

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

In the Matter of the Accusation Against:

DOUGLAS WALTER RENICK, Respondent

Case No. 2-249987675

OAH No. 2022090368

PROPOSED DECISION

Marion J. Vomhof, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on May 2, 2023.

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

Shannon V. Baker, Rothschild Wishek & Sands LLP, represented respondent, Douglas Walter Renick.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on May 2, 2023.

PROTECTIVE AND SEALING ORDER

Exhibit 3 was received and contained confidential information. It is impractical to redact the information from these exhibits. To protect the privacy and the confidential personal information from inappropriate disclosure, this exhibit is ordered sealed. This sealing order governs the release of this document to the public. A reviewing court, parties to this matter, their attorneys, and a government agency decision maker or designee under Government Code section 11517, may review the document subject to this order, provided the document is protected from release to the public.

FACTUAL FINDINGS

Jurisdiction

1. The Commission is responsible for credentialing of public-school teachers in California, including disciplining the holders of such credentials. The Commission's Committee of Credentials (Committee) is responsible for investigating alleged acts or omissions that may because for the Commission to take adverse action. An "adverse action" means 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.)

Evidentiary Stipulations

2. On May 1, 2023, complainant and respondent executed an "Evidentiary Stipulation." In that document the parties stipulated and agreed as follows:

ES1. Respondent holds the following:

- Clear Single Subject Teaching Credential, which was originally issued by the Commission on December 2, 2008. The Clear Single Subject Teaching Credential was in full force and effect at all times relevant to the charges brought herein and will expire on March 1, 2024, unless renewed.
- Clear Crosscultural, Language and Academic Development Certificate, which was issued by the Commission on December 15, 2011. The Clear Crosscultural, Language and Academic Development Certificate was in full force and effect at all times relevant to the charges brought herein and does not expire.
- Emergency 30-Day Substitute Teaching Permit, which was issued by the Commission on September 4, 2007, and expired on October 1, 2008. The Emergency 30-Day Substitute Teaching Permit was reissued on November 1, 2008, and expired on December 1, 2009.
- Emergency Crosscultural, Language and Academic Development Permit, which was issued by the Commission on January 1, 2005, and expired on February 1, 2006. The Emergency Crosscultural, Language and Academic Development Permit was reissued on February 1, 2008, and expired on November 1, 2008; reissued on June 13, 2009, and expired on July 1, 2010; and reissued on September 7, 2010, and expired on October 1, 2011.
- Preliminary Five-Year Single Subject Teaching Credential, which was issued by the Commission on June 26, 2002, and expired on July 1, 2007.

- Preliminary One-Year Single Subject Teaching Credential, which was issued by the Commission on October 24, 2007, and expired on November 1, 2008.
- On November 13, 2001, the Commission issued a Certificate of Clearance to respondent, which expired on December 1, 2006.
- The Certificate of Clearance, Preliminary Five-Year Single Subject Teaching Credential, Preliminary One-Year Single Subject Teaching Credential, Emergency Crosscultural, Language and Academic Development Permit, Emergency 30-Day Substitute Teaching Permit, Clear Crosscultural, Language and Academic Development Certificate, and Clear Single Subject Teaching Credential shall be referred to collectively as "Credentials" below.

ES2. At all times relevant herein, respondent was employed by Long Beach Unified School District (district) as a history teacher at Hamilton Middle School (Hamilton). Respondent taught at Washington Middle School from the 2002-2003 school year through the 2011-2012 school year. He started at Hamilton during the 2012-2013 school year.

ES3. On or about October 16, 2019, seven teachers and one Teacher on Special Assignment (TOSA) attended an attendance accountability team meeting. During that meeting, the TOSA shared information regarding the new Intermediate Office Assistant and how she was supporting the Hamilton School Attendance Resource Team/School Attendance Review Board process. Respondent asked the TOSA if the Office Assistant spoke Spanish, and the TOSA said "Yes." Respondent then asked, "Does she speak African American?" Respondent's comment was offensive and upsetting to his colleagues.

ES4. On October 24, 2019, respondent received a Notice of Written Warning with respect to the incident on October 16, 2019.

ES5. On or about August 29, 2020, respondent was present in Seal Beach during a Black Lives Matter (BLM) protest organized by Caravan 4 Justice, along with his neighbor Charlie Powell. Both were injured during an altercation with protestors.

ES6. Following the altercation, respondent took a video of himself and his neighbor, Charlie Powell, in his vehicle. The video was circulated on social media, including on the Instagram account of "Voices of Long Beach." It was also referenced in a Long Beach Post news article, which included a link to the video on YouTube.

ES7. Many people commented on the Voices of Long Beach Instagram post. Some commenters characterized respondent and his neighbor as the aggressors, and some commenters characterized the protestors as the aggressors, and some commenters identified themselves as current or past students of respondent. The comments by alleged students included both positive and negative experiences with respondent.

ES8. On August 29, 2020, people were posting comments on the social media site Nextdoor. Some comments stated that anti-protestors attacked the non-violent protestors. Respondent engaged in the exchange, and screenshots of some of his Nextdoor posts were provided to the Commission by Amy Lounsbury.

ES9. Jill A. Baker, Superintendent of Schools for the district, and Jorge Montanez, Principal of Hamilton, received email complaints about respondent's alleged conduct at the protest, which it was alleged he attended as an anti-protestor, and the video he took after.

ES10. A petition was started by someone alleged to have been one of respondent's students on the website change.org to remove respondent from his position with the district. As of October 3, 2022, the petition had 789 signatures.

ES11. Effective April 14, 2021, respondent resigned from the district pursuant to a settlement agreement while allegations of misconduct were pending.

ES12. The district notified the Commission of respondent's resignation pursuant to Title 5, California Code of Regulations, section 80303.

ES13. During its October 20-22, 2021, meeting the Committee of Credentials recommended revocation of respondent's Credentials.

