

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS AND THE
COMMISSION ON PROFESSIONAL COMPETENCE
FOR THE PERRIS UNION HIGH SCHOOL DISTRICT
STATE OF CALIFORNIA**

In the Matter of the Dismissal of:

DAVID BAKER, Respondent

OAH No. 2022080699

DECISION

On December 5 to 9, 2022, and February 21 to 22, and 24, 2023, a Commission on Professional Competence (Commission) heard this matter by videoconference. The Commission consisted of the following members: Administrative Law Judge Jami A. Teagle-Burgos, Christopher Bourke, and Matthew Rainwater.

Dean T. Adams and Samantha M. Koopersmith, Attorneys at Law, Adams Silva & McNally LLP, represented Perris Union High School District (District).

Carlos R. Perez and Alejandra Gonzalez-Bedoy, Attorneys at Law, Law Office of Carlos R. Perez, represented respondent, David Baker.

Oral and documentary evidence was received, the record was closed, and the matter submitted for decision on February 24, 2023.

FACTUAL FINDINGS

Procedural Background

1. Respondent is a permanent certificated teacher employed by the District as a secondary classroom teacher at Liberty High School (LHS).

2. By letter dated June 28, 2022, the District notified respondent that a Statement of Charges for Dismissal and Immediate Suspension (Statement of Charges), dated April 29, 2022, had been filed with the District's governing board (board), at which time the District recommended respondent's dismissal from employment within the District and immediate suspension without pay. The District notified respondent that the board approved the District's recommendation, and respondent may request a hearing within 30 days.

3. The Statement of Charges alleges the following four causes for dismissal: (1) immoral conduct; (2) dishonesty; (3) evident unfitness; and (4) "persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the state board or by the governing board of the school district." (Ed. Code, § 44932, subds. (a)(1), (a)(4), (a)(6) & (a)(8).)¹ The District also alleges respondent was subject to immediate suspension without pay based on immoral conduct. (§ 44939, subd. (b).)

¹ All future statutory references are to the Education Code unless otherwise indicated.

4. In support of the above causes for discipline and the request for immediate suspension, the Statement of Charges alleges the following:

- In or around the first week of the 2021-2022 school year, respondent assigned a bible verse to students in his College and Career Foundations (CCF) classes. On November 8, 2021, the parent of student N.H. complained that respondent required students to watch and take notes of VeggieTales², a Christian children's animated show, in his classroom.
- Prior to the start of the 2021-2022 school year and during many other occasions, the District notified staff members of the California Department of Public Health (CDPH) mandate regarding COVID-19 and the requirement that all employees wear a face mask while indoors and in the presence of students. The District received several complaints that respondent regularly pulled down his face mask or failed to wear a face mask during class.
- On multiple occasions during the 2021-2022 school year, respondent deviated from the curriculum in his CCF and world history classes by referring to the parable of the Good Samaritan, asking students questions regarding religion and Jesus, referring to the COVID-19 vaccine as "the juice," sharing his personal beliefs about the COVID-19 vaccine, using

² VeggieTales is an American Christian media, computer generated musical children's animation, and book franchise. The series sees fruit and vegetable characters retelling Christian stories from the Bible, with episodes presenting comedy, life lessons according to a biblical world view.

political content from social media in the classroom from sites such as PragerU³, and sharing his political beliefs and opinions with students.

- Respondent failed to maintain and update his grade books in a timely manner in Infinite Campus resulting in the District receiving many complaints and students being unaware of decreases in their grades.
- On November 29, 2021, a student shared a photo on social media of respondent near his classroom Promethean Board⁴ that displayed an image of a video titled, "Philosophy of Oral Sex." Respondent discussed inappropriate topics in class such as his ability to tie a cherry stem with his tongue that meant he was a good kisser.
- On multiple occasions during the 2021-2022 school year, respondent accessed the website "DuckDuckGo.com" on his District laptop.

³ PragerU is an American advocacy group that creates videos and content to promote a conservative viewpoint on various political, economic, and sociological topics. PragerU is short for Prager University. It is not an academic institution and does not hold classes, does not grant certifications or diplomas, and is not accredited by any recognized body. Historians and political scientists have criticized PragerU's videos for containing misleading claims about various topics.

⁴ A Promethean Board is an interactive whiteboard onto which you can project images from a computer, tablet, or external camera.

Duck.Duck.Go.com⁵ is a website used to enable users to conduct private searches, block tracking, and enforce encryption.

- On or about February 2, 2022, respondent inappropriately placed his hands on student B.C.'s hips and physically moved her to the side while he walked behind her, and by doing so, respondent rubbed the front of his body against the back of B.C.'s body. Student L.M. observed respondent's conduct and reported it was "strange." B.C. felt uncomfortable. At a meeting about this incident, respondent dishonestly claimed he did not recall the incident.
- After February 3, 2022, other female students reported concerns about respondent's conduct including he paid close attention to certain female students, he had female favorites who were treated differently, he complimented the attire of female students and made comments like "you look pretty today," "I love your pants," and "you look really good." Student Y.H. reported that respondent complimented her attire when she wore less clothes, stared at her, and stopped staring at her when her cleavage was covered. Y.H. reported that respondent assigned her seat next to his desk and engaged in long conversations during class, discussed his personal life, and shared his opinion that women should be "presentable, wear high heel shoes, apply makeup, and do their hair." This conduct constitutes grooming behavior by respondent. Other students reported that respondent discussed topics of a sexual nature in class such as "the five things a human needs are:

⁵ DuckDuckGo.com is an internet privacy company that offers products for people to protect their privacy online, most notably, a private search engine, a browser and browser extension, email protection, and app tracking protection.

drink, eat, sleep, . . . and sex." Several students reported respondent did not provide instruction during class and described his class as "easy," "boring," "useless," and "out of control," and he was regularly off topic and discussed matters of religious and political nature in class causing students to feel uncomfortable. At a meeting to discuss these issues, respondent dishonestly reported he did not recall the incidents of him rubbing against the back side of Y.H. and making comments to female students, and repeatedly commented that he could not answer the questions "without context" and he asked, "What is the context?"

5. Respondent timely requested a hearing before a Commission, and this hearing followed.

The District's Evidence

6. The following findings are based on the relevant testimony of witnesses and documentary evidence.

THE VERBAL AND WRITTEN DIRECTIVES

7. On or about the first week of school in August during the 2021-2022 school year, Erika Tejeda, Ed.D., principal of LHS, met with respondent to discuss his class assignment involving a bible verse. Dr. Tejeda issued a directive to respondent to refrain from using any and all religious content in his classes, and notified him it was inappropriate to share his personal and political beliefs with students.

8. On or about August 20, 2021, Dr. Tejeda met with respondent to discuss concerns that he was not complying with the face mask policy and issued him a directive to adhere to the CDPH face mask mandate. Dr. Tejeda issued respondent a

written Conference Summary, dated September 3, 2021, which summarized the meeting and directive.

9. At a staff meeting on November 29, 2021, Dr. Tejeda reminded staff members, including respondent, to maintain and update their grade books, in a timely manner, in Infinite Campus.

10. On December 14, 2021, Dr. Tejeda issued respondent a Written Reprimand indicating his following conduct violated Board Policy 4119.21 and Section V of the Perris Union Educators Handbook: assigning a bible verse to his students; sharing his personal political and religious beliefs with students in class; requiring his students to watch VeggieTales; his failure to comply with the CDPH and District face mask policies; deviating from the curriculum for his CCF and world history classes by discussing bible parables, sharing his personal beliefs about the COVID-19 vaccine, and utilizing political content from social media including from PragerU; and failing to maintain his grade books.

11. Dr. Tejeda issued the following directives to respondent: (a) maintain a "positive, supportive, and encouraging classroom environment at all times to promote student learning free of all personal political and religious beliefs"; (b) maintain grade book in a current and accurate manner; (c) wear a face mask at all times while indoors and in the presence of students in accordance with CDPH guidelines; (d) follow all curriculum guidelines and pacing guides to ensure continuity of instruction throughout the departments and content areas; (e) refrain from using social media accounts as a sole source for academic information and instruction; and (f) utilize proper judgment and conduct yourself in an appropriate and professional manner at all times.

12. On January 12, 2022, Nicholas Hilton, the District's director of human resources, at the time, met with respondent regarding his conduct of displaying an image of the video titled "Philosophy of Oral Sex" on his class Promethean Board and using DuckDuckGo.com on his District laptop. Mr. Hilton issued respondent the following directives: (a) review and adhere to the District's responsible use policy; (b) refrain from discussing matters of a sexual or romantic nature with students; (c) contact technology for assistance with the proper setup of the District YouTube account to minimize risk of the display of inappropriate videos on his screen; (d) conduct himself in a professional manner at all times; (e) comply with District Board Policies 4119.21, 5137, and 4040; and (f) ensure appropriate interactions with students. On February 18, 2022, Mr. Hilton issued respondent a Written Reprimand, which summarized these same directives.

13. On February 3, 2022, Dr. Tejeda met with respondent regarding his conduct of placing his hands on B.C.'s hips and rubbing his front side on her back side as he moved behind her. Also in attendance were Scott Moore, LHS athletic director and dean, and Diana Pales, union representative. At the meeting, respondent "dishonestly claimed" he did not recall the incident with B.C.

14. On March 7, 2022, Mr. Hilton and Dr. Tejeda met with respondent. Also in attendance was Ms. Pales. The following concerns about respondent were discussed: touching the hips of B.C. and rubbing along her back side with his front side; having "female favorites" in his classes; complimenting female students about their attire, making comments to female students like "you look really good," complimenting female students when they wear less clothing, and no longer complimenting female students when their cleavage is covered; assigning Y.H.'s seat next to his and engaging in long conversations about his personal life and his opinion that women should wear

high heel shoes and wear make-up; discussing topics in class that are sexual in nature; having out of control classrooms that were off topic; and discussing matters in class that were political and religious in nature causing students to feel uncomfortable. At this meeting, respondent repeatedly stated he could not answer questions about these assertions without "context," and he often asked, "What is the context?"

TESTIMONY OF THE DISTRICT'S WITNESSES AND OTHER SUPPORTING EVIDENCE

15. The following is a summary of the testimony of Dr. Tejeda, as well as documents prepared by Dr. Tejeda, which are consistent with her testimony. She has a Bachelor's degree in Spanish, Master's degrees in education and administration, a Doctoral degree in organizational leadership, a single subject credential in Spanish, and an administrative clear credential. She has been the principal at LHS since it opened in the fall of 2021. Prior to working at LHS, she worked in the District as a principal and assistant principal at another high school, an assistant principal at a middle school, a teacher, and a school aide. She is also an alumna of the District.

16. LHS is a new school that opened in the 2021-2022 school year, and had its grand opening on August 5, 2021. It initially opened for ninth and tenth graders, and the grade levels will increase over a four-year period. The students were returning to in-person school after doing distance learning because of COVID-19. It was important they felt safe and "belonged to the school community." Dr. Tejeda was involved in the hiring of teachers for LHS, and teachers could only be hired within the District in a transfer capacity. Sixty percent of the LHS teachers were hired due to their seniority, and the other forty percent were hired because they had some level of lesser seniority. All teachers were required to follow the job description for a secondary classroom teacher, and all new hires participated in an onboarding process. She had

previously worked with respondent at Pinacate Middle School (Pinacate). He was assigned to teach CCF at LHS because he was qualified to work with ninth graders since he had been a middle school teacher. CCF is for ninth graders and helps with social-emotional lessons, job analysis, researching colleges and careers, public speaking, and preparation for the next three years in high school. Respondent was also assigned to teach world history because he had a credential in social studies.

17. During the first few weeks of school in August 2021, Dr. Tejeda was approached by a parent who showed her a screenshot of a class assignment by respondent about the parable "Who Is My Neighbor." The parent asked Dr. Tejeda if LHS taught religion, and she replied, "No." She met with respondent and told him that the District employees "do not talk about religion in school," to remove the assignment, and to not penalize students for not completing this assignment. Respondent informed Dr. Tejeda that it would not happen again.

