

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

In the Matter of the Accusation against:

EDWARD DANIEL RONQUILLO, Respondent

Agency Case No. 2-266287340

OAH No. 2023020385

PROPOSED DECISION

Danette C. Brown, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on June 26 and 27, 2023, from Sacramento, California.

Steve J. Pyun, Deputy Attorney General, represented complainant Mary Vixie Sandy, Ed.D, Executive Director of the California Commission on Teacher Credentialing (Commission).

Edward Daniel Ronquillo (respondent) appeared and represented himself.

Evidence was received, the record closed, and the matter submitted for decision on June 27, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 12, 2016, the Commission issued respondent a Preliminary Education Specialist Instruction Credential (preliminary credential). The preliminary credential expires on September 1, 2023, unless renewed or revoked. On June 11, 2020, the Commission issued respondent a Clear Education Specialist Instruction Credential (clear credential). The clear credential expires on July 1, 2025, unless renewed or revoked.

2. Respondent previously held the following credentials: (1) a Certificate of Clearance issued on November 5, 2015, and expired on December 1, 2020; and (2) a District Intern Credential issued on August 15, 2016, and expired on September 1, 2019.

3. On January 19, 2023, complainant signed and thereafter filed the instant Accusation against respondent, alleging cause to revoke all credentials, certificates, and authorizations issued to respondent based on unprofessional conduct and evident unfitness for service based upon respondent's interactions with Coalinga-Huron Unified School District (District) staff.

4. In aggravation, complainant alleged that a greater degree of adverse action is needed to protect the public, schoolchildren, or the profession, because respondent's misconduct: (1) evidences multiple acts of wrongdoing, demonstrating a pattern of misconduct; (2) significantly harmed a child trusted to his care, the public, or educational system; and (3) demonstrated an indifference toward the consequences of his misconduct, and had prior notice, warnings or reprimands for similar conduct.

Complainant's Evidence

NOTICE OF DISMISSAL AND STATEMENT OF REASONS

5. On February 10, 2021, the District gave formal notice to respondent that he was being dismissed from his position as a Huron Middle School (HMS) teacher, effective March 14, 2021, for dishonesty and evident unfitness of service. Lori Villanueva, District Superintendent, issued a Notice of Dismissal and Statement of Reasons in Support of Dismissal (Notice) of respondent. The Notice contained the factual allegations in support of respondent's dismissal set forth below.

6. Respondent, a probationary certificated employee of the District assigned to HMS, engaged in "questionable behavior that fostered negative working relationships between himself and other [HMS] staff members." Those members expressed their discomfort in continuing to work with respondent because his behavior caused them to fear for their own safety.

Encounters with Teacher EO

7. On October 21, 2020, respondent became angry with teacher EO after he requested that she come to his classroom to speak with him about people calling him names. EO asked respondent who had called him names and when it occurred. Respondent became angry, stating, "No, I will not tell you, but since you do not know anything, you can go because I have a lot of planning and meetings to do." Respondent's strange behavior towards EO continued for three days. He overtly ignored EO each time she greeted him with a "Good morning" or "How are you doing?" Respondent ignored EO and walked away from her. After the third incident of respondent ignoring EO, she went to respondent's classroom to ask why he ignored her. Respondent became enraged, stating:

We are all aware of our actions. If you have done something wrong, then you would know what you have done. If you think you have done something bad, then you are the only one that is aware of what you have done."

8. EO observed respondent's hands shaking in anger as he "stared through" her. EO feared respondent was about to strike her. EO tried to avoid respondent after this incident.

Encounters with Teacher RR

9. In mid/late October 2020, respondent told teacher RR that he felt he was "spied" on during Zoom meetings. Respondent asked RR if he let any other individuals besides assigned students and staff participate in Zoom meetings. RR stated he did not. Respondent persisted, making RR feel that respondent was accusing him of allowing unauthorized individuals into Zoom meetings to spy on respondent, or that RR knew of a plot to spy on him during Zoom meetings.