ES14. A Conference Summary dated April 18, 2003 from A. Matte, on behalf of the district, directed respondent to: (1) show respect for the personal worth of each student, (2) seek to understand pupil behavior before making evaluative judgments, (3) act with good judgment, (4) always assess the situation, (5) when confronting a student he does not know, always talk politely and in a quiet voice, (6) inform the student who he is and ask the student politely for what he wants from them, (7) if a student does not respond and becomes rude, back away, get their name from another student, and inform administration, and (8) never confront a student in an aggressive physical manner or step up to them, so that "such an incident will never occur again."

ES15. A Notice of Unprofessional Conduct and Unsatisfactory Performance dated May 16, 2012, from Assistant Superintendent Ruth Perez Ashley, on behalf of the district, directed respondent to immediately improve his professional behavior and provide regular instruction to his students in a manner that fosters respect and provides a healthy and non-intimidating learning environment. Respondent was also directed to refrain from being insubordinate and unprofessional when addressing

colleagues and to treat his colleagues with respect and dignity. Respondent was advised that failure to improve his conduct and performance would result in disciplinary action, including dismissal.

ES16. A Conference Summary dated December 19, 2013, from Kathleen Cruz, on behalf of the district, directed respondent to walk away if he found himself getting angry and return to deal with the situation after he felt calm. Respondent was also directed to act with good judgment and show a mature control in handling situations like the one that occurred. Respondent was further notified that failure to follow the directives would result in further disciplinary action.

ES17. On March 25, 2010, in Orange County Superior Court Case No. 09WM05008, *People v. Douglas Walter Renick*, respondent was convicted on his guilty plea of violating Vehicle Code section 23152, subdivision (a) (driving under the influence (DUI) of alcohol), and Vehicle Code section 23152, subdivision (b) (driving with blood alcohol level (BAC) of 0.08 percent or more), both misdemeanors. Respondent was placed on informal probation for five years, required to attend 18 months of Multiple Offender Alcohol Program, attend the Mothers Against Drunk Driving (MADD) Victim's Impact Panel, use an Ignition Interlock Device for one year, obey all laws, serve 4 days' jail time, and pay fines and fees. The underlying circumstances were that respondent was arrested on April 4, 2009, for DUI; his BAC was 0.14 percent.

ES18. On March 30, 2005, in Orange County Superior Court Case No. 04WM10055, respondent was convicted on his guilty plea of violating Vehicle Code section 23152, subdivision (a)(DUI), a misdemeanor. Respondent was placed on informal probation for three years, ordered to attend and complete three months

Level 1 First Offender Alcohol Program and MADD Victim Panel, obey all laws, and pay fines and fees, and his license was restricted for 90 days.

Accusation and Factors in Aggravation

3. On July 1, 2022, complainant signed an accusation seeking the revocation of respondent's teaching credentials based upon four causes for discipline: (1) unprofessional conduct; (2) immoral conduct; (3) evident unfitness for service; and (4) acts of moral turpitude. The allegations are in connection with an incident on October 16, 2019, and an incident on August 29, 2020.

4. In aggravation, complainant alleges that respondent's misconduct significantly harmed the public or the educational system, evidences multiple acts of wrongdoing, and demonstrates a pattern of misconduct, and that respondent has had prior notice, warnings or reprimands for similar conduct.

Complainant's Evidence

RESPONDENT'S VIDEO

5. On August 29, 2020, respondent made a video of himself and his neighbor, Charles Powell, in respondent's vehicle after the protest. Respondent is behind the wheel and his neighbor is in the passenger seat. Respondent is shirtless and bleeding from what appears to be a cut near his right eye. The video was posted on Instagram @voicesofLongBeach "This is Douglas Renick." The following is a transcript of the video, which included a transcriber's certification:

MR. RENICK: All right. So we got a little bit of it. Be all right
- - I'm all right. Charlie puff, how you doing? He's bloodier

than me. Yeah. That's right. That's how we doing it. We're just fine. He got -- he got -- he bloodier than me.

UNIDENTIFIED MALE SPEAKER: Fuck 'motherfuckers.

MR. RENICK: Yeah. We want to get him checked out, dog.

UNIDENTIFIED MALE SPEAKER: Yeah, baby.

MR. RENICK: But we got some. Fucking jumped us, dog.
Fucking --

UNIDENTIFIED MALE SPEAKER: Bring it the fuck on.

MR. RENICK: -- I hope some of you got this shit on camera, bro. I know they did after we riling out -- wilding out.
Fuckers. Be all right. Charlie is worse than me. We fine.

RESPONDENT'S POSTS ON NEXTDOOR

6. On August 29, 2020, after the BLM protest, many people were posting comments on the social media site Nextdoor. Some comments stated that anti-protestors attacked the non-violent protestors. Respondent posted comments in response, including but not limited to the following:

- "All right kid, that's obviously a different fight, and I will never reply to you again. Send your dad and tell him to come at me bro"
- "...talk to me [S], or let's talk tomorrow [S] maybe look me up on Facebook pussy"

- "...shut up [S], how about you come and see me bro? Let's talk it out peacefully. Not like the protest today was! I got bloodied up. Did you want that? Let's talk about it bro. Come see me [S], let's be peaceful, pussy"
- "Yeah, what if your son/husband/father got smashed into the concrete and sent to the emergency room. How the F would you think that is peaceful? So once again, send a man to come talk to me, because I am willing and ready to talk, and even willing to get violent. Oh wait, but that's not cool to be violence and protests, right? Stupid ass"
- "...And if anybody wants to comment after this post, p.m. me and let's get some"
- "Come at me bro. I was in it. Non-violent?! If you weren't there, you must be out of your goddamn mind"
- "Let's go SJW's. ! Stupid ass mthrfckrs. P.m.¹ me. [respondent's phone number and address] you know my name. Get some. Or reply to this post again, and we can talk about it soon"
- "Ok, I might've been one of the two got jumped and bloodied, Just find those videos and publish that sht on the news. Don't leave the right side out, effing Leftists..."

