resigned his position with Modesto City Schools pursuant to a settlement agreement. On September 17, 2019, the Commission received from Modesto City Schools “Notification of Credential Holder’s Change in Employment Status Due to Allegations of Misconduct.”

Respondent’s Additional Evidence

24. Respondent disputes that he engaged in any misconduct. He contends that L.B. fabricated claims against him that he sexually assaulted M.M. and convinced her mother she had been sexually assaulted because she did not like him as her

³ M.M. was not available to testify for hearing. As a result, portions of her deposition were admitted into evidence. However, it was not necessary to rely upon her deposition testimony to find cause for discipline.

teacher. Respondent explained several instances when L.B. had failed to do her schoolwork and respondent penalized her as a result. Respondent contends that because of these incidents, she had a motive to lie about the events in Costa Rica. Respondent suggested that because L.B. and [REDACTED] were friends, [REDACTED] likewise fabricated a story to support L.B.

25. Respondent also denied he was aware that students were drinking alcohol, other than L.B. Respondent contends that M.M. bought her daughter alcohol and because she was L.B.'s parent he did not take responsibility for telling her not to do so. Respondent claimed that "as far as he knew" the students were drinking non-alcoholic drinks the evening of March 29, 2018. Respondent admitted that he drank alcohol that evening but denied purchasing alcohol for students.

26. Respondent also contends that M.M. aggressively pursued him. Respondent believed M.M. had consumed approximately five alcoholic drinks throughout the evening. However, he did not believe that she was drunk. Respondent claimed that M.M. kissed him while they were at the bar, he allowed it for a few seconds, and then he pulled away telling M.M. that they should not be kissing. Respondent denied that he and M.M. kissed for more than a few seconds. M.M. attempted to continue to kiss him, but he would not allow it. Respondent noticed L.B. saw them kiss, so he told M.M. that they needed to find L.B. and explain what had occurred. Respondent and M.M. left the bar to find L.B. They walked to M.M.'s cabin. Respondent contends that during this time, M.M. continued to make sexual advances towards him, which he rejected.

L.B. was not at the cabin when they arrived. Respondent contends that M.M. then pulled down her pants down to her knees, wrapped her arms around his neck and her legs around his body. They both fell to the ground on the patio. Respondent

claimed that he tried to brace himself from the fall with outdoor furniture but was not able to do so. M.M. fell onto her back and respondent fell on top of her. Respondent then heard L.B. behind him say words to the effect of "what the fuck are you doing?" Respondent turned and saw L.B. and [REDACTED]. Respondent stated to L.B. that "it is not what you think." Respondent contends that L.B. then threatened to "ruin" his life.

27. Respondent claims that he left M.M. and went after L.B. and [REDACTED] to explain what had occurred. He was not able to speak to them, so he went back to M.M.'s cabin to tell her that he was not able to speak to L.B. M.M. was missing, but [REDACTED] and L.B. were at the cabin. Respondent found M.M. lying in the middle of a path. He told M.M. that they needed to talk to L.B. and he helped M.M. get up off the path. L.B. and [REDACTED] came upon them on the path. Respondent contends that L.B. threatened to tell her step-father what M.M. had done with respondent. L.B. and [REDACTED] then ran away.

M.M. got up to go after L.B. Respondent claimed M.M. was wearing sandals. She tripped and fell on her face. Respondent helped her get up. Respondent then took M.M. to her cabin and laid her on her bed. Respondent told M.M. that they would talk to L.B. and [REDACTED] in the morning and "clear everything up." However, M.M. insisted that respondent talk to [REDACTED] that evening to tell him that they had not had sex.

28. Respondent spoke to [REDACTED] that evening and told him nothing had happened between him and M.M. He told [REDACTED] to tell L.B. that he did not have sex with M.M. Respondent claimed he told [REDACTED] that M.M. "ain't that hot," suggesting that he was not interested in her sexually. However, respondent admitted during his deposition that he told [REDACTED] that M.M. was "hot."

29. Respondent was arrested and held in prison in Costa Rica for a month. He hired private counsel and was released from prison while awaiting his trial. He was required to stay in Costa Rica until his trial was complete. A three-judge panel absolved him of the charge of sexual abuse against a person of age. M.M. did not testify at the trial.