10. Several times during the 2020-21 school year, respondent loudly banged on RR's classroom door during student instruction. RR opened the door each time, assuming respondent's loud and intense knocking and interruptions were urgent. When RR did so, respondent asked mundane questions. RR described respondent's behavior as agitated and intense, always seeming to be in a hurry.

Encounter with Teacher TT

11. On November 2, 2020, shortly after 7:00 a.m., respondent was standing outside the HMS office when fellow HMS teacher, TT arrived. They exchanged morning greetings, then respondent used his thumb and forefinger to make an "L" shape and

lifted it to his forehead, asking TT what the hand gesture meant. TT did not know, and respondent insisted TT knew what the gesture meant because TT made the gesture “the other day” referring to respondent. TT denied making the gesture and a heated argument began. As respondent persisted, TT asked respondent “What is wrong with you?” TT felt threatened by respondent’s demeanor and claims during the argument. Following the confrontation, TT questioned respondent’s stability and believed respondent posed a safety threat to others on campus.

Encounters with Special Education Instructional Aide MT

12. MT, assigned to respondent’s classes beginning at the 2020-21 school year, had several negative interactions with respondent and observed respondent’s questionable behavior. In late October or early November 2020, respondent confronted MT outside of the classroom claiming she was starting rumors about him and was trying to get respondent into trouble. After MT denied respondent’s claims, respondent stated to MT in Spanish, “you are with me or against me.” MT abruptly ended the conversation and respondent momentarily blocked MT from entering the classroom by holding the door shut. Respondent coldly stared at MT for the rest of the day without speaking to her.

13. During another incident, respondent accused MT of taking an item out of his backpack and replacing it with another item. Shocked, MT denied the accusation. Respondent then stated that a student could have taken the item. He proceeded to stare at MT for the rest of the day without speaking to her. At the end of the day as MT was leaving, respondent told her it was just a misunderstanding.

14. During another incident, MT observed respondent extremely upset, “ranting and raving,” and accusing the parents of a student of slandering his name after they returned a gift card respondent had given to the student as a reward.

15. During another incident on October 29, 2020, respondent became upset and angry with MT when he was trying to get a disruptive student to behave during an instructional Zoom session. MT told respondent that she did not think the student could hear him because she was hearing inaudible static. Respondent angrily told MT not to ever tell him that again because he could hear perfectly fine through his headphones. MT had no reason to lie to respondent.

16. MT frequently observed respondent engage in angry, unwarranted behavior with her and his students. He would frequently pace around and leave the classroom with his fists clenched when agitated. He loudly yelled at a student over a minor issue of attendance at a Zoom session. He “storm[ed] out of the room” and walked around campus at least once a day. He coldly stared at MT and other staff members, making them extremely uncomfortable.

Encounter with District HR Director SY

17. On November 4, 2020, SY met with respondent to inform him he was being placed on administrative leave with pay pending an internal investigation. Respondent emailed SY the next day, accusing SY of making an inappropriate hand gesture by tickling respondent’s palm with his finger while shaking hands with respondent. SY denied making the hand gesture or engaging in any other type of inappropriate behavior with respondent during their meeting.

RESIGNATION IN LIEU OF TERMINATION

18. On March 12, 2021, respondent entered into a Settlement Agreement with the District, agreeing to immediately resign from his employment with the District in lieu of termination, effective June 30, 2021. Respondent denied the underlying circumstances of his proposed termination by the District as set forth in the Notice.

TESTIMONY OF EO

19. EO is currently a third-grade elementary school teacher at Huron Elementary School. She taught at HMS during the 2020-21, and 2021-22 school years. EO confirmed the allegations set forth in the Notice and Accusation regarding her interactions with respondent. She added that during the incident in respondent's classroom when she asked respondent why he ignored her, respondent was "really angry, got frustrated, and [was] mad." Respondent walked toward her and "got into [her] personal space." She felt respondent was going to hit her. She left after respondent told her to leave. She described the incident as "not a good situation for myself."