LONG BEACH POST NEWS ARTICLE

7. On September 4, 2020, an article was published in the Long Beach Post, titled "Middle school teacher on leave after brawl with anti-racism protesters in Seal

¹Private message.

Beach.” The following is a summary of the article: The article stated that the district had “launched an investigation after thousands of people watched videos on social media showing the teacher [identified as respondent] and another man [respondent’s neighbor] in a small brawl with protestors, which included people throwing punches and hitting each other with sticks.”

Protesters said respondent accosted them while they blocked a busy intersection. Respondent said he was trying to protect the group by helping them across the street away from cars. SBPD officers said their internal footage showed respondent was among a group of counter protestors who were yelling from the sidewalk before respondent walked up to confront the crowd.

The article quoted SBPD Sgt. Chris Hendrix, who managed the police response to the protest, as saying that respondent came into the intersection and “starts yelling his points of view and screaming just as much as the other side was.” “The whole thing just seemed grossly immature and kind of stupid.” Sgt Hendrix said that one of the protestors then hit respondent with a stick.

The article include two photos of the same scene, one close-up and the second from a distance. Respondent is seen facing the camera and protestors are facing him with their arms raised. The first photo was cropped and it appears that respondent is holding a stick; “the uncropped image clearly shows someone else . . . holding it.” The author wrote, “The cropped version of the photo gained traction on social media; the uncropped image, which shows someone else holding the stick, was also available.”

Photos showed that eventually respondent and his neighbor ended up cornered and knocked to the ground where they were hit with sticks, kicked and punched. Respondent was quoted as saying, “I’m so wronged in so many ways.”

COMMITTEE'S FINDINGS AND RECOMMENDATIONS TO THE COMMISSION – OCTOBER 29, 2021

8. By letter dated October 29, 2021, the Commission provided respondent a "Notice of Committee Recommendation," stating that the Committee found probable cause to recommend the revocation of his teaching Credentials. The letter included a statement of the Committee's findings, which explained the basis for its recommendation.

COMMISSION'S INVESTIGATIVE REPORT – MAY 1, 2022

9 A Commission Investigative Report dated May 1, 2022, was prepared by Commission investigator Zachery Dyer. The report narrative reflected that beginning in March 2022, Mr. Dyer contacted David Zeid, Hamilton's Assistant Superintendent of Human Resources. Mr. Dyer contacted seven attendees from the October 16, 2019, meeting, the district's investigator Aisha Shelton Adam, Amy Lounsbury, who provided screenshots from Nextdoor to Ms. Adam, and Lt. Chris Hendrix of the Seal Beach Police Department (SBPD).

COMMISSION'S NOTICE TO RESPONDENT OF COMMITTEE'S FINDINGS AND RECOMMENDATION – OCTOBER 29, 2021

10. By letter dated October 29, 2021, the Commission provided respondent a "Notice of Committee Recommendation," stating that the Committee found probable cause to recommend the revocation of his teaching Credentials. The letter included a statement of the Committee's findings, which explained the basis for its recommendation.

TESTIMONY OF JENNIFER APFELBACH

11. Jennifer Apfelbach is employed by the district as a special education English teacher at Hamilton. This is her fifth year at Hamilton and her eighth year as a teacher.

12. Ms. Apfelbach attended the attendance accountability team meeting on October 16, 2019. There were about 10 to 15 teachers present, including respondent. Administrator Brandon Messina led the meeting. Mr. Messina announced a new hire in the school office who would be able to make calls to the homes of students who were not in attendance. One teacher asked if the new hire spoke Spanish, and Mr. Messina confirmed that she did. Respondent asked, "Does she speak African American?" Mr. Messina responded, "No, but she does speak asshole." There was silence for a moment and the meeting then continued. Ms. Apfelbach was shocked and uncomfortable. After the meeting, a staff member reported the incident to the principal. The principal sent an email to staff members in attendance and asked for statements concerning what they witnessed or recalled.

13. On the first day of the 2020-2021 school year, before classes had begun, Ms. Apfelbach became aware that a video of respondent at the protest had been released to the public on social media. She notified the principal of the video and that students were saying that they were angry, and parents were also angry with the video. The principal was already aware of the video.

Although Ms. Apfelbach does not know why respondent was at the protest, the rumor at school was that he was involved as an anti-protestor. She believes parents and students were upset because respondent was being portrayed as racist. This

incident was especially concerning based on the large number of African American and Hispanic students at Hamilton.

TESTIMONY OF JORGE MONTANEZ

14. Jorge Montanez has been employed by the district for 29 years. He is currently principal at Franklin Middle School. He was principal at Hamilton for three years, from the 2019-2020 through the 2021-2022 school years.

Mr. Montanez learned of respondent's comment at the October 2019 meeting from staff who attended the meeting and also from Mr. Messina. Mr. Montanez spoke with respondent, and respondent said he was trying to make a joke and he did not mean to offend anyone. Respondent apologized to Mr. Messina.

15. On October 24, 2019, Mr. Montanez issued a Notice of Written Warning to respondent, stating that going forward he must comply with California Standards for the Teaching Profession (CSTP) Standard 6.7, which requires that employees demonstrate professional responsibility, integrity and ethical standards, and the district's Code of Ethics, which requires that employees act, speak and dress in a manner that exemplifies personal integrity, dignity, and respect, and adhere to established professional standards.

16. Respondent did not return to teach at Hamilton for the 2020-2021 school year. Prior to the start of school, a video respondent had taken of himself went "viral" on social media. The school received a flood of phone calls and emails from students, former students, and parents regarding the video, respondent, and a BLM protest. Respondent notified Mr. Montanez of the incident.

On cross-examination, Mr. Montanez stated that the district has a heavily African American and Hispanic population. Mr. Montanez was asked if he was aware that the Seal Beach Police Department (SBPD) had investigated and exonerated respondent in connection with the protest, or that the protest organizer had been charged with assault with a deadly weapon as a result of her attacks on respondent and his friend. Mr. Montanez responded "No" to both questions.