CHARACTER EVIDENCE

30. Bertha Magana-Rios testified on behalf of respondent. Ms. Magana-Rios was a high school teacher for 19 years. She met respondent when he began working for Johansen as her student-teacher. Ms. Magana-Rios was the Department Chair when respondent applied to work for Johansen. She was involved in hiring him to work as a Spanish teacher.

Ms. Magana-Rios described respondent as a respectful and hardworking young man. Ms. Magana-Rios never heard anything negative about respondent from students. She knows respondent's wife and attended their wedding. Ms. Magana-Rios explained that she was "shocked" to learn about the accusations made against respondent concerning his alleged conduct in Costa Rica.

After respondent returned from Costa Rica, he provided Ms. Magana-Rios some details about the incident. He told Ms. Magana-Rios that he had one drink and that M.M. had too much to drink. He claimed that M.M. was "falling all over the place and hurt herself." He also claimed that M.M. kissed him, that he was surprised and he pushed back and "recoiled." Ms. Magana-Rios also recalled that respondent explained that he and M.M. fell and he ended up on top of her.

The events respondent described did not change Ms. Magana-Rios's opinion of his character or ability as a teacher. She explained that if she had the opportunity, she would hire him again because he is a "great role model."

31. Respondent submitted a performance evaluation from Johansen for the 2016-2017 school year. Respondent met the objectives of the evaluation and was recommended for re-hire for the following year. Respondent also submitted an evaluation from Edison High School, Stockton Unified School District, for the 2019-2020 school year. Respondent was hired as a Spanish teacher. He received an overall rating of "satisfactory." The evaluation is not signed.

Analysis

32. 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 that 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 upon 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 FELLOW TEACHERS

33. The evidence of adverse effects on respondent's students because of his conduct in Costa Rica is overwhelming. Respondent was responsible to ensure the health and safety of students he took to another country. He failed to do so. L■■■■, I■■■■, and A■■■■'s version of events are the most credible. These students were not motivated to lie, particularly I■■■■. Contrary to respondent's assertion, I■■■■ was not friends with L.B. prior to the Costa Rica trip. I■■■■ comforted L.B. in Costa Rica because she was understandably distraught about what she saw between respondent and her mother. I■■■■'s testimony was candid and sincere. As a result, the students' testimony was given great weight.

34. The evidence established that respondent drank alcohol in front of his students, allowed students to drink alcohol and purchased alcohol for at least one student. Respondent's testimony that he was not aware his students were drinking alcohol was not credible. L■■■■, I■■■■, and A■■■■ each testified they consumed

alcohol and that respondent saw students drinking. L [REDACTED] and A [REDACTED] were under 18 years old. Respondent also purchased alcohol for I [REDACTED].

Respondent's students were not allowed to drink alcohol. Respondent's contention that he assumed the students were not drinking alcohol demonstrates that he failed to take responsibility for the students. Respondent had an obligation to ensure students were not drinking alcohol, which included communicating to the students that they were not allowed to drink alcohol, by setting an example of not drinking alcohol in front of the students, and by monitoring the students' behavior to ensure that no student was drinking alcohol.

35. Respondent also engaged in extremely inappropriate conduct with M.M. in front of students. L [REDACTED], I [REDACTED], and A [REDACTED] saw respondent and M.M. kissing for over a minute. L [REDACTED] and I [REDACTED] described respondent and M.M. as "making out." Respondent was seen leaning towards M.M. to kiss. Seeing respondent and M.M. kiss understandably made the students uncomfortable and upset.

Respondent's contention that he only kissed M.M. for a few seconds and then pulled away to stop M.M. from kissing him is not credible. If the kissing had been as brief as respondent described, it is unlikely so many students would have seen the incident. They certainly would not have described the two as "making out."

36. The evidence also established that respondent engaged in inappropriate sexual conduct with M.M. at her cabin. I [REDACTED] credibly testified that when he and L.B. walked up to M.M.'s cabin, he observed M.M. laying on her side on the outdoor patio ground. Her leggings were pulled down to her knees exposing her vagina. Respondent's face was positioned in front of her exposed vagina. I [REDACTED] believed based on his observation that respondent was performing oral sex on M.M. It is not

necessary to determine if respondent sexually assaulted M.M. or if she had the ability to consent. The adverse effects to respondent's students who observed him with his head by the exposed vagina of a parent chaperone was traumatizing to the students.