20. After the incident, EO began teaching her classes from her mentor TT's classroom because she did not want to be in her own classroom, located next door to respondent's classroom. If she had to be in her classroom, she locked the door to avoid respondent. She conceded that she invited respondent out to eat but did not recall when she did so.

TESTIMONY OF RR

21. RR has been a History and English Language Development teacher at HMS for 13 years. RR also confirmed that the incidents described in the Notice and

Accusation took place. He stated there was a loud banging on his classroom door one afternoon. He left his Zoom class session and answered the door. Respondent asked him about a special education Individualized Education Program (IEP), then RR went back to teaching. On a second occasion respondent loudly banged on RR's classroom door. RR left his Zoom class session and answered the door. Again, respondent inquired about a non-urgent matter, and RR went back to teaching. A third time, respondent loudly banged on the door and RR did not answer or go to the door. RR felt that respondent should have known he was in a Zoom classroom session.

22. During another encounter when respondent came by RR's classroom, respondent told RR he thought he was being spied on, and that "someone repeated something they should not have known." Respondent asked RR more than once if he let someone in his Zoom session who was not supposed to be there, because teachers were having issues with children who were not in their class obtaining Zoom links. RR denied letting unauthorized students into his Zoom class sessions.

TESTIMONY OF TT

23. TT taught at HMS for three years beginning in 2019, left the state, returned to California, and began teaching at HMS again during the 2022-23 school year. TT confirmed his encounters with respondent as set forth in the Notice and Accusation.

24. Regarding the hand gesture to the forehead incident on the morning of November 2, 2020, TT was so concerned about respondent's behavior that he wrote two emails on the same date to HMS Principal Jisella Soto. The first email informed Principal Soto that respondent placed a symbol of the forefinger and thumb in the shape of the letter "L" to his forehead and asked TT, "what does this mean?" TT replied

that he was not sure. Respondent insisted that TT knew what the gesture meant and accused TT of making the gesture to him "the other day." After repeatedly telling respondent that he did not make the gesture, respondent stated to TT, "if you don't know I'm not going to remind you when you did it." TT stated to respondent, "what is wrong with you?" Respondent ended the conversation and TT asked again "what is wrong with you?" Respondent did not answer and moved his belongings away from TT. TT continued to watch respondent because he felt threatened by respondent's questioning.

25. TT sent a second email to Principal Soto later that evening. He expressed his concerns about the incident between him and respondent that morning and felt respondent was not mentally stable to work on campus. He believed respondent displayed "some of the characteristics of a person that is or has been bullied." TT asserted that he did "nothing derogatory, negative or embarrassing" to respondent, and that respondent spoke to TT as if he had done something to belittle or humiliate him publicly. TT informed Principal Soto that HMS did not currently have any procedures in place to check for firearms or other types of weapons brought to campus. TT did not feel comfortable being on campus with respondent there. TT wrote, "I feel as if I'M GOING TO HAVE TO WATCH OVER MY SHOULDER EVERY MINUTE OF THE DAY." (Capitalization in original.)

TESTIMONY OF MT

26. MT has been a Special Education Intervention Assistant at HMS for the past six years. Prior to her employment at HMS, she worked as a special education aide for six years at Huron Elementary School. MT worked with respondent in the same classroom from late August through early November during the 2020-21 school year. MT confirmed her encounters with respondent as set forth in the Notice and

Accusation. She added that she submitted a complaint against respondent after the multiple encounters because she felt threatened by him. On one occasion, respondent asked her to step out of the classroom to the hallway and accused her of gossiping about him. Respondent "did not know [MT] personally to say that." When she tried to re-enter the classroom, respondent placed his hand on the door so that she could not open it.

27. One afternoon, MT was seated at a table reading with a student in the classroom. Respondent walked over and told them they were doing it wrong, began yelling, and pointed his finger "really hard" at them. Respondent's behavior caused the student to begin crying.