TESTIMONY OF BRANDON MESSINA

17. Mr. Messina has been employed by the district for 18 years. He is currently a program administrator in the Adult Community Transition Program, where former students who had Individual Education Plans (IEPs) are able to connect to work programs and "adulting." During the 2019-2020 school year, Mr. Messina was working at Hamilton as a seventh grade learning director.

18. On October 16, 2019, Mr. Messina was facilitating an attendance accountability team meeting. He informed the attendees about a new hire who would be able to assist with student attendance issues, and he said that she was a Spanish speaker. Respondent asked, "Does she speak African American?" Mr. Messina responded, "No, but she speaks asshole." The room was silent for a moment. Mr. Messina felt embarrassed, humiliated, and "othered." He was the only African American in the room. Mr. Messina reported the incident to the principal. Respondent apologized to Mr. Messina and said he did not mean anything by his comment. Mr. Messina stated that he did not know how sincere the apology was, but it seemed like it was said "to soothe" the moment. Mr. Messina was hurt because he thought he and respondent had an amicable and professional working relationship. Several teachers reached out to Mr. Messina after the meeting. For the rest of the school year there was an "undertone of uncomfortableness."

Respondent's Evidence

RESPONDENT'S WRITTEN STATEMENT AND TESTIMONY

19. Respondent submitted a written statement dated July 8, 2021. The statement and his testimony are summarized as follows: Respondent served in the United States Marine Corps from 1993 through 1997, where he rose to the rank of Corporal. He graduated with honors from Azuza Pacific in 2001 and obtained his teaching credentials from Chapman University in 2002. Respondent has been employed by the district for 19 years. He taught at Washington Middle School for 10 years and at Hamilton for nine years, resigning in March 2021.² Respondent did not like school as a child and became a teacher because he wanted to make a difference in the lives of children.

As a teacher, he was promoted to department head several times, he was a successful coach, and he received various awards and positive input from parents and students. Respondent has always tried to be a good role model for his students. He believes he was a good teacher and was able to connect with students. He received positive teaching evaluations. Respondent received cards and notes from students and former students over the years, telling him that he was their favorite teacher, made learning history interesting and fun, and made a positive difference in their education. While he taught at Washington Middle School the students created a "most favorite teacher" award, and respondent won this award every year it was given. Both Washington Middle School and Hamilton were located in lower economic areas of the

² Respondent's resignation was accepted by the district on April 14, 2021, and effective at the end of the 2020-2021 school year.

City of Long Beach. Respondent kept snacks and drinks in his classroom for students who were hungry, he used his coaching stipend to buy cleats and other supplies for students, and he donated his time without pay for student activities. He has not been teaching since his resignation, and he would like to return to teaching. Respondent said, "Teaching was my life. I loved it."

20. Respondent did not know why he made the comment at the meeting. He never meant it to be racist. Obviously he did not think before he spoke, and he feels "very stupid." He feels especially bad about how it affected Mr. Messina; they previously had a great working relationship. Respondent apologized to Mr. Messina.

21. Respondent was not present at the August 29, 2020, protest as an anti-protester. He was not planning to participate. He and his neighbor were in the area, and they went to see what was happening. Respondent heard some protestors saying, "Take the street," and "We're going to burn . . ." and he saw protestors walking out into traffic. He walked across the street and said loudly, "Let the fucking cars get through." He did nothing physical to the protestors. Before he finished speaking a woman in all black, wearing a helmet and goggles, swung a metal pole toward his head, which he blocked with his forearm. Another female came toward him, but he was able to get away. He saw his neighbor being attacked, and he yelled to "let him go" At this point he was struck and landed on his face. He rolled over, and someone on top of him said, "Do you give up?" He said, "Yes." He knows now that he should not have gotten involved but his motive for doing so has been mischaracterized.

Respondent did not know why he made the video of himself and his neighbor. He may have sent the video to a group chat from his softball team, but he never posted the video on social media or anywhere. He took his neighbor to the emergency department, and his neighbor got several staples to the back of his head.

22. Respondent went home that evening and learned that there was discussion on the Nextdoor app that he and his neighbor had been part of the protest and were racist. He responded to some of the posts. Respondent agrees he used foul language and made comments that he agrees were not those of a "role model." He was "fed up and frustrated" with the comments because "they didn't see what I saw." He said things that he regrets. If he could do it again, he would handle the situation differently. He contacted the principal at Hamilton. The Long Beach Post published an article that included untrue statements. An unknown person shared a "cropped" and altered photo of respondent during the incident to make it appear that he was holding the 2x4 piece of wood, and the person added a defamatory and false statement about respondent.

23. Respondent resigned from the district because he felt, and still feels, that his "actions during the one incident outside of school were misconstrued and mischaracterized." SBPD is fully aware of the incident and asked him if he wanted to press charges, which he declined to do. He spoke with Lt. Hendrix of the SBPD and learned that the SBPD had conducted an investigation and concluded that respondent and his neighbor were not the aggressors. The district's investigator, Aisha Adam, interviewed respondent twice via Zoom. He told her to contact Lt. Hendrix. He believes the district was not searching for the truth. Everything was "one-sided."

Respondent wrote:

I should not have gotten involved, but my motive for doing so has been mischaracterized. I understand and appreciate the importance of the Black Lives Matter movement and feel that it would be deeply unfair for a mistaken impression of this one incident to affect and potentially end

a 19-year career-especially when that career has been devoted to teaching and coaching students who are predominantly Black or hispanic [*sic*]. Those same students (and their parents) have repeatedly praised my teaching skills and the efforts I have made to have a positive effect on their lives, something that is completely inconsistent with the suggestion that I am motivated by prejudice. Given these facts and my work in the classroom, I think it would be unfair for my career to be judged by this single out-of-school incident. I therefore respectfully request that the Commission not take any further action with respect to my teaching credentials.