Again, respondent's version of events is not credible. Respondent claimed that M.M. had pulled her pants down, wrapped her arms around his neck and legs around his body. They then fell to the ground and he landed on top of M.M. It is not clear how M.M. could have wrapped her legs around respondent with her leggings down to her knees restricting her leg movement. Additionally, to believe respondent's version of events, [REDACTED] and L.B. would have walked up to M.M.'s cabin at the exact moment respondent fell on M.M. This does not explain how respondent's face was positioned at M.M.'s exposed vagina.

37. [REDACTED] was also subjected to respondent's extremely unprofessional and inappropriate justification for his conduct. Respondent told [REDACTED] he could not "blame him" for his conduct because M.M. was "fucking beautiful" and "fucking sexy." [REDACTED] was so uncomfortable with respondent's language, that he stopped respondent from talking, and directed him to return to his cabin.

Respondent's contention he told [REDACTED] that M.M. "ain't that hot" further exposes the inconsistencies in respondent's version of events. Specifically, respondent admitted during his deposition that he told [REDACTED] that M.M. was "hot." Respondent did not explain why he would be speaking in such an unprofessional way to a student about a parent chaperone or how it supports his version of events that he did not engage in inappropriate sexual conduct with M.M.

38. The aftermath of the events in Costa Rica also had adverse effects on students. Respondent was arrested. Students had to call home and explain that their

teacher had been arrested and taken to jail. Another parent had to travel to Costa Rica to supervise the students. [REDACTED] was transported to another town to give a statement to a judge. He then returned home and was faced with continuing anxiety from the events.

39. As an educator, respondent is expected to exercise good judgment, set a good example, and be a positive role model. Respondent was entrusted to care for seven students in Costa Rica. Instead of putting the health and safety of his students first, he focused on himself, exposing his students to the adverse effects of alcohol and his sexual misconduct with a chaperone.

PROXIMITY OR REMOTENESS IN TIME

40. Respondent's conduct occurred in March 2018. However, students were still involved in his criminal trial in May 2019. Only two years have passed since he resigned his position from Modesto City Schools in June 2019. Respondent's misconduct is more proximate than remote in time.

TYPES OF CREDENTIALS HELD AND SOUGHT

41. Respondent held a Single Subject Credential. He seeks a Clear Single Subject Teaching Credential. The credential respondent is seeking requires teaching competence.

EXTENUATING OR AGGRAVATING CIRCUMSTANCES

42. 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.” Respondent denied any misconduct and presented no mitigating evidence.

43. 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) the misconduct in question involved multiple wrongful acts; and (2) the misconduct significantly harmed the educational system.

Respondent’s misconduct involved multiple wrongful acts including allowing students to drink alcohol, engaging in sexual misconduct with a parent chaperone that was observed by multiple students, and behaving in an unprofessional manner towards parents and students. For the reasons explained in Factual Findings 33 through 39, respondent’s conduct significantly harmed the students, who are a part of the educational system. Additionally, respondent’s conduct harmed the educational system by placing teachers and Modesto City Schools in a negative light both abroad and in the community.

PRAISEWORTHINESS OR BLAMEWORTHINESS OF MOTIVES RESULTING IN THE MISCONDUCT

44. Respondent’s motives for his conduct appears to be self-serving in pursuit of his romantic and sexual interest in a parent chaperone. Respondent failed to provide any insight into his conduct because he denied any responsibility. There is nothing praiseworthy about respondent’s conduct.

LIKELIHOOD OF RECURRENCE

45. Respondent denied any responsibility for his conduct. Because he failed to demonstrate any insight into his conduct and the harm it caused to his students, it is likely that he will engage in future misconduct.

ADVERSE IMPACT OR CHILLING EFFECT

46. There is no evidence that discipline would adversely impact or chill respondent or any other teacher in the free exercise of their constitutional rights.