28. On another day, respondent gave out gift cards as incentive for the students to continue working. He became mad and yelled at the students, accusing them of misusing their gift cards.

29. Regarding the backpack incident, MT was nowhere near respondent's desk when he accused her of taking something out of his backpack. Respondent found out later that the alleged missing item was in his backpack the whole time.

30. Regarding the Zoom audio issues with students, MT observed students unable to hear on their headphones. MT tried to tell respondent what was happening. Respondent became upset, clinched his fist, walked out the door, and "took off." MT stated that respondent displayed anger in front of his students, which happened throughout the time MT was respondent's aide.

31. Over a period of a month and a half, respondent sat at his desk staring at MT. She could tell respondent was angry. MT did not want to be alone with

respondent anymore. After MT voiced her concerns about respondent with Principal Soto, respondent gave MT an "angel trinket" as an apology.

TESTIMONY OF SY

32. SY is the Director of Human Resources (HR) for the District. He met respondent in the fall of 2020 when concerns were raised by respondent's coworkers. After a brief meeting with respondent, SY placed him on paid administrative leave. SY is aware of respondent's claim that SY gave him a "weird handshake." SY asserted there was "nothing out of the ordinary about the handshake." SY explained that after their meeting, he reached out and shook respondent's hand as a matter of professionalism. The exchange was cordial and calm. SY was surprised that respondent accused him of doing "something out of the ordinary." This raised concerns for SY regarding respondent's behavior.

Respondent's Evidence

RESPONDENT'S TESTIMONY

33. Respondent currently works as a sixth grade Special Education Resource Specialist for the Mohave Unified School District at California City Middle School. He loves working with students with special needs and has a daughter with special needs, making him a "better special needs teacher than most."

34. On November 5, 2020, respondent emailed Superintendent Villanueva to report the inappropriate hand gesture made by SY during a handshake the previous day. Respondent asserted in his email that the hand gesture was a "gay handshake" according to a Google search he conducted. His internet search also revealed that the hand gesture meant "your [*sic*] fired." Respondent also reported that TT made an "L"

sign on his forehead, and TT told others that respondent is gay. Respondent claimed his email complaint reporting conduct by SY and TT was the reason he was terminated. Respondent also claimed that Superintendent Villanueva never investigated the handshake incident because he was not interviewed and did not hear anything back about his complaint. He stated, the "investigation that should have happened never happened."

35. On March 8, 2021, after respondent received the District's Notice of Dismissal, but before the effective date of his termination, respondent filed complaints against EO, TT, and MT, alleging instances of bullying and harassment against him. Respondent's complaints largely consisted of alleged instances where EO, TT, or MT made statements to him or others about his sexuality and mocked him for shaking due to his epilepsy.

36. Respondent was first diagnosed with epilepsy at age five. On November 1, 2020, he suffered a large seizure but was not at school at the time. On November 6 and December 2, 2020, his doctor wrote orders prohibiting him from driving due to his seizure. Respondent was taking the seizure medication divalproex sodium extended release 500 milligram tablets, two tablets per day. Potential unwanted side effects include trembling or shaking of the hands or feet, quick to react or overreact emotionally, rapidly changing moods, false beliefs that cannot be changed by facts, delusions of persecution, mistrust, suspiciousness, or combativeness. The evidence is unclear whether respondent was taking the medication prior to his seizure on November 1, 2020. Regardless, respondent did not assert at hearing that his medication could have been a mitigating factor as the cause for the encounters with EO, RR, TT, MT, or SY.