18. On August 27, 2021, Dr. Tejeda received an email from parent T.H., who is a superintendent of a different school district, who inquired why respondent taught religion in class and requested his child be removed from respondent's class. Dr. Tejeda removed T.H.'s child from respondent's class. About the same time, Dr. Tejeda began following a LHS parent group on Facebook and she was "taken back as a principal" when she read a parent complaining and asking other parents about respondent teaching religion in his class at LHS.

19. At the beginning of the 2021-2022 school year, Dr. Tejeda observed respondent at LHS with his face mask below his chin and hanging on his ear. However, the District had issued a memo to all staff on July 23, 2021, notifying them of the requirement to wear a face mask indoors when students were present. In addition, on July 30, 2021, Kirk Skorpanich, assistant superintendent of human resources, and Perris

Secondary Employee Association (PSEA) sent a joint communication to all District staff that reiterated the face mask requirement. Dr. Tejeda had discussed this requirement at staff meetings, and staff were given face masks and wipes. On September 3, 2021, Mr. Skorpanich and Thomas LaRochelle, assistant principal at LHS, observed respondent teaching in his classroom without a face mask. On the same day, Dr. Tejeda met with respondent about the administration's concerns that he was not wearing a face mask. He informed her that his eye glasses would fog up when he wore his face mask. She talked with him about tips, such as wearing his mask higher on the bridge of his nose and using shaving cream on his eye glasses. She was aware of several other teachers who wore eye glasses and had no problems wearing a face mask. Respondent did not mention having a physical or mental condition, or religious reason, as to why he was not able to wear a face mask. She prepared a written conference summary and issued him a directive to wear a face mask indoors when students were present.

20. On October 5, 2021, Dr. Tejeda was contacted by the parent of S.M. who was concerned because S.M. complained that, in class, respondent shared his personal thoughts on COVID-19 vaccine and referred to it as "the juice," he did not wear a face mask, and he shared his political views. Respondent made S.M. feel uncomfortable in his class. On October 6, 2021, S.M. reported that although respondent was supposed to be teaching world history, he was teaching "mainly about politics" and showing the students "videos on Instagram" that "kinda make fun of the President." S.M. reported that respondent will "talk bad" about the COVID-19 vaccine and about how people should not be forced to take it and people have rights. Dr. Tejeda was concerned about the reports of S.M. and her parent, and she was concerned because Instagram is not a District-approved platform for teaching and it has a lot of "misinformation."

On October 25, 2021, S.M.'s parent contacted respondent and Dr. Tejeda in an email titled, "DONALD TRUMP." The parent wrote:

I am confused as to why you keep showing Trump videos to my child. What does a video of Trump have to do with the colonization of Africa? You need to find some other material. It is your job to educate and not force your personal opinion on others . . . Between your love of Trump and vaccine misinformation this is unacceptable. Honestly, you should no longer be employed and allowed to force your fake news and vaccine propaganda on children. . . .

On or about November 2, 2021, Dr. Tejeda met with S.M. who relayed the same issues as above. Dr. Tejeda received another statement from S.M. on November 9, 2021, that indicated S.M. thought respondent was following her.

21. On or about November 2, 2021, Dr. Tejeda met with student T.D. who reported that respondent "shows us videos not related to world history [that] sometimes are biased" and are about "conservatives and liberals" and are Instagram videos. T.D. stated respondent referred to the COVID-19 vaccine as "the juice."

22. On or about November 2, 2021, Dr. Tejeda met with student J.K. who reported that respondent showed the class a YouTube video titled, "What is a liberal?", and that he talked a lot about politics and the COVID-19 vaccine, but had not yet taught with a history book.

23. On or about November 2, 2021, Dr. Tejeda met with student A.H. who reported that respondent showed a VeggieTales (religious animated content) video to the class. Dr. Tejeda was taken back because she had already spoken with respondent

at the beginning of the school year about not using religious-based content in the classroom.

24. On or about November 2, 2021, Dr. Tejeda met with student A.D. who reported, "I sometimes feel uncomfortable with the things he says."

25. On or about November 2, 2021, Dr. Tejeda met with student C.N. who reported that he did not feel like he was learning in respondent's CCF class, and respondent referred to the COVID-19 vaccine as the "virus cocktail," respondent showed the class an Instagram video that referred to Canada and Italy as being "fascist," and respondent wore a mask that looked like it was falling apart.

26. On or about November 2, 2021, Dr. Tejeda met with student A.N. who reported that respondent referred to the United States military as a "killing machine," and he showed a VeggieTales video to the class, he shared his personal beliefs about COVID-19 and the vaccine, he compared President Biden to Adolf Hitler, and he rarely wore a face mask. Dr. Tejeda obtained two videos and one image, via AirDrop⁶, from A.N. In the first video, respondent used the term "killing machine" and discussed Blacks and gays being in the military. In the second video, respondent was "going off on a tangent." Dr. Tejeda spoke with A.N. about the inappropriateness of taking videos in a classroom, but she did not discipline A.N. any further because A.N. took the videos to show her mother and A.N. did not share them with others. The photo was an image of the Promethean Board in respondent's class that showed content from PragerU

⁶ AirDrop is a service that can transfer files among supported Macintosh computers and iOS devices by means of close-range wireless communication.

having to do with President John F. Kennedy and abortion. Dr. Tejeda was concerned about all of this content.

27. On November 4, 2021, Dr. Tejeda received an email from the parent of A.N. titled, "Urgent teacher concern: DAVID BAKER." The parent wrote that "ENOUGH WAS ENOUGH," and that for the last 12 weeks, her child listened to respondent refer to President Biden as a Nazi, COVID-19 as a hoax, vaccines as useless, and wearing a face mask as pointless. The parent indicated the "last straw" was a tweet from PragerU because it is known as an "extremist conservative website." Dr. Tejeda was embarrassed as a principal and as a parent.

28. On November 14, 2021, Dr. Tejeda was copied on a lengthy email from the parent of A.D. to respondent, which was titled, "Serious Concerns About Instruction." The parent, who is a principal at another high school in the District, shared her concerns about "safety and failure to follow district mask mandate," "gradebook updates," and "religious content & non-related C&C content covered during class."

29. On November 16, 2021, Dr. Tejeda received an email from the parent of A.D. who was concerned because respondent had shared her November 14, 2021, email with other teachers at LHS. The parent was also concerned because her son was not in a "good head space."

30. On November 18, 2021, Dr. Tejeda met with respondent and discussed the following complaints from multiple students and parents:

- Respondent was not using the CCF curriculum in PowerPoint and Google Docs, and he was not using any available curriculum from other CCF teachers. Respondent replied that he was not aware if he had been given a

curriculum guide, and the CCF lead teacher, Erin Winston, encouraged the use of “outside supplemental sources.” This concerned Dr. Tejeda because none of the other CCF teachers told her they did not have what they needed to teach the class including respondent.

- Respondent calling the COVID-19 vaccine “the juice.” He replied that he may have said that, but he did not recall.
- Respondent using his personal Instagram feed in the classroom that showed PragerU content. He replied that he used his personal Instagram, but he was not familiar with PragerU and his Instagram feed was not political, and he became more aloof when he was asked more questions. Respondent was not aware that Dr. Tejeda was shown a photo of PragerU on his Instagram feed from his class Promethean Board.
- Respondent calling the military a “killing machine.” He replied that he did not believe he ever said that. He was not aware that Dr. Tejeda was shown a video of him telling his class that the military is a “killing machine.” She was also concerned because LHS had a large population of students from military families.
- Respondent using religious materials in his class. He replied that he does not use religious materials in class. He was not aware that Dr. Tejeda had been told he showed a VeggieTales video in his class. He later admitted that he did show a VeggieTales video, but he was not intentionally showing religious content.
- Respondent sharing his political beliefs with students. He replied that he encourages his students to “think.” When asked if he used YouTube videos

to teach the classes, he first replied that he did not think he showed any such videos, but then he remarked that he did not think the videos “strayed” from the “content.”

- Respondent failed to use a world history textbook. He replied that he had just received the textbook about a month ago and he used it that day for the first time.
- Respondent failed to maintain his gradebooks. He replied that he checked them “intermittently.” This concerned Dr. Tejeda because he was supposed to update his gradebooks every 10 days and he had been a teacher in the District for over 20 years.
- Respondent had shared a parent email with other teachers. He replied that he only shared the email with Frank DeAnda, but then he remarked that he told Ms. Winston that he would not speak any more about that student – who happened to be Ms. Winston’s nephew.

As Dr. Tejeda proceeded through her meeting with respondent, she noted “he kind of had a smirk” and became more “aloof” as the questions went on, and by the end of the meeting, his demeanor “completely changed.”

On November 29, 2021, Dr. Tejeda met with student K.N. who came to speak with her about her concern about a YouTube tile that recommended a video titled, “History of Oral Sex,” which was shown on the Promethean Board in respondent’s class. K.N. reported she was in respondent’s class when she saw this image on the Promethean Board. K.N. was visibly upset and became “a little inconsolable.” K.N. had submitted written statements to the counseling department about her concerns about respondent, but she felt her concerns had not been taken seriously, so she came to

speak with Dr. Tejeda. K.N. had taken photos on her phone of her written statements and shown them to Dr. Tejeda. Dr. Tejeda was appalled and very upset about what she heard from K.N., and also because it seemed there was no urgency on respondent's part to take down the YouTube page. Dr. Tejeda contacted the counseling department for copies of any written statements submitted to their office, and she discovered written statements concerning respondent had been submitted by K.N. on October 11, 2021, by student P.M. on October 11, 2021, by student V.H. on October 11, 2021, and by student S.L. in the "fall of 2021." Dr. Tejeda contacted the human resources office of the District.

31. On November 29, 2021, Mr. Hilton came to LHS and met with respondent in the presence of Dr. Tejeda. Mr. Hilton placed respondent on paid administrative leave. At that time, Dr. Tejeda began to conduct her first investigation regarding the concerns about respondent.

32. On December 2, 2021, Dr. Tejeda met with student D.P. who came to speak with her and submitted a written statement. D.P. shared that recommendations had been displayed on respondent's Promethean Board in his class, including "The History of Oral Sex" and "ways to pleasure a women in bed." He said he could tie cherry stems with his tongue that showed he was a "good kisser." D.P. also shared that respondent has his "favorites" and only talks to certain female students, he does not talk to male students, he talks about God and politics and personal topics, he teaches from YouTube, and he has "zero" classroom management. Dr. Tejeda was "disgusted" and felt that none of this had "any place in a comprehensive public high school with children." Dr. Tejeda contacted the human resources office of the District.

33. On December 14, 2021, Dr. Tejeda issued a written reprimand to respondent, as referenced above, regarding her concerns about religion and politics

being discussed in his classes, him sharing his personal beliefs in his classes, his failure to comply with the face mask mandate, his use of social media including PragerU in his classes, and his failure to maintain his gradebooks.

34. On or about January 7, 2022, after the winter break, the District returned respondent to work from being on paid administrative leave.

35. On February 2, 2022, Dr. Tejeda received an after-hours call from Joshua Rushing, a campus supervisor who was with Stephanie Solorio, campus security, because they were clearing a hall when they overheard a conversation coming from a girls' restroom at LHS. They heard student B.C. telling another student that during class, respondent grabbed her hips in order to walk past her, and asked her friend if that was "weird." When B.C. exited the bathroom, Mr. Rushing and Ms. Solorio asked B.C. about what they overheard and she informed them the incident occurred the Friday before, on or about January 28, 2022.