DECLARATION OF LT. CHRIS HENDRIX

24. Respondent submitted a declaration by Lt. Chris Hendrix dated March 31, 2023. Lt. Hendrix stated that he was the SBPD's Incident Commander at the August 29, 2020, protest in Seal Beach, and he was monitoring the protest from a nearby command center. Following an altercation between respondent, his neighbor and protestors, the SBPD conducted a thorough investigation, with the following results: Respondent was present in the area when the protest began; a "sub group" of protestors, who were aggressive and confrontational, some dressed in riot gear and carrying large wooden posts and metal poles, entered the intersection and blocked traffic; respondent maintained that he entered the intersection with the intent to diffuse a dangerous situation, and there was no evidence that he was confrontational or used any racial slurs; respondent was assaulted by protestors, including one carry a large wooden post, and respondent acted in self-defense by trying to take the post

away from the protestor; a group of protestors physically attacked respondent's neighbor, and when respondent tried to intervene in his defense, respondent was tackled face down into the sidewalk, physically attacked by other protestors, including being hit with a metal pole by a protestor who was identified and is facing criminal charges for her role in the protest. Lt. Hendrix "shared this information with an administrator and an investigator from [the district,]" and he "informed them of the results of the investigation, which found that [respondent] had not committed any crimes."

REFERENCE LETTERS

25. Respondent submitted the following letters which were addressed to the Commission:

- Caleb Willis has known respondent for 25 years and when they attended Azusa Pacific University. Respondent is one of his closest friends. Mr. Willis is African American. He is aware of the circumstances surrounding this hearing. He wrote that respondent does not see color and does not have an ounce of racism in his blood.
- Andrea Shelley is a forensic psychologist who known respondent and his family for 30 years. She considers respondent part of her extended family. She spoke of his passion for teaching and helping students at a critical age to have a positive learning experience. She is aware of the circumstances surrounding this hearing. She vouched for respondent's integrity, and she has never seen a racist or violent manner in respondent.
- Eric Grohman is a friend and former colleague who has known respondent since 2005 when they worked together at Washington Middle School. He

- wrote that respondent is passionate about helping his students and bringing out the best in them. He praised respondent's good character and integrity.
- Kevan Mullins has been a friend of respondent for 10 years and is aware of the circumstances surrounding this hearing. He described respondent as honorable with a superior work ethic, and a dedicated family man with a love for teaching. He wrote that respondent is not racist and maintains a diverse group of friends of all races and orientations.
 - M. Kevin Underhill is a friend of respondent's sister and has known respondent for about 20 years. He has never heard respondent say anything racist or discriminatory. It is clear that respondent loves teaching.
 - Sybil L. Renick is respondent's sister. She spoke of his compassion and integrity, and his devotion to teaching adolescents.
 - Cynthia L. Renick is respondent's mother. She wrote that he has never exhibited any racial or religious prejudice. He sparks creativity in his students and supports them. He was born to be a teacher.
 - William Renick is respondent's father. He wrote that respondent was active in his church group as youth counselor. Respondent's enthusiasm for teaching has never faded and teaching young people is his life.

26. Respondent submitted the following letters additional letters:

- Joseph Aquilo is a former colleague who taught at Hamilton for three years with respondent. He wrote that respondent has compassion and a commitment to improve students and athletes lives. He fed and purchased items for students out of own pocket. He truly cares no matter what color or

race. Respondent worked hard to create positive change in the school and community. Mr. Aquilo was aware of the circumstances surrounding this hearing.

- Karrie Laurenco is a former colleague who taught with respondent at a middle school for three years. She wrote that respondent had a way of making history come to life for his students. He always volunteered to coach; his players respected him and had a good relationship with him. Ms. Laurenco did not reference her knowledge of the circumstances surrounding this hearing, and the letter was not addressed to the Commission.
- William Feliciano and respondent taught the same students at Hamilton for eight years. Mr. Feliciano spoke of respondent's concern for students beyond academics. He did not reference his knowledge of the circumstances surrounding this hearing, and the letter was not addressed to the Commission.

CLOSING ARGUMENTS

27. The parties submitted trial briefs which were duly considered.

Complainant

28. Complainant argued that respondent's conduct was unprofessional and unbecoming a member of the teaching profession. His conduct was contrary to good morals as it negatively affected his colleagues, students and the community. Respondent's racist comment constituted moral turpitude as it was contrary to honesty and good morals.

In considering the Morrison factors, respondent's misconduct demonstrated unfitness to teach. His racist comment was offensive and hurtful and caused tension among staff. His conduct on August 29, 2020, was widely publicized and adversely affected Hamilton students and parents. In aggravation, respondent received three prior warnings for similar conduct, creating a likelihood that his type of conduct will be repeated. Respondent's conduct was widely publicized in the community, as shown by the emails and calls to Hamilton's principal, the Long Beach Post article, the post of the video on Voices of Long Beach Instagram, and his comments on Nextdoor.

An analysis under Morrison demonstrates that respondent is not fit to teach and revocation of his credentials is necessary for public protection.

Respondent

29. Respondent made an inappropriate comment in front of fellow teachers and has taken full responsibility. At the BLM protest, he entered the intersection and told protestors to leave because he was concerned that the protesters were causing a dangerous traffic situation which could have injured vehicle passengers, pedestrians, and protestors. He had nothing in his hands, he did not threaten or assault protestors, A protester swung a metal pole at him, which he was able to block. He was able to get away from another protester who chased him with a wooden 2x4, A photo that was cropped in such a way that it appeared that respondent, rather than a protester, was holding a wooden stick was disseminated on social media. Respondent and his neighbor were injured. Respondent made a video of the two, where respondent can be heard cussing. He shared the video with a friend, and he did not post it on social media. That evening he learned that the protest was being discussed on Nextdoor. Some comments alleged that peaceful protestors were attacked by violent, racist anti-protestors and he engaged in a back-and-forth exchange with some people.