37. Regarding his encounters with EO, respondent recalled being seated during the entire interaction on October 21, 2020, and he did not recall shaking. He claimed EO was “not remembering everything correctly.” Moreover, EO invited him to go out for pizza on one occasion after the incident. He did not believe EO felt threatened by him. Regarding TT, respondent accused TT of spreading rumors about him. Regarding RR, respondent denied banging loudly on RR’s door. He regretted knocking on RR’s door and in hindsight, he should have emailed RR to “schedule something.” Respondent asserted that he has “knocked on a lot of teachers’ doors in the past and did not have a problem.” In the future, he intends to “email every general education teacher” to discuss students they share. Respondent did not remember using the word “spying” when asking RR whether he allowed unauthorized individuals into Zoom meetings. Respondent denied that his question was a “paranoid thought,” rather it was about addressing an issue where students from other schools, usually siblings, were getting into Zoom and observing classes. Regarding MT, respondent denied ever yelling at any coworker. MT’s allegations “never happened,” and MT was telling others “false things about me.”

CHARACTER REFERENCE LETTERS

38. Respondent submitted nine reference letters as evidence of his good character and teaching competency. Six letters pre-date the events that took place as alleged in the Accusation, were written for the purpose of providing a teaching job reference and are given little evidentiary value. The remaining two letters were written by My Luu on May 16, 2023, and Jill Kennett on March 21, 2022.

39. My Luu worked with respondent in the Student Transition Educational Program, or STEP, for Compton Unified School District. She described respondent as highly motivated, encouraging to students, and dedicated to his tasks. Ms. Luu is

aware of the “allegation” but wrote that the “allegation” was “not credible to [her] in any way,” as respondent has “always conducted himself as a gentleman of one of the highest qualities.” Ms. Luu did not further explain what she meant by “allegation” or whether she knew of the nature of the multiple complaints against respondent at HMS, the District’s proposed termination, or his subsequent resignation.

40. Jill Kennett is an elementary general education teacher at Horace Mann Elementary School in the Glendale Unified School District. Respondent provides special education core services for three students in Ms. Kennett’s first grade class. She described respondent as “respectful, courteous, and professional.” She has only known respondent a short time but is grateful for his assistance during the 2021-22 school year. Ms. Kennett did not express knowledge of the circumstances which led to the District’s proposed termination of respondent and his subsequent resignation from the District.

41. None of the authors provided insight into respondent’s conduct at HMS. Further, they did not express any knowledge of the allegations involving respondent’s aggressive or provoking conduct with EO, RR, TT, or MT, or the alleged handshake incident with SY. For these reasons, the letters are given minimal weight.

Analysis

42. As a teacher, respondent is held to a high standard of conduct and is a role model for children. A teacher is regarded as a role model for students, as noted by several courts:

The calling (of a teacher) is so intimate, its duties so delicate, the things in which a teacher might prove unworthy or would fail are so numerous that they are

incapable of enumeration in any legislative enactment . . . His habits, his speech, his good name, his cleanliness, the wisdom and propriety of his unofficial utterances, his associations, all are involved. His ability to inspire children and to govern them, his power as a teacher, and the character for which he stands are matters of major concern in a teacher's selection and retention. (*Board of Education of San Francisco Unified School District v. Weiland* (1960) 179 Cal.App.2d 808, 4 Cal.Rptr. 286, citing from *Goldsmith v. Board of Education*, 66 Cal.App. 157, 168, 225 P. 783.)

There are certain professions which impose upon persons attracted to them responsibilities and limitations on freedom of action which do not exist in regard to other callings. Public officials such as judges, policemen and schoolteachers fall into such a category.

As between a teacher and his student, "(a)n important part of the education . . . is the instilling of a proper respect for authority and obedience to necessary discipline. Lessons are learned from example as well as from precept." (*Johnson v. Taft School Dist.*, 19 Cal.App.2d 405, 408, 65 P.2d 912.) And as our Supreme Court said in *Board of Education v. Swan*, 41 Cal.2d 546, at 552, 261 P.2d 261, at 265, "A teacher . . . in the public school system is regarded by the public and pupils in the light of an exemplar, whose words and actions

are likely to be followed by the (students) coming under (his) care and protection."

