

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

**In the Matter of the First Amended Petition to Revoke
Probation Against:**

JENNIFER G. MANOR GRAY, Respondent.

Agency Case No. 1-879785470

OAH No. 2022100635

PROPOSED DECISION

Administrative Law Judge Holly M. Baldwin, State of California, Office of Administrative Hearings, heard this matter on January 18, 2023, by videoconference.

Deputy Attorney General Christopher M. Young represented complainant Mary Vixie Sandy, Ed.D., Executive Director of the California Commission on Teacher Credentialing.

Respondent Jennifer G. Manor Gray represented herself.

The record closed and the matter was submitted for decision on January 18, 2023.

FACTUAL FINDINGS

Procedural History and Probation Conditions

1. Respondent Jennifer G. Manor Gray holds the following certification documents (credentials) issued by the California Commission on Teacher Credentialing (Commission): a Clear Multiple Subject Teaching Credential with General Subjects and English authorization, originally issued on February 10, 1993; a Clear Crosscultural, Language, and Academic Development Certificate, originally issued on February 27, 1995; and an Administrative Services Credential Certificate of Eligibility, originally issued on August 1, 2000.

2. An accusation was filed against respondent on October 31, 2019, alleging causes for discipline for unprofessional conduct, immoral conduct, addiction to the use of intoxicating beverages to excess, and an act of moral turpitude. Respondent had been working as a first-grade teacher. On November 27, 2017, on school premises during school hours and while respondent's students were present, the school principal noticed that respondent smelled strongly of alcohol. Respondent was removed from the classroom and police were called. A breath sample showed that her blood alcohol content was 0.30 percent, and she was arrested for being drunk in public.

3. Respondent signed a stipulated settlement in which she admitted the truth of all allegations and charges in the accusation. The Commission issued a decision and order effective October 16, 2020, in which respondent's credentials were revoked, the revocations were stayed, and respondent was placed on probation for a period of five years. Her conditions of probation include requirements to abstain completely from possession, consumption, or use of alcohol, cannabis, and controlled

substances (Condition 9); and to submit to bodily fluid testing for alcohol, cannabis, and controlled substances at the request of her probation monitor (Condition 10). Condition 2 requires compliance with all terms of probation. Condition 14 provides that if respondent violates any term or condition of probation, the Commission may refer the matter for filing of a petition to revoke probation, and after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline.

4. On August 5, 2022, complainant Mary Vixie Sandy, Ed.D., Executive Director of the Commission, issued a first amended petition to revoke probation. Complainant alleges that respondent has violated her probation by failing to abstain from alcohol, as evidenced by a positive alcohol test, and failing to submit to testing on four occasions.

5. Respondent filed a notice of defense, and this hearing followed.

Violations of Alcohol Abstinence and Testing Requirements

6. Stephanie Giannini, special investigator for the Commission, is respondent's probation monitor. As part of her monitoring duties, Giannini randomly contacts respondent to request that she submit a testing sample (which respondent must submit on the day it is requested), and receives the test results from the lab. Giannini testified credibly at hearing.

7. On September 15, 2021, Giannini called and emailed respondent, informing her that she was required to test that day. Respondent told Giannini that she could not get to the lab that day because she was the only person at her workplace, and she did not have her car. Giannini gave respondent permission to test the next day, September 16, 2021.

8. Respondent submitted a urine sample on September 16, 2021, which tested positive for alcohol metabolites. On October 15, 2021, Giannini sent respondent a notice of probation violation and informed her that the matter would be referred for filing of a petition to revoke probation.

9. Giannini attempted to contact respondent by telephone on the morning of December 1, 2021, to inform her that she was required to test that day. Respondent's voicemail box was full, so Giannini could not leave a voicemail message. Giannini followed up by sending an email to respondent. Respondent failed to test on December 1, 2021.

10. On December 3, 2021, respondent emailed Giannini, saying that her internet had been out of service for two days and she had just seen Giannini's December 1 email. Respondent said she was unable to drive due to a broken foot and that she had nobody available to give her a ride. She also stated, "I'm not working so paying for the test is a challenge." Giannini responded by email, telling respondent that moving forward she must test on the date requested. Respondent agreed.

11. On December 16, 2021, Giannini called respondent, informing her that she was required to test that day. Respondent told Giannini that she could not test that day because she was at Kaiser, had medical appointments, and was not released to drive. Giannini told respondent that she needed to test that day, and suggested that respondent ask the person who gave her a ride to Kaiser to take her to the lab, or arrange for a ride via Uber or Lyft. Respondent failed to test on December 16, 2021.

12. On December 22, 2021, Giannini sent respondent a notice of probation violation and informed her that the matter would be referred for filing of a petition to revoke probation.