36. On February 3, 2022, Dr. Tejeda met with B.C. to discuss the incident reported by Mr. Rushing and Ms. Solorio. B.C. reported that respondent had gone behind her when he grabbed her hips. Dr. Tejeda met with B.C. a second time on this day, and asked B.C. to show her what happened by using Dr. Tejeda and a secretary to act-out what occurred. B.C. instructed Dr. Tejeda to get close to the wall, the secretary to place her hands on Dr. Tejeda's lower hips, and for the secretary to rub herself between the wall and Dr. Tejeda's "rear end." B.C. informed Dr. Tejeda that, at the time of the incident, she had been leaning on the desk of another student L.M. to help him with an assignment. Dr. Tejeda met with L.M. who acknowledged that he witnessed the incident and thought it was "very strange" that respondent put his hands on B.C. and "squeezed" over her. L.M. described that respondent's hands were on B.C.'s lower waist and the closeness of his touching on B.C.'s body. L.M. reported there was no

emergency during the incident, and there was space for respondent to walk a different path. Dr. Tejeda called B.C. to her office a third time, in order to contact B.C.'s mother and inform her of what had occurred. B.C.'s parents asked that B.C. be immediately removed from respondent's classroom and because they were also concerned that respondent had called B.C. his "favorite student." Dr. Tejeda felt "sick" and "physically ill," and she "could not wrap her brain around why a teacher would rub his private parts" on a female student. She cried while giving her testimony.

37. On February 3, 2022, Dr. Tejeda met with respondent, and Mr. Moore and Ms. Pales were present. She asked respondent about the incident involving B.C., and he replied that he had "no recollection of that happening." She was concerned with this response because she felt that if something like this did not occur, the answer would be more like "absolutely not" and not "no recollection." Respondent did not seem appalled by her inquiry, and he asked if he had to "go home again." She told him to contact Mr. Skorpanich. The next day, on February 4, 2022, Mr. Skorpanich placed respondent on paid administrative leave.

38. On February 18, 2022, Mr. Hilton issued respondent a written reprimand regarding him sharing his social media on the Promethean Board that recommended a video titled, "Philosophy of Oral Sex," discussing inappropriate topics in the classroom, and using his District-issued laptop to access DuckDuckGo.com that enables users to search privately, block tracking, and enforce encryption.

39. After the meeting with respondent on February 3, 2022, Dr. Tejeda began a second investigation, which concerned the hip grabbing and body rubbing incident involving B.C. She interviewed the following students:

- S.B. reported that respondent rambled in class about the Bible, Elvis, the COVID-19 vaccine, income tax, and that hammers were the number one murder weapon in the United States.
- A.W. reported that respondent's favorite students were females, and he moved Y.H.'s seat next to his desk.
- Y.H. reported that respondent always complimented her outfits and would tell her, "you look really pretty today" and "you look really good." He told her that he was very handsome when he was younger, and made sure she was sitting next to him. She stopped wearing a regular bra and started to wear a sports bra so respondent would stop looking at her chest. He talked to her about his daughters and complained about his wife. He talked about sex in the class. He talked about how Maslow's Hierarchy of Needs included sex, and this made her uncomfortable. He would tell another student E.C. that she looked "amazing" – E.C. wore low-cut tops that showed lots of cleavage. Y.H. noticed that female students who wore lower-cut tops got more attention from respondent. He really liked her "style." He told female students that girls should be presentable and do their hair and make-up. He would only talk to the "pretty girls."
- S.L. reported that respondent's class was chaotic. He would sometimes put on his headphones and ignore the class. He would complement her about her outfits but only when she wore a dress. He would call her an endearing version of her name, but it is not her actual name.

40. Finally, on March 7, 2022, Mr. Hilton met with respondent, and Dr. Tejeda and Ms. Pales were present. Respondent reported that he did not recall the incident

with B.C., he did not recall saying things to female students like “you look really good.” Respondent had a “smirk” on his face when he replied that he “did not recall.” He did not inform them about having any physical condition such as a “lazy eye” that would impede his vision or make it appear like he was staring. Dr. Tejeda testified that respondent does not appear to have a lazy eye and he never appeared to be staring at her. During the meeting, Dr. Tejeda asked respondent if he was familiar with the term “grooming” and she read him the definition from the District’s employee handbook that references “grooming” as discussed in an annual mandatory staff training by Keenan Partners in Safety (Keenan). Respondent responded that he completed this annual training. Dr. Tejeda observed that respondent was curt and arrogant with his answers. She informed him that female students reported he stared at their cleavage, he commented when they wore low-cut tops, and he made comments to them about looking pretty. When asked about these assertions, he asked if “we are in the realm of public perception.”

41. The following is a summary of the testimony of Joshua Rushing, as well as his written statements, which is consistent with his testimony. He has been employed as a campus supervisor for the District for ten years. He has worked at LHS since it opened a year and a half ago. His job duties include providing a safe learning environment for students and staff. He has completed the annual training by Keenan and he is familiar with grooming and what it entails. He is familiar with respondent as they have both worked at LHS since it opened. There are windows along the outside of the classrooms, and he noticed respondent played a lot of videos/movies.

42. Concerning the incident on February 2, 2022, Mr. Rushing was clearing the hall at the end of a school day, along with a campus supervisor. The hall floor is tile and the area is “echo-y” and they were about two feet from the girls’ restroom when

they overheard a student tell another student that respondent grabbed her by the hips, and ask if that was “weird.” He and the campus supervisor called the students out of the bathroom, and asked, “What did you say?” He knew that was “not normal” for a staff member to grab a student by the hips. He recognized the student as B.C. and she repeated to him and the campus supervisor what she had told the other student in the bathroom. She asked Mr. Rushing and the campus supervisor if “that was weird.” He was familiar with B.C. because he had escorted her to the wellness center one time for a mental health referral. He called Dr. Tejeda because he was concerned about what he heard and felt he needed to report it immediately.

43. The following is a summary of the testimony of Kirk Skorpanich. He has a Bachelor’s degree in diversified education, a Master’s degree in leadership, a multiple subject teaching credential, and an administrative credential. He has been the assistant superintendent of human resources at the District for six years. His duties include overseeing investigations, complaints, and trainings. Prior to his current position, he worked as an assistant superintendent for another school district, a director of human resources, an elementary school principal and assistant principal, and an elementary school teacher.

44. Mr. Skorpanich also earned a certificate from Cornell University in conducting internal investigations. In his capacity as an educator, he is familiar with the term “grooming” and completed trainings on the topic where he learned about sexual exploitation of students and signs of grooming. Every employee of the District is mandated to complete the Keenan training each year. He understands grooming to be an “escalated pattern of inappropriate boundary invasions” and the following to be examples of grooming: providing students with special privileges; spending time with students during non-instructional time; trying to be the “cool” teacher; special

attention to one student over others; talking about marital and personal issues with students; allowing students to get away with things; talking about sex when it is not part of the curriculum; pet names for students; touching in an inappropriate manner; and making “eyes” with students. Keenan teaches that inappropriate adult-student interactions include sexual advances, flirtations, requests for sexual favors, inappropriate comments about a student’s body or appearance, or other verbal, visual, or physical conduct of a sexual nature. Keenan teaches, “The supervision of children and teens NEVER includes sexual contact, sexual behavior, flirting or innuendos. PERIOD!” Keenan lists prohibited behavior between students and staff as telling sexual jokes, making eyes, discussing sex life, sitting too close, finding ways to be alone with students, conditioning by discussing personal issues, giving personal gifts, and unnecessary touching. Keenan also describes the fallout of using social media, such as Instagram, YouTube, Facebook, and Snapchat, as it can include inappropriate adult-student interactions.

45. Mr. Skorpanich is familiar with respondent and he is aware respondent transferred from Pinacate to LHS. Pinacate is different from LHS, in that it is a middle school and about 90 percent of its students are designated as socially-economically disadvantaged and there is much less parent involvement. In contrast, LHS was highly anticipated as a new high school being built with a lot of community involvement in that process that continued since its opening in the 2021-2022 school year. There is a high amount of parent involvement at LHS. Mr. Skorpanich recalled when he visited LHS at the beginning of the 2021-2022 school year, he walked the halls and noticed respondent was teaching in his classroom without a face mask. The only person he has ever had to talk to an administrator about face mask compliance was respondent.

46. Mr. Skorpanich noted the District's records show that, between 2014 and 2021, respondent completed courses about boundary invasion/grooming, youth suicide, sexual harassment prevention, child abuse, and child neglect. His concern with respondent, in this case, is that he sees an "escalating pattern with respondent . . . alarming at the least and extremely concerning." He testified about the incidents of respondent using his District laptop to access his personal YouTube account that showed a video recommendation of a video titled, "Philosophy of Oral Sex," to access his personal Instagram account, and to access "DuckDuckGo.com" that permitted block tracking and encrypted searches. This conduct was also a violation of the board policy regarding employees' use of technology. He noticed in email correspondence between respondent and Mr. Hilton, respondent's personal email address was "Baadaddy@gmail.com," which he later learned respondent had given to his students. Mr. Skorpanich concluded to uphold the charges and send them to the board to adopt the Statement of Charges, as respondent had an ongoing pattern of refusing to comply, being dishonest in his communications with administrators, and having immoral conduct as his conduct met the examples of grooming. He met with respondent on June 28, 2022, to explain the board upheld the charges and he was being placed on unpaid leave. He was surprised about respondent's response because he was not upset and he did not ask why, and instead respondent said something similar to "oh okay" and that was it. He also testified that respondent does not currently have a valid teaching credential, as his expired on August 1, 2022.

47. Mr. Skorpanich testified about prior reprimands⁷ issued by the District to respondent, which Dr. Tejeda was not aware of when respondent was hired at LHS. On

⁷ A motion in limine was filed by respondent to exclude Exhibits 74 through 79, as these documents reference prior reprimands that occurred more than four years

April 13, 2009, respondent was issued a warning of unsatisfactory performance and placed on administrative leave, as a result of an assertion that he placed a Pinacate male student in a choke hold or bear hug and broke the student's chain necklace. On June 9, 2015, respondent was given a verbal directive and conference summary write-up, as a result of an assertion that he asked a Pinacate female student if she "liked looking at her crotch." He was directed to only make appropriate comments to students and refrain from referring to parts of students' bodies and their appearances. On November 17, 2015, respondent was given a warning of below-standard performance for telling a Pinacate student to "get it together and stop doing this shit." On August 15, 2017, respondent was given a verbal directive and conference summary write-up for using religious materials in his class – a handwritten note on his signature line indicated "refused to sign received 9/5."

48. Finally, Mr. Skorpanich testified that he considered respondent's lengthy employment history with the District, history of discipline and directives, and escalating pattern of inappropriate boundary invasions and refusing to follow the District's directives and policies. He can only determine that dismissal is appropriate because he cannot allow anyone else's child to be subjected to these things.

before the service of the Statement of Charges. An order denying the motion found these exhibits may be introduced, but not be used as a basis for the decision, as they are permissible because they are regularly held records by the District and they relate to the issue of persistent refusal to obey school laws.

49. The following is a summary of the testimony of several students and parents. Their testimony is consistent with written statements and/or correspondence they shared with LHS or District staff and/or administrators.

- A.K. is a female student at LHS. She was in respondent's CCF third period class when she was in ninth grade. He discussed religion and the class watched a VeggieTales video. A class assignment was to read a Bible verse and write a paragraph about it. She was "kind of weirded out" because this did not relate to the curriculum of the class. Respondent also discussed politics in class and compared President Biden to Adolf Hitler in the context of vaccines being mandated. He showed the class his personal Instagram feed with a post from PragerU that portrayed President John F. Kennedy as being the "left wing" and "how far they have shifted" basically insinuating Kennedy's beliefs lined up with the current beliefs of the Republican party. She took a photo of the Instagram feed with the PragerU post and shared it with Dr. Tejeda. Respondent referred to the United States military as "killing machines" and commented if transgenders should be in the military and have different "facilities" and if women should be in the draft. He questioned if we needed things like that if we are supposed to have a killing machine. She knew what respondent was doing was wrong, so she began taking videos and photos of what he was saying and showing the class. She wanted to try and stop what he was doing. She also testified that respondent "50-50" followed the COVID-19 face protocol because he would either have his face mask hanging on one ear, under his nose, or on his chin. He made her feel like he did not care about his students' safety or his own. He called the COVID-19 vaccine "the juice." He treated some male students in ways that were not fair. She described his class as "unexpected" because students

would not know what to expect at each class. He only occasionally assigned work from Thrively⁸, but he never elaborated on the assignment. When respondent left LHS and Mr. Baca took over the class, Mr. Baca followed the curriculum on Thrively.