(*Board of Trustees v. Stubblefield* (1971) 16 Cal.App.3d 820, 824-825; see also *San Diego Unified School Dist. v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1463-1464.)

43. Respondent repeatedly violated the high standard of conduct required of him as a teacher. He ultimately resigned pending termination for his behavior towards his coworkers and HR Director SY.

44. The evidence established that during the 2020-21 school year at HMS, respondent repeatedly engaged in acts of unprofessional conduct, fostered a negative working relationship, and caused some staff members to fear for their personal safety. EO credibly testified that respondent became angry and frustrated, walked toward her, and acted as though he was going to hit her. After that incident, EO was too afraid to work in her own classroom, which was located next door to respondent's classroom. RR credibly testified that respondent banged on his classroom door on three separate occasions while RR was conducting class on Zoom. Respondent had no urgent need to speak to RR and conceded that he could have addressed RR by emailing him. The evidence also established that respondent accused RR of letting unauthorized individuals into his Zoom class for the purpose of spying on respondent. RR credibly denied doing so.

45. The evidence also established that respondent made a hand gesture with his forefinger and thumb in the shape of the letter "L" and placed it on his forehead, accusing TT of previously making the same gesture to him "the other day." TT credibly denied doing so and felt threatened by respondent's accusations. TT was so concerned

that he sent two emails the following day to Principal Soto, stating his concerns about respondent's mental stability and TT's personal safety. TT felt he would have to watch over his shoulder "every minute of the day" that respondent was on campus.

46. The evidence also established through MT's credible testimony that respondent: (1) accused MT of gossiping about him and prevented MT from re-entering the classroom by blocking her from opening the door; (2) yelled in the classroom at MT and a student when they were reading, making the student cry; (3) became mad and yelled at students, accusing them of misusing gift cards given to them by respondent; (4) wrongly accusing MT of taking something out of his backpack; (5) became upset, clenched his fist, walked out of the door and left the classroom when MT commented on students being unable to hear on their headphones on Zoom; and (6) sat at his desk staring at MT while angry. Respondent gave MT an "angel trinket" as an apology.

47. Lastly, the evidence established through SY's credible testimony that nothing out of the ordinary took place when he and respondent shook hands on November 4, 2020.

48. No friends, family, colleagues, supervisors, or anyone else in the teaching profession testified on behalf of respondent to attest to his teaching skills, calm demeanor, or friendliness towards students or staff. His character reference letters were given little weight. The letters provided no insight from others of any reasonable explanation for respondent's behavior towards the teachers and staff at issue.

49. Respondent admitted that he suffers from epilepsy and takes medication. However, he did not present evidence that he was taking his medication during the time the incidents occurred or claim that the side effects of his medication, which

include mood changes, shaking, or false delusions, could be a plausible explanation for his unprofessional and threatening behavior. Therefore, the side effects of his medication were not established as a mitigating factor.

50. Respondent testified in a forthright manner, but blamed others for bullying him at school. However, being bullied does not justify his unprofessional conduct. Respondent presented his complaints about bullying to District administrators after he was served with the Notice of Dismissal, but prior to the effective date. He did not present any corroborating evidence to support his testimony or late-filed complaints about being bullied. Respondent took no responsibility for his conduct. His failure to do so reflects a lack of rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940 [“[f]ully acknowledging the wrongfulness of [one’s] actions is an essential step towards rehabilitation.”].)

Morrison Factors

51. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 235 (*Morrison*), the California Supreme Court held that “an individual can be removed from the teaching profession only upon a showing that his retention in the profession poses a significant danger of harm to either students, school employees, or others who might be affected by his actions as a teacher.” The court concluded that a **teacher’s conduct cannot abstractly be characterized as “immoral,” “unprofessional,” or “involving moral turpitude” unless the conduct indicated that a teacher is unfit to teach.** (*Id.* at p. 229.) (Bold added.) The court set forth the following guidelines, which have since been enumerated in California Code of Regulations, title 5, section 80302, subdivision (a):

The Committee, in conducting its investigation, shall 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. Such relationship may be based on facts which include, but are not limited to, the following:

- (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.