Respondent was falsely portrayed in social media and in the Long Beach Post article as a racist and violent anti-protestor who attacked peaceful demonstrators. Respondent was exonerated when the SBPD's investigation determined that he was assaulted by a subgroup of protesters. The protest organizer was charged with assault with a deadly weapon for assaulting respondent and his neighbor. Lt. Hendrix notified the district of the results of the SBPD's investigation, but the district withheld this information from respondent and his attorney, and respondent resigned in April 2021.³ The Committee recommended revocation of respondent's credentials, however, its investigation failed to interview any witness and made findings based upon misinformation disseminated on social media, and it was not aware of the SBPD's investigation. About five months after the Committee made its recommendation, a Commission investigator began interviewing witnesses and he prepared an Investigative Report dated May 1, 2022.

Aggravating factors alleged included three prior "notices/warnings/reprimands," the most recent in 2013. These are not relevant to the alleged misconduct because they were redacted and are not the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs as required by Government Code section 11513, subdivision (c).

During respondent's 19 years with the district, he has: worked hard to connect with students to foster their learning experience; won the student's "most favorite teacher" award; received accolades from parents, teachers, and administrators; received all positive evaluations. His colleagues, friends, and family described him as a

³ See fn. 2.

man of integrity and respect, and several stated that they have never seen him act in a racist or violent manner.

Respondent's 19-year career teaching in the district was destroyed by misinformation disseminated on social media when he was falsely portrayed as a racist and violent anti-protestor. His fitness is evident by his teaching evaluations and he requests that the accusation be dismissed.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Where an administrative proceeding involves the suspension or revocation of an existing license, the standard of proof is clear and convincing proof to a reasonable certainty. (*Ettinger v. Bd. Of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856. "Clear and convincing evidence" requires a high probability of the existence of the disputed fact, greater than proof by a preponderance of the evidence. Evidence of a charge is clear and convincing as long as there is a high probability that the charge is true. (*People v. Mabini* (2001) 92 Cal.App.4th 654, 662.)

2. In this proceeding, complainant has the burden of proving that cause exists to discipline respondent's teaching credentials.

Applicable Law

3. Education Code section 44421 authorizes the Commission to privately admonish, publicly reprove, revoke or suspend the credential or certificate of one who has engaged in immoral or unprofessional conduct, persistently defied or refused to obey the laws regulating the duties of persons serving in the public school system,

demonstrated evident unfitness for service or for any cause which would have warranted the denial of an application for, or a renewal of, a credential.

4. Education Code section 44345 authorizes the Commission to deny an application for issuance of a credential if the applicant has committed an act involving moral turpitude. The denial shall be based upon reasons related to the applicant's fitness to teach or fitness to perform other duties for which the applicant is certificated, or competence to perform the duties which the credential authorizes the applicant to perform.

Unprofessional Conduct

5. The term "unprofessional conduct" is conduct such as to indicate unfitness to teach. (*Perez v. Commission On Professional Competence* (1983) 149 Cal.App.3d 1167, 1174.) Unprofessional conduct has been defined as "that conduct which breaches the rules or ethical code of a profession or conduct which is unbecoming a member in good standing of a profession." (*Shea v. Bd. of Medical Examiners*, (1978) 81 Cal. App.3d 564, at 575; *Bd. of Education v. Swan* (1953) 41 Cal.2d 546, 553.)

6. Respondent acted unprofessionally when he made a racist comment at the October 16, 2019, meeting. He acted unprofessionally when he shared a video he made, where he appeared shirtless, bloodied and using profanity. Although respondent did not personally post the video on social media, "sharing" a video of two bloodied individuals after a BLM protest, opened up the likelihood that the video may be circulated on social media. Respondent's use of profanity in his comments on Nextdoor was inappropriate and unprofessional. All of the above conduct was unbecoming a member of the teaching profession.

Immoral Conduct

7. There is broad discretion in determining what constitutes immoral conduct in the context of teacher disciplinary matters. (*California Teachers Assn. v. State of California* (1999) 20 Cal.4th 327.) Immoral conduct has been defined by the courts as follows:

[T]hat which is hostile to the welfare of the general public and contrary to good morals. Immorality has not been confined to sexual matters, but 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. (*Palo Verde etc. School Dist. v. Hensey* (1970) 9 Cal.App.3d 967, 972, citing *Bd. of Education of San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal. App 2d 808, 811.)

8. The definition of immoral 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.'" (*San Diego Unified School Dist. v. Comm. on Professional Competence* (2011) 194 Cal.App.4th 1454, 1466.)

9. Respondent's racial comment at the October 16, 2019, meeting constituted immoral conduct as it reflected moral indifference to the opinions of his peers and other members of the community, and negatively affected his colleagues.

Teachers are in a unique position in that they are responsible for the care and training of young minds. They are role models to their students in and out of the classroom. Respondent's profanity, inappropriate comments, and invitation to fight on Nextdoor constituted immoral conduct.

Moral Turpitude

10. A criminal act constitutes moral turpitude if it involves a serious breach of a duty owed to another or society. (*In re Lesansky* (2001) 25 Cal.4th 11, 16.) Acts of moral turpitude involve "bad character" and "readiness to do evil." (*People v. Zataray* (1985) 173 Cal.App.3d 390, 400.) Moral turpitude has also 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, 1027.) A crime of moral turpitude is "an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man." (*In re Craig* (1938) 12 Cal.2d 93, 97.)

11. Respondent's conduct did not rise to the level of moral turpitude.

Evident Unfitness for Service

12. Evident unfitness for service means clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies. (*Woodland and Joint Unified School District v. Commission on*

Professional Competence (1969) 2 Cal.App.4th 1429, 1444-1445.) "'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.*) Respondent committed acts of unprofessional conduct and immoral conduct. However, it was not established that his misconduct was the result of a temperamental defect or fixed character trait that cannot be remedied.