- S.B. is a male student at LHS. He was in respondent's CCF fifth period class when he was in ninth grade. Respondent discussed religion in class and gave assignments about David and Goliath and the Good Samaritan, and showed a VeggieTales video. Respondent discussed COVID-19 and politics in class by showing a graph of places with Centers for Disease Control (CDC) mandates had fewer cases of COVID-19, calling the COVID-19 "the jab," saying people who created taxes "sold their soul," and stating hammers were the number one murder weapon in the United States so handguns are "less bad" than what people say. Respondent spent most of the class talking about things not related to college and career options. Respondent mostly had his face mask off, and it was made of a mesh material that was see-through and open. Respondent shared his personal Instagram feed on the Promethean Board that showed his profile name was something like "BigDaddyBaker", and S.B. thought it was inappropriate. Respondent assigned an assignment about Maslow's Hierarchy of Needs that discussed sex. Respondent discussed bizarre stories in class such as when he slashed a woman's tires who pulled into a college parking spot before he could and Elvis died on a toilet. S.B. perceived respondent as being "unprofessional,

⁸ Thrively is a website with different features including an assessment for students' interests and teacher-contributed lesson plans and ideas.

indoctrinating, unintelligent” because he talked to students about religion and politics, and his beliefs such as hammers being the number one murder weapon in the country, “don’t seem like beliefs intelligent people would have.”

- A.W. is a female student at LHS. She was in respondent’s fifth period CCF class when she was in ninth grade. Respondent talked about religion in class about once or twice a week and more than half the class time would be taken up with these discussions. They watched VeggieTales videos. It made her feel weird and she preferred to be talking about college readiness. He talked about politics about once or twice a week and more than half the class time would be devoted to these discussions. He told the class to not use computers when he was talking about these topics, so they could not get their work done. She did not have a problem with his beliefs, but she “felt like he was trying to push it upon us.” He did not wear a face mask in class, but when adults walked in, he would put on his mask or fix it. He was “meaner to boys” and would ignore male students to speak with a female student. She thought that was “strange.” He treated Y.H. differently and put Y.H.’s desk close to his – within a couple of feet - and engaged in long conversations with Y.H. She thought this was “weird.”
- H.M. is a female student at LHS. She was in respondent’s CCF class when she was in ninth grade. Respondent brought up religion in class and would “sometimes compare two religions” or bring up his beliefs of Christianity. He gave an analogy about a Jewish person walking past a dying person on the street and the Jewish person would keep walking, and said a Christian person would have stopped to help. She thought it was “inappropriate” for

him to talk about religion and she and her friends were "getting uncomfortable." He talked about politics and brought up Democrats and Republicans, and used the words "liberal" or "Trump." He would touch B.C.'s shoulders about two to three times during each class. He did not touch other students. She felt "really grossed out towards him" especially because she knew B.C. He would share his personal Instagram feed on the Promethean Board and students could see he was having conversations with "women like in their 20's" and he would leave a specific "convo" open with one particular woman. He did not enter grades until the end of the year and this made her "grade like plummet like really bad." She had a "bunch of missing stuff" and did not understand why. He told another student in a similar situation something like, "That's just what your grade is . . . there is no missing work." He was not a good teacher because when he was not talking about religion or politics, he was talking about personal stuff.

- A.D. is a male student at LHS. He was in respondent's third period CCF class when he was in ninth grade. Respondent made religious comments in class and showed religious videos. He felt uncomfortable knowing other students did not have the same religious beliefs. Respondent talked about politics in class, including discussing Presidents Biden and Trump. Respondent said the COVID-19 vaccine could harm some people, but not all. Respondent had his Instagram feed on the Promethean Board and would scroll through so the students could see it. The feed had a female with a bikini top. This made him feel uncomfortable. Respondent told the class he was a good kisser. As a girl wearing crop top walked into class, respondent said something like, "That's a really nice top you have on there." The comments came off in a "very weird way." He felt like he "learned nothing" in respondent's class. He once asked

for help in class and respondent told him something like “figure it out yourself.”

- S.D. is the parent of A.D. She is a high school principal in a different school district. Her sister, Ms. Winston, was previously an employee at LHS and coordinated the curriculum for the CCF class. Her son, A.D., was in a “bad place – mental health wise and academically” as he seemed depressed, he had D’s and F’s, and their family was battling her husband’s health as her husband is a heart transplant recipient. She was concerned when she learned respondent did not really wear a mask in class and spoke negatively about the COVID-19 vaccine, and of the implications of her husband being exposed to COVID-19 because of his immune compromised state. She was concerned because respondent talked about religion in class. She was concerned about respondent’s grading practices, as she noticed her son did not have many grade updates in his CCF class. She thought her son’s CCF grade was okay until closer to the end of the semester, in November, his grade “all of a sudden” was an F. Her son’s CCF grade dropped several grades in one evening. She was familiar with Facebook posts by other LHS parents who were also concerned about respondent’s grade maintenance and their own students’ plummeting grades. She emailed respondent about her “serious” concerns about his instruction, as she was frustrated. Respondent did not reply to her email. Her son was moved out of respondent’s class. She emailed respondent a second time a few days later. Her sister, Ms. Winston, called her saying that multiple LHS teachers were wondering why she was “going so hard for Mr. Baker.” She admits her email was stern, but she was frustrated with respondent’s class discussions,

grading, and management, and concerned that her son was struggling in respondent's class, school in general, and emotionally.

- Y.H. is a female student at LHS. She was in respondent's fifth period CCF class when she was in ninth grade. Respondent discussed religion in class and had them watch VeggieTales videos, which are based on the birth of Jesus and not related to the class. He was "always off topic." He often talked about his wife and children, and how he was "hot" and "good looking" in high school. He always complained about his wife and how he had to "fix things for her" like a coffee pot he brought to his classroom. He spoke to the class more like a "friend" rather than a teacher. He would not wear a face mask in class and told students they did not have to wear a face mask, but if anyone walked in, to put on their face masks. This made her lose respect for him because as a teacher he was not supposed to let students know they could break rules. He used the Promethean Board to display his personal YouTube account and showed videos that were "always so random" and "videos about the pandemic." He displayed his Instagram feed on the Promethean Board that showed his username was "BadDaddy" with numbers, which was "a weird user name." When he first showed the class his Instagram, he told the entire class they could follow him. He often "made fun of the boys" and would "compliment the girls" He would make fun of a boy's jacket or hair.
- (Y.H. Continued) Respondent would be sure to compliment at least one of the girls each day and say things like "you look very nice today" or "I like what you did to your hair." She described herself as having a "strong fashion sense" with "flary and bold" clothes. He made comments to her like "I love

your pants," "you look beautiful," and "you look pretty." When she wore a particular pair of pants, he would say, "Oh, you're wearing the pants that I like." He always found a reason to compliment her almost every day. He made these comments to her almost every day when she walked into class or was sitting at her desk. He would also compliment her in front of the whole class. She would often catch him looking at her and he would smile. Her desk was next to his and she does not know why. She knows what a "lazy eye" is and he did not have a lazy eye. On the days he made comments about her clothing, she was wearing more revealing clothes that were low cut and her cleavage was showing. This made her feel uncomfortable. She started to cover up more by wearing a sports bra instead of a regular bra and turtle necks.

- (Y.H. Continued) After she would present a topic to the class, respondent would tell the class that her presentation skills were better than the rest of the class – this made her feel strange. He would often tell her that she did not need to complete an assignment or she could walk out of class. At first, she appreciated his comments, but when other students began talking about the comments or other "weird stuff" he was doing, her appreciation faded and she began feeling more uncomfortable. He discussed the things that are needed in life are food, water, sex, and something else. When she exited the class, he would say "goodbye [her name]" and make sure she heard him. She felt uncomfortable because she was being singled out by him. When he manually changed the seating chart, he would place her desk a couple of feet from his desk. When he randomly changed the seating chart via the computer, she was seated further away but he told her that next time he

would make sure she was seated close to him. He would have five-minute conversations with her about three times each week.

- (Y.H. Continued) Respondent would put his hands on her shoulders when she was doing assignments. She would be seated and he would “slightly grasp her shoulders.” This happened every other day. He would leave his hands on her shoulders for a few seconds. She never had another teacher do that to her.
- K.N. is a female student at LHS. She was in respondent’s second period world history class when she was in tenth grade. Respondent talked about religion, which had nothing to do with the class material. She did not feel comfortable with him talking about religion and did not know if it was appropriate for teachers to discuss religion. She thought it was taking away from her curriculum time. She testified next about what she saw on the Promethean Board in class and she became visibly shaken and extremely tearful. Respondent would display his personal YouTube account on the Promethean Board. She had been working on homework when she heard whispers about what was on the Promethean Board, when she looked up and saw a suggested a video titled, “Philosophy of Oral Sex.” The screen was up for at least 20 seconds and the students all noticed it and started taking photos of it. She took a photo of what she saw on the Promethean Board. Respondent “didn’t seem really startled as much as he should have been.” He took down the screen, but did not say anything. She is aware of the YouTube algorithm, and what happened made her feel very uncomfortable because YouTube adapts and makes recommendations based on what a person watches. After this happened, she did not want to talk to respondent

again. K.N. also testified about how she noticed respondent was “appreciating” female student V.H. and saying how amazing V.H. is and how he is really glad to see V.H. This weirded her out. After the bell rang, respondent would talk to V.H. but she would try to pull away V.H. because she did not want respondent to keep V.H. there. In October 2021, she had submitted a written statement to the counseling office about what she observed about respondent, but no staff reached out to her. She had taken a photo of her written statement and showed it to Dr. Tejeda when they met in late November 2021. She thought respondent’s behavior was “odd” and his interactions with V.H. were “kind of creepy.” This is why K.N. switched out of respondent’s class. She was uncomfortable seeing how respondent was interacting with V.H. and she was worried this would happen to other girls. During this part of her testimony, K.N. again became quite emotional as she struggled to talk, she was crying, and she needed to take a 10 minute break.

- D.P. is a female student at LHS. She was in respondent’s world history second period class when she was in tenth grade. Respondent said things about prayer, God, and the Bible in class, and his assignments in the beginning of the school year had to do with religion. They were not part of the class curriculum. He talked about politics by referencing President Trump and his opinion about inflation. He wore his face mask the “wrong way” because it was under his nose. He also used a mesh face mask but it did nothing to protect or cover his mouth and/or nose. He did not require students to wear face masks, so 30 to 45 percent of the students did not wear face masks in the class. She felt unsafe in his class. His personal social media feeds were displayed on Promethean Board and recommended a video that was about “how to please a woman in bed.” Another video

recommendation on the Promethean Board was titled "Philosophy of Oral Sex," and she took a photo of the screen. These video recommendations were on the screen of the Promethean Board for some time. She felt really uncomfortable with respondent. She talked to her mother and showed her mother the photo she took. Respondent also discussed topics in class that were sexual in nature. He told the class that he could tie a cherry stem with his tongue and he was a good kisser. He shared that he and his wife were not on good terms. He treated female students differently because he gave them more attention. He sat the female students closer to his desk and the male students closer to the back of the room. He treated female student S.M. differently and sat her near his desk. She noticed the female students would seem upset when respondent was talking to them.