In evaluating the *Morrison* factors, only the pertinent factors need to be analyzed. (*Broney v. California Com. on Teacher Credentialing* (2010) 108 Cal.App.4th 462, 476.) In addition, the reviewing body is not bound by "rigid procedure." Rather, it may apply the *Morrison* factors in the aggregate, and consider the totality of a teacher's offensive conduct. (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1457 [Commission does not have to show that "every charge in the series would independently justify" adverse action].)

ADVERSE EFFECT ON OTHERS

52. Respondent's improper and unprofessional conduct had an adverse effect on the teachers and students involved. Four teachers testified about the adverse impacts of respondent's behavior and how his continued teaching would impact them. EO, TT, RR, and MT did not feel comfortable or safe being in the same room as respondent. Respondent's erratic behavior was unpredictable to them. MT testified about several incidents where respondent's conduct had adverse effects on students.

PROXIMITY OR REMOTENESS IN TIME

53. Respondent resigned from his employment with the District on June 30, 2021, for misconduct which occurred in during the 2020/21 school year. The District reported his change in employment status thereafter. These incidents are not remote in time. Complainant did not delay filing the Accusation against respondent.

TYPE OF CREDENTIAL HELD

54. Respondent's preliminary and clear credentials allow him to teach special education students. Such students are a particularly vulnerable student population where a nurturing environment, safety, and protection are paramount.

EXTENUATING OR AGGRAVATING CIRCUMSTANCES

55. California Code of Regulations, title 5, section 80300, subdivision (b), states, in relevant part:

An "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;

[¶] ... [¶]

(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;

(5) that the holder or applicant demonstrated indifference toward the consequence of the misconduct, which includes failure to comply with known court orders.

[¶] ... [¶]

56. Respondent failed in large part to accept responsibility or recognize the seriousness of his conduct. Teachers are role models for professionalism and compassion towards students and other teachers. Given the seriousness of respondent's misconduct and his failure to accept any responsibility, there is a likelihood that respondent would repeat the same or similar misconduct. For these reasons, a high degree of discipline is necessary to protect the public, schoolchildren, and the profession.

57. There were no mitigating circumstances to justify respondent's unprofessional conduct. While many individuals wrote on his behalf, the letters predated the events at HMS, and none of the individuals provided any insight into respondent's negative behavior.

PRAISEWORTHINESS OR BLAMEWORTHINESS OF MOTIVES

58. There is nothing praiseworthy about respondent's unprofessional conduct towards EO, RR, TT, MT, and SY. "The lack of praiseworthiness in [plaintiff's] conduct speaks for itself." (*Broney v. California Com. on Teacher Credentialing, supra*, 108 Cal.App.4th 462, 477.) In addition, there is no praiseworthiness in his motives.

LIKELIHOOD OF RECURRENCE

59. Given the seriousness of respondent's misconduct and his continued failure to accept or recognize any responsibility, there is a substantial likelihood that

respondent will again engage in the same or similar conduct. This likelihood is made more concerning by the fact that respondent attributes his conduct to those who allegedly bullied and gossiped about him.

EXTENT TO WHICH DISCIPLINARY ACTION MAY INFLICT ADVERSE IMPACT OR CHILLING EFFECT

60. Respondent's constitutional rights of free expression are not at issue here. However, the state's interest in protecting children is sufficiently compelling to allow discipline in this instance and under these circumstances.

PUBLICITY OR NOTORIETY GIVEN TO THE CONDUCT

61. There was no evidence presented to establish that there was notoriety among students regarding respondent's conduct with them.

CONCLUSION

62. When all the *Morrison* factors are weighed and balanced, the conduct in which respondent engaged shows that he is unfit to teach. His retention in the teaching profession would pose a significant danger of harm to students, the educational community, and the public. Specifically, the evidence established that respondent engaged in repeated acts of misconduct towards teachers who felt threatened by respondent, and falsely accused the District's HR Director of an inappropriate handshake.