MORRISON FACTORS

13. Adverse action against a credential is warranted when such misconduct demonstrates an unfitness to teach. (*Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 229 [*Morrison*].) In *Morrison*, the Supreme Court set out seven factors relevant to a determination of unfitness to teach: (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 type of teaching certificate held by the party involved;" (4) "the extenuating or aggravating circumstances, if any, 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;" and (7) "the extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers." (*Broney v. California Comm. on Teacher Credentialing* (2010) 184 Cal.App.4th 462, 474. [*Broney*], quoting *Morrison*, supra, 1 Cal.3d at p.229.) The Supreme Court later added an eighth factor: "the notoriety and publicity accorded a teacher's conduct." (*Board of Education v. Jack M.* (1977) 19 Cal.3d 691, 701, fn.5.)

14. Not all the *Morrison* factors must be considered, only the most pertinent ones. (*West Valley-Mission Community College District v. Conception* (1993) 16

Cal.App.4th 1766, 1777.) Additionally, the *Morrison* factors may be applied to all the charges in the aggregate. (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1456-1457.) The determination of fitness for service required by *Morrison* is a factual one. (*Id.* at fn. 3); (*Fontana Unified School District v. Burman* (1988) 45 Cal.3d. 208, 220-221 (*Burman*); *Governing Board v. Haar* (1994) 28 Cal.App.4th 369, 384.) For purposes of taking adverse action against a teaching credential, the factors enumerated in *Morrison* have been codified in regulation. (Cal. Code Regs., tit. 5, § 80302.)

15. In considering the relevant *Morrison* factors regarding respondent's conduct, the following conclusions are reached:

THE LIKELIHOOD THAT THE CONDUCT MAY HAVE ADVERSELY AFFECTED STUDENTS, FELLOW TEACHERS, OR THE EDUCATIONAL COMMUNITY, AND THE DEGREE OF SUCH ADVERSITY ANTICIPATED

16. Respondent's racial comment on October 16, 2019, had a negative impact on other attendees at the meeting. Some of respondent's students, fellow teachers and other members of the educational community were offended by respondent's conduct as portrayed in his video, in the Long Beach Post article, and on social media.

THE PROXIMITY OR REMOTENESS IN TIME OF THE CONDUCT

17. Respondent's racist comment at the attendance meeting occurred on October 16, 2019, and the video and social media issues occurred in August 2020 and September 2020.

EXTENUATING OR AGGRAVATING CIRCUMSTANCES

18. California Code of Regulations, title 5, section 80300 provides definitions for aggravating and mitigating factors which demonstrates that a greater or more lenient degree of adverse action for an act of professional misconduct is needed to adequately protect the public, schoolchildren or the profession. These factors are instructive, but not exhaustive, in evaluating extenuating or aggravating circumstances related to fitness to teach.

Aggravating factors may include misconduct that evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct; misconduct that significantly harmed a child entrusted to the care of a credential holder or significantly harmed the public or the educational system; or that the holder had prior notice, warnings or reprimands for similar conduct.

Mitigating factors may include an absence of prior adverse action over many years of educational service and present misconduct which is not deemed most serious; references of good character by individuals aware of the misconduct; lack of harm to the person who is the object of the misconduct; objective action taken by the holder, demonstrating remorse and recognition of the wrongdoing and designed to timely make amends; the proximity or remoteness in time relative to the seriousness of the misconduct; or the nature and extent of subsequent rehabilitation.

19. In aggravation, respondent received three prior notices from the district. Conference Summary memos dated April 18, 2003, and December 19, 2013, reminded respondent that he should act with good judgment. A Notice of Unprofessional Conduct and Unsatisfactory Performance dated May 16, 2012, notified respondent that he was to improve his professional behavior and treat his colleagues with respect and

dignity. He was advised that failure to improve his conduct would result in disciplinary action.

20. Respondent's two DUI convictions occurred from 11 to 16 years ago and are not considered factors in aggravation.

21. In mitigation, respondent was employed with the district for almost 19 years, and he experienced no formal discipline during that time. Specifically, during the 2017-2018 evaluation, respondent received a "distinguished" rating which indicates "exceeds the expectations" of the district. The evaluation stated that respondent promotes "social development and responsibility within a caring community where each student is treated fairly and respectfully," and that he created and maintained a "safe physical environment that promotes student learning, reflects diversity, and encourages constructive and productive interactions among students."

Respondent provided numerous professional reference letters from colleagues and friends who were aware of the misconduct and described respondent as a man of good character and integrity, and as a teacher who is highly passionate about helping his students. A friend who is African American wrote that respondent "does not see color and does not have an ounce of racism in his blood."

THE PRAISEWORTHINESS OR BLAMEWORTHINESS OF THE MOTIVES RESULTING IN THE CONDUCT

22. "The lack of praiseworthiness in [plaintiff's] conduct speaks for itself." (*Broney v. California Commission on Teacher Credentialing* (2010) 184 Cal.App.4th 462, 477. Respondent's conduct included a racial comment, and use of profanity, offensive language, and an invitation to fight on social media. There is nothing praiseworthy about respondent's conduct.

THE LIKELIHOOD OF THE RECURRENCE OF THE CONDUCT IN QUESTION

23. Respondent did not know why he made the comment at the October 16, 2019. He did not think before he spoke. He never meant the comment to be racist. He apologized to Mr. Messina. Respondent acknowledged that the foul language he used was not language used by a "role model." Respondent said he loved teaching. There is no guarantee but the likelihood of recurrence of respondent's misconduct is minimal, now that he has, through this administrative proceeding, come face-to-face with the reality of losing credentials to continue doing what he loves.