- C.P. is the parent of D.P. She saw the photo D.P. took in class that showed a "child's silhouette in front of a white board in the background was 'Philosophy of Oral Sex' on the screen." When D.P. was telling C.P. about what she saw in class, D.P. was shaking her legs and walking in circles. She looked up "Philosophy of Oral Sex" on the internet and took screenshots of what she saw - a female lying naked and a male with a female on top of him. She was angry. She went to LHS and shared the photos with the assistant principal, Mr. LaRochelle, and she reported that what happened was "inappropriate from all standpoints." She learned from D.P. that respondent displayed his Instagram username, "BigDaddyBaker," on the Promethean Board. She has a background as a recreational therapist in jails and she has worked with pedophiles. She felt respondent's conduct was akin to grooming because he allowed his personal social media to display a video recommendation of "Philosophy of Oral Sex" and he shared his personal

Instagram username. She was concerned that respondent's conduct was "testing of boundaries." She informed LHS that respondent was not permitted to be around her daughter.

- A.B. is a female student at LHS. She was in respondent's CCF class when she was in ninth grade. Respondent discussed religion and the history of Christianity and Judaism, the role of Jesus in religion, and had the class watch a VeggieTales video, which had nothing to do with the class and was awkward. He discussed the "five things to survive in the world" and engaged in a "whole conversation" for about 10 minutes about how sex is one of those things. He shared his personal Instagram account on the Promethean Board that displayed his username as "BigDaddy" – he said his daughter picked his username, but she thought that was "a little weird." Her other teachers have not shared their Instagram accounts with their students. She saw a photo taken by a student in another class of respondent that showed his personal YouTube account was on the Promethean Board with a recommended video titled "Philosophy of Oral Sex" – this made her feel "kind of gross" and "weird." In her class, respondent would "talk a lot" and spend less than half the time on class assignments, and the rest of the time she would be on her phone or doing work for other classes. Her class did not have any assignments about community service or financial literacy. When Mr. Baca started to teach her class, they started researching and making posters about colleges and future careers.
- B.C. is a female student at LHS. She was in respondent's sixth period CCF class when she was in ninth grade. Respondent would discuss politics in class including abortion and vaccine laws that corresponded to his political

views. He brought up Democrat's stance on abortion of "my body, my choice" and said the same should be for vaccines. He had a preference of Christianity over other religions. Religion and politics had nothing to do with the CCF course, and when she finally got switched out of his class, she had no idea what her new class was talking about because they were doing public speaking. She felt bad for her friends who were stuck in his class. Respondent went on other "tangents" in class like going through his mail and coupons. He often shared his personal Instagram handle with students and would "kind of get us to follow him without saying it." He had his Instagram feed on the Promethean Board and he would click on his messages and students could see his conversations with "sex bots" – which had links for the photos of who he was conversing with. He would not take down the conversations right away, and one time, a student went to help him take down the screen because the class realized he was not taking it down. She testified, "Part of me thought maybe he didn't know these weren't real women, but also it should have been done on his personal time and not shared with his class." Respondent complimented her clothing when she wore outfits that had lower cut shorts, super ripped jeans, or skirts. On the days she was more covered, he would not compliment her. Sometimes in the hall, respondent would make comments to her or stand "so close" to her. He noticed that when he was sitting, his "eyes would wander" like he was "looking at [her] up and down." It seemed "purposeful" like he was "taking in the outfit." He complimented her about her smile and he loved her smile. After his first suspension, she was seated near his desk and she "started somewhat connecting the dots, that this was not good and I was not liking being in his class anymore." He started talking to her more than the other

students. He called her his "favorite student." He invited her to join him in the morning for coffee. Two weeks later, she experienced an incident with respondent when he placed his hands on her lower hips while he was trying to get past her in the classroom. He slid his lower stomach to upper thigh area past her lower back and butt. He held her in a "tight enough grip" for a few seconds. His fingers were on the front of her waist and his thumbs were on her lower back. She had been wearing jeans or sweat pants and was leaning over the desk of a male student L.M. who saw what happened. Her elbows were on L.M.'s desk and she was writing. After school, she was in a school bathroom and telling a friend about what happened, and a security guard overheard her conversation and reported it to Dr. Tejeda. She felt like respondent violated her. This affected her a lot mentally. She realized that respondent "never had good intentions" with her and it was an unsafe environment for her and others. This "would have kept going on" if the security guard had not overheard her conversation.

- C.C. is the parent of B.C. In August 2021, she noticed one of respondent's class assignments was "heavily geared towards the Bible and seemingly didn't have anything to do with CCF." In a post on a Facebook page for parents of LHS, she asked about respondent referencing Bible stories in his CCF class. There were other parents who were concerned. Respondent did not post any grades in the gradebook until about 12 weeks into the semester, and B.C.'s grade went from an A to a D or F. This was alarming. B.C. was under the impression that some of the assignments were not going to be graded and respondent had told the students it was going to be a "free period." Other parents commented on the Facebook page about the same thing happening to their children. She is concerned about how

respondent treated B.C. At the beginning of the school year, she was concerned that respondent called B.C. his “favorite student” in an email. He complimented her when she wore certain clothes and seated her near his desk. He displayed his Instagram feed on the Promethean Board that showed his conversations with “those bots” that send “inappropriate photos and stuff.” She was not sure why a teacher would share their social media accounts with students. He invited B.C. to have coffee alone with him. He then put his hands on B.C.’s waist and pressed against her back side as he walked by. B.C. has become reserved around men and teachers. She was “disgusted that a teacher would take advantage” of a student the way he did. She started to piece it all together and was thinking this was grooming behavior.

Respondent’s Evidence

TESTIMONY OF RESPONDENT AND OTHER SUPPORTING EVIDENCE

50. The following is a summary of the testimony of respondent and other supporting evidence. After high school, he started the fire program at Santa Ana Community College. He changed his course because firefighting was impacted, and earned an Associate’s degree in business at Fullerton Community College. He transferred to Cal State Fullerton and earned a Bachelor’s in business administration. He returned to the fire academy and was substitute teaching. He was issued a multiple subject credential that expired about 2014. His single subject credential in social studies expired about August 2022. His credentials are under review and he is in the process of renewing them. He went into education after he was offered a full-time position at a school in San Jacinto. In 2000, he began his career in the District when he accepted a position at Pinacate, a middle school, where he taught world history for

seventh grade, U.S. history for eighth grade, and physical education. He remained at Pinacate until he transferred to LHS when it opened in August 2021. He had applied over the years to other high schools in the District, and he was excited when he got the news that he was transferring to LHS.

51. Respondent was ready for a challenge and a different audience. He did not know how to use a Promethean Board and had to “look it up.” He anticipated a “little bit” of a change in the curriculum for history class from middle school to high school because “history doesn’t change,” but “lately it has.” He assumed he would be assigned classes within his social sciences credential. Mr. LaRochelle contacted him a couple of days before school started and told him that he was assigned to teach two world history classes for tenth graders and 4 CCF classes for ninth graders. He was not given a course outline or syllabus for the world history class, so he collaborated with two history teachers who referred him to a student-edition textbook in the library. The librarian issued him his own copy in October 2021. He was surprised that he was assigned to teach CCF, and he was told there were “no resources” for CCF but they would be forthcoming. Dr. Tejeda and Mr. LaRochelle arranged for ice breakers during the first few days of school in the CCF classes. The CCF teachers were encouraged to do activities that promoted student interaction like musical chairs. There was no textbook for CCF, but in the second week of school, the CCF lead, Ms. Winston, provided a “pacing guide” that was interactive and “cool.” The CCF classes were also taught by four other teachers. Ms. Winston told the CCF teachers they could use “supplemental materials” or change the pacing guide if they wanted. He spoke to Dr. Tejeda about supplementing the CCF syllabus with a financial literacy component. In his mind, the CCF class was about “life skills” and “decision-making all together.”

52. Concerning the allegations of references to religion, respondent testified he assigned the parable of the Good Samaritan in August 2021 because he wanted students to learn about biases and working with those we sometimes do not want to work with. He explained it was a story about a traveler who was beaten and the first and second persons who walked by were professionals who did not help, but the third person helped and he was the Good Samaritan. He also explained the Pharisees and how Jesus said, "I should love my neighbor as I love myself." He discussed the parable with all six of his classes, but he did not grade the assignment. He told Dr. Tejeda that he did not share a Bible verse about the parable because it "turns out it's become a secular parable and we have a Good Samaritan law today." She told him to not use religious materials or religious connotations in class. He did not believe he was promoting religion by promoting a parable. In November 2021, respondent showed a VeggieTales video to his CCF classes because he thought it had to do with "life decision making." The video was about Esther who was one of the wives of the king and she was Jewish, but the king was encouraged to "get rid of the Jews" and she had to decide if she would "violate the rules of her position and talk to the king." He encouraged the students to take notes so they could reflect on a personal decision they made that "they felt was a big deal." A few days later, Dr. Tejeda told him that he did not follow her directive to not use any religious materials and VeggieTales was considered religious. He told her that he did not think he was encouraging anything religious and he "had not put enough thought about the video" and he felt terrible and would not do it again.

53. On cross-examination, respondent was asked about a conference summary from Pinacate, dated August 15, 2017, where he was given a directive to not use religious resources without prior administrative approval. He recalled meeting with Dr. Tejeda in August 2021 when he was given a verbal directive to not use religious

materials in class after giving an assignment about the parable of the Good Samaritan. He testified the parable is now secular and he did not refer to the Bible. However, the District's counsel read the Good Samaritan parable and played the VeggieTales video about Esther into the record, to show they derive from the Bible. The District's counsel also played two videos recorded by student S.B., dated August 19, 2021, of respondent speaking to his class about God giving a blessing to the shepherd boy in the story of David and Goliath and saying, "God trust in me – will not forsake you."

54. Concerning the reference to politics in class, respondent testified that he utilized PragerU, two to three times, for a basis of discussion in class, and PragerU is an organization that is conservative. He used a PragerU post about presidents and their impact, and compared them to today and "shifts" in "ideas." He found this post useful for his class curriculum. He testified the PragerU post about President Kennedy fit into the District's course of study for world history, section 10.1.2. He recalled discussing President Biden's administration's consideration of a vaccine passport was a "similar idea" to Hitler's regime requiring Jews to carry "papers to travel." He was there to "encourage" his students "to think" and "not what to think." He discussed some people believe the intent of the U.S. military is to be a "well-oiled killing machine." He does not recall the curriculum because he no longer has access to the book, but he referenced section 10.7.3 of the course of study. He testified, "I do not myself believe the military is a well-oiled killing machine."

55. Further on cross-examination, the District's counsel played a video taken by a student of respondent who had told his class that the U.S. military is a "well-oiled killing machine," and the recording audio taped him saying, "Take people and make then the device of evil for other people . . . that's the idea." When asked why he told

Dr. Tejeda that he did not believe he called the U.S. military a “well-oiled killing machine,” he replied only a short clip was played and it “depends on the context.”

56. Concerning allegations of certain conversations about COVID-19 and the vaccine in class, respondent testified he told students that the COVID-19 vaccine was being referred to as “the juice” and “the jab.” He discussed the vaccine in world history class because it was in the “context of history” and in CCF class because it was in the “context of decision making.” He testified that he did not share his opinion, but encouraged students to explore this “really hot issue” of the vaccine, as some people “thought it was amazing” and “the other side [was] questioning it.” He did notice some kids were “visibly upset” when talking about the vaccine, and others were “starting to think about it.”

57. The District’s counsel also asked respondent on cross examination if he told students that getting the COVID-19 vaccine would make people sterile. He replied, “I did not make a statement the vaccine would make people sterile.” The District’s counsel then played a video by student S.B. wherein respondent is telling students that for “some people for your age, getting the vaccine is more of a challenge than getting sick.” He went on to tell his students, “Statistics are saying the vaccine is worse than getting COVID. Some studies [are] saying some kids are getting sterile – no babies for you.” In addition, when asked if he recalled the parent of A.D. stating her husband was a heart transplant recipient. He stated, “I don’t recall that.”