63. Respondent's explanation of events was not credible, and five separate individuals testified regarding respondent's confrontational, aggressive, and negative behavior. Respondent's allegations of bullying by his coworkers were unsupported by the evidence. The Commission does not have adequate assurances that respondent

will not engage in the same misconduct again. As set forth in the Factual Findings and Legal Conclusions as a whole, the evidence established that respondent demonstrated unprofessional conduct and evident unfitness for service. Given the serious nature of respondent's misconduct and the potential for harm, application of the *Morrison* factors, and aggravating factors, the appropriate adverse action is revocation.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant bears the burden of proof in this matter. The standard of proof is clear and convincing evidence. (See *Gardner v. Commission of Professional Competence* (1985) 164 Cal.App.3d 1035, 1039; *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 583.) "Clear and convincing evidence" means evidence of such convincing force that it demonstrates, in contrast to the opposing evidence, a high probability of the truth of the facts for which it is offered. It is a higher standard of proof than proof by a preponderance of the evidence. (See, BAJI No. 2.62.) "Evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true." (*Broadman v. Commission on Judicial Performance* (1998) 18 Cal.4th 1079, 1090.)

2. Pursuant to Education Code section 44421, the Commission shall:

[P]ublicly 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 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.

3. An "adverse action" is the "denial of an application for a credential, a private admonition, or public reproof of a credential holder, or the suspension or revocation of a credential." (Ed. Code, § 44000.5.)

4. California Code of Regulations, title 5, section 80300, subdivision (b), provides that aggravating factors necessitate a greater degree of adverse action to adequately protect the public, schoolchildren, or the profession. Aggravating factors include: multiple acts of wrongdoing or pattern of misconduct; significant harm to a child entrusted to the teacher, or to the public or educational system; and indifference toward the consequences of the misconduct.

Cause for Adverse Action

UNPROFESSIONAL CONDUCT

5. Unprofessional conduct "is, as it were, often a lesser included form of proscribed behavior within 'evident unfitness for service' ... 'Evident unfitness for service' requires that unfitness for service be attributable to a defect in temperament-a requirement not necessary for a finding of 'unprofessional conduct.'" (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1445.) Based on the Factual Findings as a whole, respondent's repeated unprofessional conduct, fostering a negative working relationship and causing District staff to fear for their personal safety constitutes unprofessional conduct. Cause exists for adverse action against respondent's credentials based on unprofessional conduct pursuant to Education Code section 44421.

EVIDENT UNFITNESS FOR SERVICE

6. "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 District v. Commission on Professional Competence*, 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.*) The evidence established that respondent's conduct, as alleged and proven at hearing, and his failure to acknowledge the wrongfulness of his conduct, demonstrates that he is unsuitable for teaching due to a fixed character trait, not remediable merely on notice that his conduct failed to meet the District's expectations. Consequently, based on the Factual Findings as a whole, cause exists for adverse action against respondent's credentials based on evident unfitness for service pursuant to Education Code section 44421.

Conclusion

7. Application of the *Morrison* factors to the facts in this matter, on balance, indicate that respondent is unfit to teach. Adverse action against respondent is warranted, and such action must be balanced in light of the mitigating and extenuating circumstances involved. The purpose of a disciplinary action such as this is not to punish the licensee, but rather to protect the public. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161; *Small v. Smith* (1971) 16 Cal.App.3d 450, 457.) Revocation of respondent's credentials is necessary to protect the students of California schools.

ORDER

The Preliminary Education Specialist Instruction Credential, Clear Education Specialist Instruction Credential, and any other credentials, certificates, and authorizations issued to respondent Edward Daniel Ronquillo are hereby REVOKED.

DATE: July 26, 2023

Danette C. Brown

DANETTE C. BROWN

Administrative Law Judge

Office of Administrative Hearings