THE NOTORIETY AND PUBLICITY ACCORDED THE CONDUCT IN QUESTION

24. The Commission may take into account the notoriety and publicity accorded a teacher's conduct (*Board of Education v. Jack M.* (1977) 19 Cal.3d 691, 701, fn. 5.) Notoriety and publicity can include news reports, articles or social media, as well as general knowledge/discussion in the community. A teacher may be discharged where his conduct has gained sufficient notoriety so as to impair his on-campus relationships. (*San Diego Unified School District v. Commission on Professional Competence* (2011) 194 Cal.App.4th at 1454, 1463, quoting *Board of Trustees v. Stubblefield* (1971) 16 Cal.App.3d 820, 826.)

Photos and an article regarding the BLM protest appeared in the Long Beach Post, and photos and video were posted on various social media sites. Respondent's video appeared on social media sites. At the start of the 2020-2021 school year, his video "went viral." The rumor at school was that respondent was involved in the protest as an anti-protester and aggressor; he was portrayed as a racist. This was fueled through posts and comments on Nextdoor, including those of respondent, as well as posts on Instagram, YouTube, and the Long Beach Post article and related

photos. Hamilton's principal and the district superintendent of schools received a flood of phone calls and emails from students, former students, and parents regarding the video, respondent, and the BLM protest.

25. In consideration of the *Morrison* factors and totality of the circumstances, respondent's conduct in the aggregate does not indicate a factual nexus between his conduct and unfitness for service.

Cause Exists to Take Adverse Action Against Respondent's Credential

26. Cause exists to take adverse action against respondent's credentials in that he committed acts of unprofessional conduct and immoral conduct. (Ed. Code, §§ 44421.)

27. Cause does not exist to take adverse action against respondent's credentials because he did not commit acts of moral turpitude and it is not evident that he is unfit for service. (Ed. Code, § 44421; 44345, subd. (e).)

Appropriate Discipline

28. Teachers are in a unique position in that they are responsible for the care and training of young minds. They are role models to their students in and out of the classroom. We expect teachers to be honest and trustworthy.

29. Licensing disciplinary matters like this are not designed to punish an individual. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 165.) Rather, a licensing agency should be primarily concerned with protecting the public. (*Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.) In this regard, rehabilitation is an important consideration. (*In re Conflenti* (1981) 29 Cal.3d 120, 124-125.)

30. In summary, cause was established for discipline of respondent's credentials, but not revocation. The "Morrison" factors do not show respondent is unfit to teach. Permitting respondent to continue teaching in the classroom would not be inconsistent with public protection provided that a period of probation is imposed where respondent is monitored. Therefore, respondent's license is revoked, the revocation is immediately stayed, and respondent's credentials are placed on probation for a period of five years.⁴

ORDER

All teaching credentials and certificates issued to respondent Douglas Walter Renick are hereby revoked. However, the revocation is stayed, and respondent is

⁴In deciding the terms and conditions of probation to impose, it is noted that the Commission has not adopted uniform terms and conditions of probation. The Commission has, however, requested public comment on proposed disciplinary guidelines that would include uniform terms and conditions similar to those of other licensing agencies. (See Proposed Disciplinary Guidelines (Feb. 21, 2019) <https://www.ctc.ca.gov/docs/default-source/commission/agendas/2019-02/2019-02-5b.pdf?sfvrsn=2> [as of May 17, 2023].) Under Government Code section 11515, official notice of that public comment request is made of these proposed guidelines. The uniform terms and conditions of probation in the proposed disciplinary guidelines have been referenced for the limited purpose of providing guidance as to the format of the probation terms and conditions in this case.

placed on probation for a period of five years from the effective date of this order on the following terms.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of probation, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remaining conditions of probation, and each of them, and all other applications thereof, shall not be affected. Each condition of probation shall separately be valid and enforceable to the fullest extent permitted by law.

1. Obey all Laws. Respondent shall obey all federal, state, and local laws and regulations, including, but not limited to, the statutes and regulations of the Commission. A full and detailed account of any and all arrests or citations for any violation of law (except minor traffic offenses) shall be reported by respondent to the Commission, in writing within 30 days of the arrest or citation.

2. New Credentials Subject to Order. Any new credential issued by the Commission to respondent during the period of probation shall be subject to this order, and respondent shall be subject to the same terms and conditions of probation with respect to any such new credentials, as set forth herein.

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

Respondent shall submit quarterly reports, under penalty of perjury, in a form designated by the Commission, certifying and documenting compliance with all terms

and conditions of probation. Respondent shall execute release of information forms that may be reasonably required by the Commission or its representatives.

4. Cooperation with Commission. During the entire period of probation, respondent shall fully cooperate with the Commission in its monitoring and investigation of respondent's compliance with probation.

5. Interviews/Meetings with Commission. During the entire period of probation, respondent shall be available for interviews either in person or by telephone, with or without prior notice, with the Commission.

6. Notification. The Commission shall be informed, in writing, of all employment of respondent that requires a credential. Respondent shall inform his employer of the reason for, and the terms and conditions of his probationary status and shall provide a copy of the Commission's Decision to his employer and immediate supervisor. Respondent shall authorize his employer to submit performance evaluations and other reports requested by the Commission. Respondent shall notify the Commission in writing within 72 hours after cessation of any employment that requires a credential. The notification shall contain a full explanation of the circumstances surrounding the cessation of employment.

7. Continuing Education. In each year of probation, respondent shall successfully complete a continuing education course in professional conduct and ethics. Respondent shall bear the costs thereof and provide written proof satisfactory to the Commission of his completion of said coursework.

8. Maintain Active, Current Credentials. During the entire period of probation, respondent shall maintain active, current credentials with the Commission, including during any period of suspension.

9. Maintain Current Contact Information. Respondent must provide written notice to the Commission within ten days of any change of residency or address. Periods of residency outside of California shall not apply toward completion of the probationary period or period of suspension.

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

11. Completion of Probation. Upon successful completion of the terms of this probation, respondent's credentials shall be fully restored.

DATE: May 31, 2023

Marion Vomhof

MARION J. VOMHOF

Administrative Law Judge

Office of Administrative Hearings