58. Concerning allegations of failure to comply with the face mask mandate and policies, respondent testified there were times in fall 2021 when he did not wear a face mask in class because he was struggling to breathe, his glasses would fog, and he had a “little anxiety.” He did not defy the directive by Dr. Tejeda to wear a face mask, but he would sometimes pull it down or put it on his ear so he could talk. He used

black face masks that were issued by LHS, but a student gave him a “gauze mask” that was easier to use and he used it until it decomposed. He never denigrated the use of face masks in the classroom, and he required his students to wear them in class.

59. Respondent was asked why, again on cross, at a meeting in November 2021, he did not tell Dr. Tejeda that he had trouble breathing or anxiety when wearing a face mask after students reported he was not wearing one or lowering it. He replied, at that meeting, he did not saying anything about trouble breathing or anxiety, but he had mentioned it to her at a meeting in August 2021. However, the District’s counsel cited a conference summary in September 2021 regarding his failure to wear a face mask, and that he never contacted the District’s human resources office to discuss his concerns about hyperventilating, breathing, or anxiety.

60. Concerning allegations of failure to maintain gradebooks in a timely manner, respondent testified he occasionally, at least every six weeks, he maintained his gradebooks. He stated, “I hate to admit it – I was not aware of a guideline.” He learned about the gradebook guideline after Dr. Tejeda gave him a written reprimand in December 2021. He found it challenging because he was “trying to get the grades in one application and put them in another.” Just before Thanksgiving break, another teacher told him about a way for grades in Canvas to sync to the gradebooks. He then was placed on leave from November 29, 2021, until the beginning of January 2022, and did not have his District-issued laptop to enter grades. When he returned in January 2022, there was “not much” in his gradebooks. He started looking for the assignments in Canvas and Google Classroom and entered what he could find. He was on campus for 13 to 14 days before he was placed on leave again in February 2022. On cross-examination, respondent acknowledged that before Dr. Tejeda gave him a written reprimand about his gradebooks in December 2021, he never told her that he

was having difficulties entering grades in Infinite Campus. He acknowledged that he had become aware of the other way to enter grades through Canvas.

61. Concerning the allegations of grooming/inappropriate boundary invasions and displaying inappropriate content and personal social media content with students, respondent testified as follows:

62. Regarding the incident involving "Philosophy of Oral Sex" and the Promethean Board, on November 29, 2021, respondent was teaching a lesson about Freud. He had no experience with Promethean Boards before working at LHS. He attended a 10-minute session on how use them at the beginning of the school year. A tech employee, Pierre, had told him the Promethean Board could be accessed by logging into your Google account or by projecting your computer screen to the Promethean Board. He was using his District-issued laptop and tried to project his computer screen, but it kept dropping out. Pierre had mentioned that teachers were using cables to project their screens, but a glitch was happening. So, respondent logged into his Google account and he was able to open the Promethean Board. He brought up YouTube on his screen and went back to his desk. He was not aware there was a recommendation on the screen for a video titled, "Philosophy of Oral Sex." He heard some students snickering or laughing. A student indicated to him that "something" was on the Promethean Board, so respondent pushed an "X" at the top right of the screen to close YouTube. He did not know exactly what was on the Promethean Board until Dr. Tejeda called him to her office and showed him the photo a student had taken. He never played the "Philosophy of Oral Sex" video to the class or talk about it because that would not be appropriate. He was not aware that any student was upset at what they saw, until hearing the students' testimony at this

hearing. He stated, "I feel it's devastating it happened, to hear the testimony of how troubling it was to see that . . . it just hurt my heart."

63. The District's counsel showed respondent a photo taken by a student of his Promethean Board with the YouTube video recommendation of "Philosophy of Oral Sex." Respondent confirmed the laptop that connected to the Promethean Board was his District-issued MacBook. When asked if he viewed pornographic material on his District-issued laptop, he answered, "No." When asked if he used DuckDuckGo.com as a search engine on his District-issued laptop, he answered, "Yes." DuckDuckGo.com allows for internet searches to not be tracked. When asked about the District's Educator's Handbook section titled, "Internet Access & Use," respondent replied that he did not know his use of DuckDuckGo.com violated this section and stated, "When I used it, I wouldn't know that I was not complying with the procedures and systems." He also replied that "Philosophy of Oral Sex" was not on his computer, but "came up on the Promethean Board."

64. Regarding his comments to students about being able to tie a cherry stem with his tongue and being a good kisser, respondent testified there was a school dance coming up and the Associated Student Body (ASB) director asked him to promote the dance. So, he shared with his students a story about the one dance he went to in high school, and how he and his friends were at a fancy restaurant and he made an ice-breaker comment about being able to tie a cherry stem with his tongue. On cross examination, respondent stated that he recalled telling this story to his students, but he "did not recall the circumstances."

65. Regarding his personal email address of BadDaddy@gmail.com, respondent testified that the moniker "Bad Daddy" started when he first told his daughter, "no," and she called him, "Bad Daddy." His second daughter called him the

same thing, so he embraced the moniker. He did not use his BadDaddy@gmail.com address during class, and instead used his District-issued email address. On cross-examination, the District's counsel asked about his Instagram username, "BadDaddy," being displayed on the Promethean Board for students to see. Respondent replied that a male student contacted him through Instagram and wanted to follow him, but he told the class that was not appropriate. He called another student reaching out to him on Instagram. He believes he had two or three Instagram accounts.

66. Regarding Maslow's Hierarchy of Needs, respondent testified he assigned CCF homework about this theory to explain that people have certain needs including sex. He clarified to the students that "reproduction meant sex." He asked the students to "form an opinion about what they thought about Maslow's theory."

67. Regarding the allegation of him staring at students for long periods of time, respondent testified that he never engaged in the practice of staring at female students. He was born with amblyopia in his left eye, known as "lazy eye," and he had three surgeries as a child to correct his eye tracking. His left eye often does not track correctly. He had Pinacate students over the years ask if he was starting at them, but none of his LHS students asked him, so he never explained it to anyone at LHS. Mr. Hilton told him that students reported they believed respondent had been staring at them. He explained his condition of amblyopia to Mr. Hilton, but Mr. Hilton "seemed unfazed." Respondent submitted a letter into evidence from his optometrist, Bradley Sirois, O.D., who wrote that because of amblyopia, respondent had surgeries to align his eyes "so they both look at the same object at the same time" and "other people may feel like [respondent] may or may not be looking at them." On cross-examination, respondent acknowledged that he had never asked the District for an accommodation related to his vision concerns.

68. Regarding the allegations of complimenting and/or inappropriately engaging with female students, respondent testified the following: He never moved seating for female students to sit next to him. He did not compliment female students about their "physical appearance," but if their style stood out, he gave "affirmations." There was a focus on being "successful" and "dressing for success" is encouraged. He did not have female "favorites" in class. He complimented Y.H. about her clothing because she had a "distinctly different style than other students." Her style was "very bold" and "almost like stuff that you'd see models wear on a runway." He never told Y.H. that she looked pretty. He did compliment her when she wore a particular pair of pants that flared and were shorter than bell bottoms. He never touched any students on their shoulders. He never told students that women should be "presentable" and wear high heels and makeup. He did have a conversation with Y.H. about how people used to be more formal and men wore suits and women wore dresses and heels. He never had a sexual interest in any of his students. He never offered B.C. or any student to have coffee with him. He thinks that B.C. asked him for a cup of coffee, and he told her if he fixed the coffee machine, she could have a cup of coffee. He never got the coffee machine fixed. He never had an interest in having a personal relationship with B.C. He had an email correspondence with B.C. where she called herself his "favorite student," and he replied to her and called her his "favorite student" but not in a "personal way."

69. Respondent acknowledged in response to a question from District's counsel that he completed the annual and mandatory training by Keenan on grooming/inappropriate interactions with students. He was asked about the "multiple female students" who reported he complimented them about their style of dress and when they wore less clothing. When asked about Y.H.'s assertion that she stopped

wearing regular bras and started wearing sport bras because respondent stared at her cleavage, he stated that he was not aware of this prior to her testimony.

70. Regarding the alleged incident of grabbing, walking behind, and moving his body against B.C., respondent testified that he never touched B.C. in any way and the alleged incident did not happen. On cross-examination, respondent was asked about his responses in a meeting with Dr. Tejeda on February 3, 2022, when he reported that he had “no recollection of that happening” and he asked if he had to go home again.

71. At the hearing, respondent testified the last teacher evaluation he received was on March 3, 2020, when he was teaching eighth grade at Pinacate. It was a “successful” evaluation. He testified about his “letters of affirmation” at Pinacate. These were from students, undated; and various colleagues including a rookie teacher who appreciated his guidance, undated; a history department chair who thanked him for “another great year,” undated; an athletic director who thanks him for coaching the girls’ volleyball team, undated; a teacher who observed strategies he used in his class in 2001; and other teachers, in 2019 and undated. On cross-examination, respondent testified that staff were encouraged to submit letters of affirmation.

72. In conclusion, respondent testified he hoped to have “cleared things up long before it got to this point.” It has made him self-evaluate what he does and the impact he has in the classroom. He understands there are “a lot of variables and factors” that may have been “received in a way” he did not intend. He is human. He regrets some of the things he said and did. He can use “some self-reflection and some professional guidance” to make sure he does not use references or ideas that are not useful and helpful. He has pursued such professional guidance and continues to do so. He has taken for granted his opportunity as an educator. He will “take it much more

seriously," "follow the rules," and not deviate from the curriculum and be compliant. He is troubled by what he heard in testimony from students, and he would "never endanger students or reduce or take away their safety." He testified, "I categorically deny that I ever had the intent to touch . . . or just approach any student in anything other than an educational purpose." He spent his whole life being a role model for his own children and to be here today is "terrible." He is sorry and stated, "I'd like to say more . . . forgive me, it's such a big deal for me . . . thank you for bearing with me . . ."

TESTIMONY OF RESPONDENT'S SUPPORTING WITNESS

73. The following is a summary of the testimony of David Siurek. He is a long-time friend of respondent. They met in 1992 when they were in college and both worked at a health food store. He works as a detective supervisor with the Los Angeles Police Department. He and respondent were in each other's weddings and continue to be friends. They know each other's wives and have daughters who are about the same age. His daughters are ages 22 and 19. He has no reason for concern about respondent's behavior around his daughters. If he did, he would not be a character witness. He has never doubted respondent's truthfulness. He described respondent as "completely honest, trustworthy, and forthcoming." He does not believe respondent has exhibited any characteristics of grooming. He never felt respondent imposed religious beliefs upon him. He met with respondent in 2022 and respondent told him about the allegations.

TESTIMONY OF RESPONDENT'S EXPERT WITNESS - DR. BLAK

74. The following is a summary of the testimony of Richard Blak, Ph.D., a designated expert witness who testified on behalf of respondent. He earned his Bachelor's, Master's, and Doctorate degrees in psychology at Wayne State University.

He became a licensed clinical psychologist in Michigan in 1979, and in California in 1981. In his clinical practice, he diagnoses and treats individuals with mental disorders. He also works as a forensic psychologist for legal matters where he evaluates individuals for competency, not guilty by reason of insanity, sexual offense upon minors under age 14, offenders to be released into to the community, and evaluations for fitness for duty. He has testified in more than 250 cases in Superior Court and federal court. He has conducted about 750 mental evaluations pursuant to court order, and about 15 percent of those were for sexual predators. He has testified in one other case before the Commission in 2020. When he conducts an evaluation, he performs a mental status examination wherein he meets face-to-face and he reviews the background information provided by the individual, and he conducts psycho-metrics that consist of psychologist tests to establish a treatment plan and modalities.

75. Dr. Blak testified that grooming behaviors are a "relatively new concept," and grooming is different from predatory and sexual offending behaviors. Grooming seems to be particular to teachers and has "different definitions" that include engaging in behavior that is secretive or where trust comes into play, testing the limits of trust, and a person being groomed will value the relationship. Dr. Blak stated, "Behavior might look like grooming, but might not be the intent of the person engaging in that behavior." He added grooming involves "inappropriate manners with the ultimate intent to eventually have a sexual kind of relationship with a target." Dr. Blak referenced Penal Code section 288 for molestation of minors regarding lewd and lascivious acts, and stated the Penal Code does not reference grooming.

76. Dr. Blak evaluated respondent on November 7, 2022, in a face-to-face interview and reviewed a background questionnaire completed by respondent. Upon

mental status examination, respondent, who is 56 years old, was found to be initially restrictive, he had situational stress in day-to-day functioning, and a normal affect.

77. Upon Minnesota Multiphasic Personality Inventory-3 (MMPI-3) testing, Dr. Blak found that respondent was not suffering from any major mental disorder, although he was diagnosed with a "fairly subtle" adjustment disorder due to some anxiety and mild depression related to stress from being off work and going through these hearings. Respondent's MMPI-3 testing was elevated in RC6 because he is being charged with violations and "he believes that people are out to do him harm."

78. Upon Millon Clinical Multiaxial Inventory-III (MCMI-III) testing, Dr. Blak found respondent had a "schizoid personality style" but "not necessarily a diagnosis." He explained in the Diagnostic and Statistical Manual of Mental Disorders (DSM), an individual can have "features or characteristics" that do not reach a degree that impairs in significant ways, and the individual "[does not] deserve the diagnosis, but can have that particular style." He explained "a style may become problematic if it interferes" with day-to-day life. Dr. Blak stated, "These types are difficult to treat because they are not willing to change their style." Respondent had a "moderately elevated scale on schizoid" and compulsive behavior. He had a reliable self-image. Respondent was not overly critical of himself, and saw himself as capable and doing a good job, which does not mean that he picks up on subtleties or social cues.

79. Dr. Blak was asked if the following alleged conduct by respondent is evidence of grooming: Displaying a video recommendation on YouTube of "Philosophy of Oral Sex" and telling students he can tie a cherry stem with his tongue: Dr. Blak replied, "No." Moving a female student "to the side": Dr. Blak replied respondent denied touching B.C. and had no recollection of passing/touching B.C. in class, and while this might be an indication of grooming, it would not lead to the

determination that he is a groomer. Telling a female student she "looks pretty" or "I like your pants": Dr. Blak replied this does not indicate in itself that respondent is a groomer, and respondent was thinking of connecting her with another teacher. Female students reporting respondent was staring at them: Dr. Blak replied respondent has an eye condition causing him to look like he is staring at somebody, and staring is a "matter of perception." Relating personal information about his daughters and wife: Dr. Blak replied that "sharing private information is a touchy topic", but he "does not think it says whether respondent is a groomer or not." Telling female students they should be presentable and wear high heels: Dr. Blak replied this might be grooming behavior because respondent is discussing his preference as to how a female should present herself and what he finds attractive, but he needs to look at other variables and behaviors. Discussing Maslow's Hierarchy of Needs and "sex": Dr. Blak replied this is about "affiliation not necessarily sex" and procreation rather than sex. Students remarking that respondent is weird: Dr. Blak replied this does not indicate respondent is a groomer, but is consistent with his findings about respondent's personality style. Dr. Blak found no evidence respondent is a groomer or engaged in grooming behavior, and he found no indication respondent is a pedophile or had a particular preoccupation with children.

80. On cross-examination, Dr. Blak testified that the display of the video recommendation for "Philosophy of Oral Sex," was "inappropriate" in a classroom and whether respondent was aware of it or not, it is "dangerous to the class" because the students "might certainly explore the reference." Dr. Blak testified he had one client who was accused of grooming behavior, but in his deposition, he stated he never had a patient that was a groomer. He stated his scholarly studies were 32 years ago and there were "no grooming issues back then." He has "kept up with the science of psychology as it relates to forensic issues, but not specifically with reference to

grooming.” The behaviors of grooming have “been around forever,” but he has not paid “particular attention” to the “particular focus” on grooming in the last 10 years or attended training regarding grooming. He has not read any journal articles relative to groomers versus non-groomers.

81. Continuing on cross-examination, the District’s counsel asked Dr. Blak about his report that states, “Investigator Shakeshaft 4/5/2022, studied hundreds of cases of alleged sex abuse with teachers and did not find any evidence of an educator who groomed a student.” The District’s counsel asked Dr. Blak if this study is the same as the publication titled, “Educator’s Sexual Misconduct,” by Charol Shakeshaft, M.D., which cites to grooming cases from more than 10 years ago. Dr. Blak testified she is “to some degree a reliable source” about grooming.

The District’s Rebuttal Argument

82. The following is a summary of the testimony of Charol Shakeshaft, Ph.D., who was not called as an expert witness, but as a rebuttal witness for the District. The District submitted Dr. Shakeshaft’s 34-page curricula vitae to identify her as the author of the research cited by Dr. Blak, and not to qualify her as an expert witness.

83. Dr. Shakeshaft testified that she authored the publication titled, “Educator’s Sexual Misconduct.” She has studied hundreds of cases involving sex abuse and grooming where there has been a conviction. In almost every case she has studied, there has been a finding of grooming and it is the “overwhelming pattern.”

84. Dr. Shakeshaft was asked about Dr. Blak’s report where he wrote, “Investigator Shakeshaft 4/5/2022, studied hundreds of cases of alleged sex abuse with teachers and did not find any evidence of an educator who groomed a student.”

Dr. Shakeshaft replied, "I don't know where this would have come from . . . it isn't accurate at all." She testified that she also did not know what "4/5/2022" refers to.

85. In conclusion, Dr. Shakeshaft testified that it is "almost always that the educator grooms the student before their contact."

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. A school district seeking to dismiss a permanent certificated employee from employment bears the burden of proof by a preponderance of the evidence. (*Gardner v. Comm'n on Professional Competence* (1985) 164 Cal.App.3d 1035; *Bevli v. Brisco* (1989) 211 Cal.App.3d 986.) The term preponderance of the evidence means "more likely than not." (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1388.)

Applicable Law

2. A permanent employee may be dismissed for cause only after a dismissal hearing. (§§ 44932, 44934, & 44944.)

3. When a school board recommends dismissal for cause, one may only vote for or against the dismissal; the Commission may not dispose of a charge seeking dismissal by imposing probation or an alternative sanction. (§ 44944, subd. (d)(1).)

4. A school district may discipline a permanent certificated employee for "immoral" conduct. (§ 44932, subd. (a)(1).) In *San Diego Unified School District v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1466, the court explained:

A teacher may . . . be dismissed for "[i]mmoral or unprofessional conduct." (§ 44932, subd. (a)(1).) "The term "immoral" has been defined generally as that 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.'" (*Board of Education v. Weiland* (1960) 179 Cal.App.2d 808, 811, 4 Cal.Rptr. 286.) Moreover, the definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, upon whom are imposed "responsibilities and limitations on freedom of action which do not exist in regard to other callings." (*Board of Trustees v. Stubblefield, supra*, 16 Cal.App.3d at p. 824, 94 Cal.Rptr. 318.)

5. Upon the charge of "immoral conduct," a district may immediately suspend the employee from his or her duties. (§ 44939, subd. (b).)

6. "A permanent employee shall not be dismissed except for one or more of the following causes: . . . dishonesty . . . " (§ 44932, subd. (a)(4).)

7. A permanent certificated teacher may be dismissed for "[p]ersistent violation of or refusal to obey the school laws of the state or reasonable regulations

prescribed for the government of the public schools by the state board or by the governing board of the school district employing him or her." (§ 44932, subd. (a)(8).)

8. A school district may discipline a permanent certificated employee for "evident unfitness for service." (§ 44932, subd. (a)(6).) That term means, "clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies." (*Woodland Joint Unified School Dist. v. Comm'n on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) The term "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 court held that the *Morrison* factors "must be analyzed to determine, as a threshold matter, whether the cited conduct indicates unfitness for service." (*Id.* p. 1445.) As the court in *Woodland* explained, "[i]f the *Morrison* criteria are satisfied, the next step is to determine whether the 'unfitness' is 'evident'; i.e., whether the offensive conduct is caused by a defect in temperament." (*Ibid.*)

Applicable District Policies and Government Mandates

9. Board Policy 4040 titled, "Employee Use of Technology" provides:

The Governing Board recognizes that technological resources enhance employee performance by offering effective tools to assist in providing a quality instructional program; facilitating communication with parents/guardians, students, and the community; supporting district and school operations; and improving access to and exchange of information . . .

Employees shall be responsible for the appropriate use of technology and shall use district technology primarily for purposes related to their employment. . . .

Employees shall not use district technology to access, post, submit, publish, or display harmful or inappropriate matter that is threatening, obscene, disruptive, sexually explicit, or unethical or that promotes any activity prohibited by law, Board policy, or administrative regulations. . . .

Harmful matter includes matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest and is matter which depicts or describes, in a patently offensive way, sexual conduct and which lacks serious literary, artistic, political, or scientific value for minors. . . .

Inappropriate use of district technology may result in a cancellation of the employee's user privileges, disciplinary action, and/or legal action in accordance with law, Board policy, and administrative regulation. . . .

10. Board Policy 4119.21, titled, "Professional Standards" provides:

The Governing Board expects district employees to maintain the highest ethical standards, behave professionally, follow district policies and regulations, abide by state and federal laws, and exercise good judgment when interacting with students and other members of the

school community. Employee shall engage in conduct that enhances the integrity of the district, advances the goals of the district's educational programs, and contribute to a positive school climate. . . .

Inappropriate employee conduct includes, but is not limited to:

1. Engaging in any conduct that endangers students, staff, or others, including, but not limited to, physical violence, threats of violence, or possession of a firearm or other weapon. . . .
2. Engaging in harassing or discriminatory behavior towards students, parents/guardians, staff, or community members, or failing or refusing to intervene when an act of discrimination, harassment, intimidation, or bullying against a student is observed. . . .
3. Physically abusing, sexually abusing, neglecting, or otherwise willfully harming or injuring a child.
4. Engaging in inappropriate socialization or fraternization with a student or soliciting, encouraging, or maintaining an inappropriate written, verbal, or physical relationship with a student.
5. Possessing or viewing any pornography on school grounds, . . .

6. Using profane, obscene, or abusive language against students, parents/guardians, staff, or community members. .

..

[¶] . . . [¶]

9. Being dishonest with students, parents/guardians, staff, or members of the public, . . .

10. Divulging confidential information about students, district employees, or district operations to persons or entities not authorized to receive the information. . . .

11. Using district equipment or other district resources for the employee's own commercial purposes or for political activities.

12. Using district equipment or communication devices for personal purposes while on duty, . . .

[¶] . . . [¶]

Any reports of employee misconduct shall be promptly investigated. Any employee who is found to have engaged in inappropriate conduct in violation of law or Board policy shall be subject to disciplinary action and, in the case of a certificated employee, may be subject to a report to the Commission on Teacher Credentialing. . . .

11. Board Policy 5137 titled, "Positive School Climate" provides:

The Governing Board desires to enhance student learning by providing an orderly, caring, and nurturing educational and social environment in which all students can feel safe and take pride in their school and their achievements. The school environment should be characterized by positive interpersonal relationships among students and between students and staff. . . .

All staff are expected to serve as role models for students by demonstrating positive, professional attitudes and respect toward each student and other staff members. Teachers shall use effective classroom management techniques based on clear expectations for student behavior. . . .

The district's curriculum shall include age-appropriate character education which includes, but is not limited to, the principles of equality, human dignity, mutual respect, fairness, honesty, and citizenship. . . .

12. The Perris Union Educators Handbook, section V, titled "Student Evaluation" provides employees shall maintain grade books to ensure they are current and accurate.

13. The District publication "Risk Management – Partners in Safety 2021-2022," sections titled, "Appropriate Adult-Student Interactions," "Child Abuse Prevention Program; Grooming," and "Staff & Student Relationships," provides employees shall not engage in unlawful or inappropriate interactions with students

and avoid boundary-blurring behaviors, and describes the “grooming process” by school employees, on-site and off-site behavioral boundaries, electronic and social media boundaries, and the definition of grooming.

14. During most of the 2021-2022 school year, the California Department of Public Health (CDPH) issued a mandate titled, “Guidance for Use of Face Coverings,” which stated that “[m]asks are required for all individuals in the following indoor settings, regardless of vaccination status . . . indoors in K-12 schools, childcare.”

Evaluation

15. The Commission must resolve two issues in this case. First, it must determine whether respondent engaged in the conduct alleged in the Statement of Charges. If so, it must then determine whether that conduct indicates that respondent is unfit to teach.

RESPONDENT’S CONDUCT

16. The District alleged respondent engaged in multiple acts of misconduct.

17. As set forth in Factual Findings 6 through 85, respondent engaged in the following grooming/grooming behavior/inappropriate boundary invasions and/or displaying inappropriate content and/or inappropriate personal social media content with students: Respondent accessed his personal YouTube account on his District-issued laptop and used a Promethean Board that displayed a video recommendation titled, “Philosophy of Oral Sex,” to his class and displayed his personal YouTube username that was a variation of “BadDaddy.” He accessed his personal Instagram account on his District-issued laptop and used a Promethean Board that displayed his personal username that was a variation of “BadDaddy” and allowed for students to

contact him personally on this social media platform, and displayed his personal Instagram conversations with "sex bots." He accessed his personal YouTube and Instagram accounts on his District-issued laptop for class assignments/lessons including about Maslow's Hierarchy of Needs and he referenced sex as being one of the needs. He accessed his personal YouTube and Instagram accounts on his District-issued laptop and used the Promethean Board that displayed videos recommendations about how to please women in bed and about the different types of sex. Respondent shared a personal story to his class about his ability to tie a cherry stem with his tongue and that meant he was a good kisser. He moved the seating for some female students so they were seated very close and/or next to his desk and engaged in long conversations with them that were often personal in nature as he shared personal information about his wife including references that his marriage was not stable and she was always asking him to do things. Respondent looked at female students in ways that made them feel uncomfortable and stared at them when they wore clothing that was more revealing and/or showed their cleavage, which caused one female student to change her clothing habits from wearing a regular bra to a sports bra. The female students and other witnesses testified they did not believe that respondent had a lazy eye and his staring did not appear to be caused by any medical condition, but rather it was intentional. He often commented on female students' attire when they were wearing more revealing clothing and would not comment on their clothing when it was not more revealing. He treated female students better than male students, and he sometimes demeaned male students by commenting negatively about their hair and/or ignored their requests for help. Respondent touched the shoulders of female student Y.H. Respondent grabbed female student B.C. by her hips, moved his body behind hers while she was leaning over a desk and near a wall, and rubbed his upper thigh area against her back side and buttocks. He did this despite there being other

paths for him to walk to where he was going. The female student's testimony about the grabbing/rubbing incident was corroborated by her statements and statements of staff on the same day of the incident and a male student's statement who witnessed the incident.

18. In addition, the totality of the evidence is given more weight than the testimony of expert witness Dr. Blak whose opinion was not consistent with the evidence discussed above. Dr. Blak's opinion was found to have a glaring discrepancy when Dr. Shakeshaft testified briefly as a rebuttal witness, not as an expert witness, and testified that Dr. Blak's reference to her study that no teachers have been found to have engaged in grooming was gravely inaccurate because, to the contrary, as in almost every case she studied involving teachers, there was an "overwhelming pattern" of grooming. Furthermore, Dr. Blak referenced her as "Investigator Shakeshaft" instead of "Dr. Shakeshaft," and Dr. Blak referenced a date in his citation to her publication that she had no idea what and/or why he cited that date.

19. Respondent also engaged in the following misconduct related to politics, religion, and the COVID-19 vaccine and face masks: Respondent used his personal Instagram and YouTube accounts on his District-issued laptop to access videos and images that were not part of the curriculum for his CCF and/or world history classes and/or not approved by LHS administration that included videos with religious content by VeggieTales, images/diagrams with political content from PragerU and other resources that referenced comparisons of President Biden and Hitler and discussed President Trump and liberals and conservatives, and COVID-19 "data" from resources like PragerU and other social media resources that caused students to become very uncomfortable in class and/or request to be removed from respondent's class.

20. When considering all the evidence, the Commission finds that respondent's conduct establishes cause to dismiss on the basis of immoral conduct pursuant to Education Code section 44932, subdivision (a)(1).

21. As set forth in Factual Findings 6 through 85, respondent engaged in the following conduct that was dishonest: Respondent, at times and often, replied that he either did not recall, had no recollection, or needed more "context" to answer questions throughout the District's investigations. When he was asked about why he was diverting from class curriculum, respondent told Dr. Tejeda that he did not have enough curriculum even though he, and the other CCF teachers, were given the CCF curriculum guide created by Ms. Winston and the CCF syllabus, and he had the resource of help from the other CCF teachers. Respondent used DuckDuckGo.com on his District-issued laptop to bypass District policies on accessing inappropriate content on the internet and his personal social media accounts. Respondent claimed he had trouble with the grading software as the reason why he was not maintaining his gradebooks, yet he did not ask for assistance until several weeks into the school year and only after he was questioned by Dr. Tejeda about his gradebooks when parents complained. Respondent testified he did not call the United States military a "killing machine" in class, yet a video recording by a student indicated he did make that statement. When respondent was given an oral directive, in the beginning of the school year, about needing to wear a face mask, his reason for non-compliance was that his glasses fogged up and he did not mention having trouble breathing or anxiety until months later. When considering all the evidence, the Commission finds respondent's conduct establishes cause to dismiss on the basis of dishonesty pursuant to Education Code section 44932, subdivision (a)(4).

22. As set forth in Factual Findings 6 through 85, respondent engaged in the following pattern of misconduct despite warnings from the District: Respondent continued to discuss religion in class despite being told in verbal and written directives to not do so. Respondent continued to engage in inappropriate interactions with students after he was given a directive and placed on leave for displaying a YouTube video recommendation of Philosophy of Oral sex, and he returned from leave and within two weeks he had inappropriate physical contact with student B.C. and it was discovered that he engaged in other inappropriate contact and interactions with other female students. In addition, respondent continued to not wear a face mask when indoors with students despite being seen violating the face mask mandate by Mr. Skorpanich in the first week or two of the school year, and continuing to not wear or not properly wear a face mask or wear a mesh face mask throughout the school year. Respondent did not maintain his gradebooks, in an ongoing violation, despite being informed about the gradebook policy in staff meetings, and causing students' grades to plummet overnight from A's to D's and F's at the end of the semester. When considering all the evidence, the Commission finds respondent's conduct establishes cause to dismiss based on his persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the state board or by the governing board of the District pursuant to Education Code section 44932, subdivision (a)(8).

FITNESS TO TEACH – *MORRISON* FACTORS

23. 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 listed the following factors as relevant when determining whether a teacher’s conduct indicates that he is fit to teach:

[1] the likelihood that the conduct may have adversely affected students or fellow teachers, [2] the degree of such adversity anticipated, [3] the proximity or remoteness in time of the conduct, [4] the type of teaching certificate held by the party involved, [5] the extenuating or aggravating circumstances, if any, surrounding the conduct, [6] the praiseworthiness or blameworthiness of the motives resulting in the conduct, [7] the likelihood of the recurrence of the questioned conduct, and [8] 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. (*Id.* at pp. 229-230.)

As set forth below, when respondent’s conduct is considered in light of the *Morrison* factors, the District established that he is unfit to teach.

Adverse Effect on Students or Fellow Teachers

24. “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 children coming under her care and protection.” (*Bd. of Education v. Swan* (1953) 41 Cal.2d 546, 552.) Respondent violated the District’s and students’ trust in him when he grabbed and rubbed himself against a female student and when he engaged in other inappropriate behaviors with other female students. This resulted in, among

other things, students not wanting to be in his class because they felt very uncomfortable, filing written statements with the counseling department and with Dr. Tejeda, and being transferred out of his class. One female student now struggles to trust other male teachers and does not want to be touched by male family members.

Degree of Adversity Anticipated

25. There is a substantial likelihood that respondent's conduct had a significant adverse effect on the students and teachers involved and those who observed his conduct.

Proximity or Remoteness in Time

26. When the facts are considered in their entirety, respondent's misconduct began the very first week of the 2021-2022 school year, at the beginning of August 2021, and continued almost continuously until he was placed on paid leave the second time in February 2022, and did not return. The events, in totality, are not remote.

Type of Teaching Certificate Held

27. Respondent held a single subject credential in social sciences. As a teacher, respondent is expected to display appropriate adult behavior. Instead, respondent engaged in ongoing inappropriate behaviors with female students, he inappropriately discussed religion, politics and the COVID-19 vaccine, and he failed to maintain class gradebooks that resulted in students' grades suddenly crashing to D's and F's towards the end of the semester. In all, respondent, exhibited a pattern of poor judgment for an educator of high school students.

Extenuating or Aggravating Circumstances

28. There are aggravating circumstances of respondent being repeatedly told to follow school laws and/or policies while he was teaching at LHS, yet he disregarded those verbal and/or written directives concerning his use of religious materials in class, his failure to wear or properly wear a face mask indoors when with students, and his inappropriate interactions with students.

Praiseworthiness or Blameworthiness of Motives

29. Respondent alone is to blame for his multiple instances of misconduct, and respondent knew or should have known his misconduct was in violation of school laws and/or District policies.

Likelihood of Recurrence

30. "Fully acknowledging the wrongfulness of [one's] actions is an essential step towards rehabilitation." (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) By failing to fully acknowledge his misconduct, in particular his inappropriate conduct with female students, respondent failed to demonstrate he has engaged in sufficient rehabilitation to establish he will not engage in similar misconduct in the future.

Potential Adverse Impact on Respondent's Constitutional Rights

31. Respondent did not present evidence or argue that his dismissal will have an adverse or chilling effect on his constitutional rights or the constitutional rights of any other teachers. The Commission finds such adverse impact unlikely.

CONCLUSION

32. When all the evidence is considered, the District proved it is more likely than not that respondent engaged in grooming and/or grooming behaviors due to his inappropriate contact with female students; he used his personal YouTube and Instagram accounts on his District-issued laptop to display inappropriate video recommendations and video/photo content that was sexual in nature, political, and/or religious; he inappropriately discussed religion, politics, and the COVID-19 vaccine in class; he used DuckDuckGo.com on his District-issued laptop to engage in encrypted searches and activity on the internet; he did not wear and/or properly wear a face mask; and he did not maintain his gradebooks in a timely manner. When all the *Morrison* factors are considered, the District established that such conduct demonstrates respondent's unfitness to teach children, under Education Code section 44932, subdivision (a)(6).

33. Consequently, the District's dismissal of respondent under pursuant to Education Code section 44932, subdivisions (a)(1), (a)(4), and (a)(6), and section 44932, subdivision (a)(8), is upheld.

//

//

//

//

//

//

ORDER

The determination of the governing board of Perris Union High School District in the Statement of Charges to dismiss respondent David Baker is upheld.

Accordingly, respondent David Baker is dismissed as a permanent certificated employee of Perris Union High School District.

DATE: June 5, 2023

Christopher K. Bourke
Christopher K. Bourke (Jun 5, 2023 08:16 PDT)

CHRISTOPHER BOURKE

Member

Commission on Professional

Competence

Dr. Matthew Rainwater
Dr. Matthew Rainwater (Jun 5, 2023 11:59 PDT)

MATTHEW RAINWATER, ED.D.

Member

Commission on Professional

Competence

Jami A. Teagle-Burgos

JAMI A. TEAGLE-BURGOS

Administrative Law Judge, Chair

Commission on Professional

Competence