13. On the morning of May 13, 2022, Giannini contacted respondent by voicemail and email, informing her that she was required to test that day. Respondent responded to Giannini via text message in the late afternoon, writing: "I was away from my phone and computer today and missed your message and your email. My apologies." Respondent failed to test on May 13, 2022.

14. On the morning of May 23, 2022, Giannini contacted respondent by voicemail and email, informing her that she was required to test that day. Respondent replied by email saying that she could not test that day because she was home sick and running a fever. Respondent failed to test on May 23, 2022.

Respondent's Additional Evidence

15. Respondent testified that she has the disease of alcoholism, and that she has "tried really hard" to stay sober and comply with her probation.

16. Respondent reports that she attends an Alcoholics Anonymous (AA) meeting every day at 6:00 a.m. via Zoom, and meets with her sponsor every two weeks. Respondent also attends online meetings for women in recovery.

17. Respondent did not dispute her positive alcohol test of September 16, 2021. However, she offered no explanation or information about the circumstances or length of a relapse, or steps taken to address it.

18. In her testimony, respondent reported that she had 225 days of sobriety as of the date of the hearing, implying a sobriety date of June 7, 2022. However, when later asked what her sobriety date is, she stated it was November 5, 2019. When asked to explain how a positive alcohol test in September 2021 was consistent with a sobriety date in November 2019, respondent did not do so. Respondent simply stated,

after a long pause, that it was “a negative choice” to not deal with life in a positive way. Respondent did not offer any evidence regarding her alcoholism recovery efforts other than her own testimony.

19. Respondent admitted failing to test on the four occasions alleged as probation violations (Factual Findings 9-11 and 13-14), as well as on September 15, 2021, the date that Giannini had excused (Factual Finding 7). Respondent stated that “life got in the way.” As a partial explanation, respondent stated that she worked as a porter at a car dealership from December 2020 to December 2021. She stated she was the only person at the worksite—this testimony is not entirely plausible. Respondent also stated that nobody at her workplace knew that she was required to submit to random testing, which is more suggestive of a motive to not request time off from work than of a lack of other staff to cover her duties.

20. Respondent is currently taking online courses to become a certified aromatherapist and life coach. She is also acting as a caregiver for her friend’s elderly mother and helping to care for her own parents.

21. Respondent stated she “possibly” may seek to use her teaching credential in the future if she is allowed to complete probation. Respondent explained that she worked hard to obtain her credentials, including getting a master’s degree in curriculum and instruction, and that she worked hard as an educator.

22. Respondent wants a chance to re-start her probation period and comply with her probation requirements.

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LEGAL CONCLUSIONS

1. Under Education Code section 44000 et seq., and California Code of Regulations, title 5, section 80000 et seq., the Commission is responsible for credentialing teachers in public schools in California, including issuing credentials and taking adverse action against applicants and credential holders. "Adverse action" includes the suspension or revocation of a credential. (Ed. Code, § 44000.5, Cal. Code Regs., tit. 5, § 80300, subd. (a).)

2. Complainant bears the burden of proving cause to revoke probation, by a preponderance of the evidence. (*Sandarg v. Dental Bd. of California* (2010) 184 Cal.App.4th 1434, 1441.)

3. Condition 14 of respondent's probation provides that if respondent violates any probationary term, after notice and opportunity to be heard, the Commission may set aside the stay order and impose the stayed discipline of revocation.

4. Respondent violated Condition 9 of her probation by failing to abstain from alcohol, as evidenced by a positive test for alcohol metabolites, which she does not contest. (Factual Findings 8 and 17.) Cause for revocation of probation has been established on this basis.

5. Respondent violated Condition 10 of her probation by failing to submit to biological fluid testing on four occasions. (Factual Findings 9-11 and 13-14.) Cause for revocation of probation has been established on this basis.

6. Respondent seeks to extend her probation period so that she can demonstrate compliance with her probation conditions. However, her record on

probation does not demonstrate a commitment to compliance with the testing requirement. Nor did respondent explain how she would be able to ensure in the future that the pressures of daily life do not interfere with testing as required. More troubling is respondent's failure to explain her positive alcohol test and her conflicting and confusing testimony regarding the current length of her sobriety, which reflect a failure to accept responsibility and suggest a lack of candor.

Given these circumstances, public protection requires revocation of respondent's credentials.

ORDER

The petition to revoke probation is granted. The stay of revocation is lifted and all credentials, certificates, and authorizations issued to respondent Jennifer G. Manor Gray are revoked.

DATE: 02/15/2023



HOLLY M. BALDWIN

Administrative Law Judge

Office of Administrative Hearings