PUBLICITY OR NOTORIETY OF MISCONDUCT

47. Respondent's conduct was publicized and notorious. His conduct was known to the students and parents in Costa Rica. Respondent was arrested and arrangements had to be made to keep the students safe. As a result, information about respondent's conduct and arrest had to be shared to EF Tours, parents and guardians, and authorities in Costa Rica. Additionally, information about respondent's conduct was discussed by students at Johansen. Students were asked to participate in respondent's criminal trial, which was also discussed among students and parents.

CONCLUSION

48. For the reasons stated above, and considering all the *Morrison* factors, complainant established by clear and convincing evidence that cause exists to discipline respondent. Based on the evidence, it would not be consistent with the public interest to allow respondent to retain his existing credentials or to renew his credentials at this time.

LEGAL CONCLUSIONS

Burden of Proof

1. Complainant has 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. Concerning the Statement of Issues, respondent has the burden of proving by a preponderance of the evidence that he is entitled to the credentials he seeks. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205; *Coffin v. Alcoholic Beverage Control Appeals Bd.* (2006) 139 Cal.App.4th 471, 476.) Preponderance of the evidence means "more likely than not." (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1388.)

Applicable Law

3. 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, including issuing credentials and taking adverse action against applicants and credential holders.

4. Education Code section 44345 provides in part:

The commission 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:

[1] . . . [1]

(e) Has committed any act involving moral turpitude.

[1] . . . [1]

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.

5. Education Code section 44440 provides:

(a) No applicant who is under review by the commission shall be allowed to withdraw his or her application for a credential without the written consent of the commission.

The commission shall retain its authority over those applicants to proceed with the denial of the credential upon any ground provided by law, or to enter an order denying the credential upon any ground provided by law.

(b) 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.

6. Education Code section 44421 provides in part:

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.

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

(a) "Adverse action" is a denial, a private admonition, public reproof, suspension or a revocation of one or more credentials.

(b) "Aggravating factor" is an event or circumstance 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 demonstrate a pattern of misconduct;

(3) that the misconduct was surrounded by or followed by bad faith, dishonesty or other violation of the laws governing educators;

[¶] . . . [¶]

(c) "Applicant" is an individual applying for a credential, permit, waiver or other certification document issued by the Commission on Teacher Credentialing.

8. As set forth in Factual Finding 32, California Code of Regulations, title 5, section 80302, subdivision (a), provides 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.) “Unprofessional conduct” includes “that which violates the rules or ethical code of a profession or such conduct which is unbecoming a member of a profession in good standing.” (*Board of Education of the City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 553; quoting, 66 Corpus Juris, p. 55.) 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. The court explained immoral conduct in *Palo Verde Unified School District of Riverside v. Hensey* (1970) 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.

Cause for Discipline

11. As set forth in the Factual Findings as a whole, complainant established by clear and convincing evidence that respondent committed acts of unprofessional conduct. Cause exists to discipline respondent's Single Subject Credential and Certificate pursuant to Education Code section 44421.

12. As set forth in the Factual Findings as a whole, complainant established by clear and convincing evidence that respondent committed acts that consist of immoral conduct. Cause exists to discipline respondent's Single Subject Credential and Certificate pursuant to Education Code section 44421.

13. As set forth in the Factual Findings as a whole, complainant established by clear and convincing evidence that respondent committed acts of moral turpitude. Cause exists to discipline respondent's Single Subject Credential and Certificate pursuant to Education Code sections 44421 and 44435, subdivision (e).

Cause for Denial

14. Respondent has the burden of proving by a preponderance of the evidence that he is entitled to the credential he seeks. He failed to present such evidence. As set forth in the Factual Findings as a whole, respondent committed acts of moral turpitude. Cause exists to deny respondent's application for a Clear Single Subject Teaching Credential pursuant to Education Code section 44345, subdivision (e).

ORDER

1. All credentials, certificates, and authorizations issued to respondent Alejandro Sanchez Morales, including his Single Subject Credential and Certificate of Clearance are REVOKED.

2. Respondent Alejandro Sanchez Morales' application for a Clear Single Subject Teaching Credential is DENIED.

DATE: September 28, 2021

Marcie Larson
Marcie Larson (Sep 28, 2021 13:39 PDT)

MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings