

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

In the Matter of the Accusation against:

JEREMY LAMONT HENDERSON, Respondent

Agency Case No. 2-21482734

OAH No. 2022060457

PROPOSED DECISION

Debra D. Nye-Perkins, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference and telephone on December 5 to 7, 2022.

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

Ellen N. Doty, Attorney at Law, Rothschild, Wishek & Sands, L.L.P., represented respondent, Jeremy Lamont Henderson, who was present throughout the hearing.

Oral and documentary evidence was received. The record remained open to allow the parties to submit briefs related to respondent's motion to dismiss this matter based upon the statute of limitations. The matter was closed and submitted for decision on December 20, 2022.

PROTECTIVE AND SEALING ORDER

The names of the victim and a minor child in this matter are subject to a protective and sealing order. No court reporter or transcription service shall transcribe the actual name of the victim or minor child but shall instead refer to them by their corresponding letters as set forth in the Confidential Witness List marked and received into evidence under seal as Exhibit 19. To protect privacy and confidential personal information from inappropriate disclosure, a written Protective Order Sealing Confidential Records was issued. The order lists the exhibits ordered sealed and governs the release of documents to the public. A reviewing court, parties to this matter, their attorneys, and a government agency decision maker or designee under Government Code section 11517 may review the documents subject to the order, provided that such documents are protected from release to the public.

FACTUAL FINDINGS

Jurisdictional Matters

1. The commission is responsible for the credentialing of public school teachers, including issuing credentials and taking adverse action against applicants and credential holders. An "adverse action" means the denial of an application for a credential, a private admonition, or public reproof of a credential holder, or the suspension or revocation of a credential. (Ed. Code, § 44000.5.)

2. On January 9, 2017, the commission issued a Preliminary Education Specialist Instruction Credential to respondent; on July 31, 2017, the commission issued a Preliminary Single Subject Teaching Credential to respondent; on December 3,

2018, the commission issued a Clear Career Technical Education Teaching Credential to respondent (collectively hereinafter referred to as credentials). Documents received into evidence, show that the commission previously issued six different certifications to respondent, all of which have since expired. No evidence of any prior discipline of respondent's credentials was provided.

3. On July 2, 2021, the commission provided respondent with written notice that at its June 23-25, 2021, meeting, the Committee of Credentials (the committee), reconsidered and affirmed its finding of probable cause to recommend the revocation of respondent's credentials.

4. On February 15, 2022, Mary Vixie Sandy, ED.D., in her official capacity as Executive Officer of the commission, signed the accusation in this matter. The accusation contained three causes for discipline pursuant to Education Code section 44421, alleging unprofessional conduct, immoral conduct, and unfitness for service; and, one cause for discipline pursuant to sections 44421 and 44345, subdivision (e), alleging respondent had committed acts involving moral turpitude. The accusation also alleged factors in aggravation, including: respondent's misconduct was surrounded by or followed by bad faith, dishonesty or other violation of the law governing educators; and his misconduct significantly harmed a child trusted to his care and the public or educational system.

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

Respondent's September 24, 2019, Conviction

6. On September 24, 2019, in the Superior Court of California, County of San Diego, in Case No. SCD280826, respondent was convicted on his plea of guilty of violating Penal Code section 273.5, subdivision (a), corporal injury to a spouse and/or

roommate, a misdemeanor. As a result of this conviction, the court ordered respondent to successfully complete a domestic violence program and volunteer work, and sentencing was stayed for one year. Notably, on his plea form where respondent pled guilty to the charge, respondent admitted on September 24, 2019, as follows:

I willfully and unlawfully inflicted a corporal injury resulting
in a traumatic injury upon the mother of my child.

The same plea form was thereafter signed by the Judge of the Superior Court on September 24, 2019, with the following "Finding and Order" (emphasis added):

The Court, having questioned the defendant and
defendant's attorney concerning the defendant's plea of
Guilty/No Contest and admissions of the prior convictions
and allegations, if any, finds that The defendant
understands and voluntarily and intelligently waives his/her
constitutional rights; the defendant's plea and admissions
are freely and voluntarily made; the defendant understands
the nature of the charges and the consequences of the plea
and admissions; and there is a factual basis for the same.
The Court accepts the defendant's plea and admissions,
and the defendant is convicted thereby.

After respondent successfully completed the domestic violence program and required volunteer work, the court dismissed the case in its entirety.

7. The underlying circumstances of respondent's conviction were obtained partially from San Diego Police Department reports received into evidence pursuant to *Lake v. Reed* (1997) 16 Cal.4th 448, 461-464, which held that portions of a law

enforcement officer's report are admissible in an administrative proceeding over a hearsay objection. The underlying circumstances were also partially obtained from certified transcripts of testimony of witness and victim L.M. given under oath at the preliminary hearing in the Superior Court of California, County of San Diego, in Case No. SDC280826 and received in evidence.

On February 26, 2019, officers from the San Diego Police Department (SDPD) responded to a domestic violence radio call at approximately 10:00 p.m. When they arrived on scene of the report, officers proceeded to interview the victim L.M., as well as the victim's minor daughter J.M. The officers interviewed by L.M. and J.M., and L.M. and J.M. also provided testimony under oath regarding the events of that day. According to L.M., on that day she was driving J.M. to respondent's condominium in order for J.M. to retrieve her purse and belongings from respondent's condominium, where J.M. had stayed the weekend before. L.M. and respondent went to middle school and high school together and had been in a relationship for approximately three years, but they had ended the relationship approximately four years prior to February 26, 2019. L.M. informed the officer that J.M. was the daughter of respondent and L.M.,¹ and after L.M. and respondent ended their relationship, respondent continued to co-parent J.M. with L.M.

After they arrived at respondent's condominium, J.M. knocked on his door but got no answer. Ultimately respondent opened the door and let J.M. enter the condominium but left the door a bit ajar and L.M. stuck her foot in the door to keep

¹ Evidence established that respondent is not the biological father of J.M., but that respondent acted as co-parent of J.M. with L.M. during the applicable time period.

respondent from closing the door. L.M. attempted to enter the condominium, and respondent pushed L.M. out of the door. L.M. pushed past respondent and entered his condominium. L.M. noticed an iPad belonging to respondent's girlfriend and picked it up. According to L.M., respondent took the iPad out of her hands, grabbed her arm and hit her "in the head with an open hand" approximately 10 times. According to the statement L.M. gave to the officers, respondent "pulled the hood of [her] sweatshirt to drag [her] away, pushed [her] against the wall and strangled [her] with his left hand for five seconds." According to L.M., when respondent pushed her against a wall, a framed photo fell off the wall and broke. During the preliminary hearing, L.M. testified that after respondent hit her, he "body slammed [her] to the couch" by "wrapp[ing] his arms around [her] thighs" and "thr[owing] [her] on to the couch." According to the preliminary hearing testimony, L.M. stated that thereafter respondent grabbed her by the hood and "dragged [her] across the floor" towards the front door, and L.M. started kicking respondent. J.M. went to her bedroom to get her belongings, and thereafter J.M. exited the condominium with her belongings. The preliminary hearing transcript from J.M. shows that J.M. testified that when L.M. picked up the iPad, respondent tackled L.M. to the couch. J.M. also testified in the preliminary hearing that she saw respondent hitting L.M. and L.M. kicking and hitting respondent, and she saw respondent grab L.M. by the neck in the condominium and respondent was laying on top of L.M. with his hands around her neck.

According to the preliminary hearing testimony, L.M. attempted to leave the condominium after J.M. but respondent stopped her in the living room, "held [her] against the wall and he strangled [her.]" In the preliminary hearing J.M. also testified that she saw respondent hold L.M. against a wall and strangle her, but stated this happened in the parking lot and not inside the condominium. Respondent let L.M. go and she exited the condominium, but respondent followed her. Thereafter, according

to L.M., respondent again put his hand around her chin/throat, pushed her against a metal staircase, and threatened L.M. that if she called the police, he would kill her. According to the police report, L.M. told officers that she tried to get into her vehicle, but respondent was preventing her from doing so, and was following her. L.M. instructed J.M. to get into the car and lock the doors. Respondent then took the car keys out of L.M.'s hand and got into L.M.'s vehicle in the driver's seat. L.M. then walked away and respondent got out of the vehicle to follow her around, pushed her, hit her in the head again, and pushed her into a fence and strangled her again. At some point thereafter, respondent gave her the keys to her car, but stood in front of her car door and would not let her enter the car. Respondent then began to record the encounter on his phone. L.M. and respondent thereafter exchanged words while respondent recorded. Finally, L.M. was able to get into her car and drove out of the parking lot with J.M.

Thereafter, approximately 10 minutes later, L.M. with J.M. in her vehicle returned to respondent's condominium. The police report reflects that L.M. told the officers that she returned to respondent's condominium because J.M. left her cell phone there. In the preliminary hearing transcript L.M. testified that she had called 911 after leaving respondent's condominium, and L.M. asked the 911 dispatcher if she needed to drive back to respondent's condominium where the incident happened. According to L.M. the 911 dispatcher told her she could drive back if she was comfortable, or the police could call her when they arrived at that scene, and she could go there afterwards. According to the preliminary hearing transcript, L.M. learned that J.M. left her cell phone at respondent's condominium only after speaking to the 911 dispatcher. Regardless as to the reason why, L.M. drove back to respondent's condominium. When L.M. arrived at the parking lot of respondent's condominium she saw respondent and his then girlfriend, now fiancée Chalin James, having a "heated discussion."

Respondent stopped her car and J.M. jumped out to get her cell phone. L.M. got out of the car to follow J.M. Thereafter, respondent told Ms. James to hit L.M., and Ms. James punched L.M. on her head. Thereafter, Ms. James and respondent went inside respondent's condominium, and L.M. and J.M. went to L.M.'s car and L.M. called 911 again. L.M. waited in her car for police to arrive and during that time she saw respondent walk to his car, load "15 to 20 guns/rifles into the back of his vehicle" and drive away. L.M. waited for police to arrive for three to four hours and nobody showed up. L.M. called 911 again and the 911 dispatcher told her that there had been a "big incident" and officers were not available and if she wanted to go home an officer would meet her there. L.M. testified at the preliminary hearing that police officers arrived at her home at about 10:00 p.m.

8. SDPD officers also took photographs of L.M.'s injuries, which officers observed as being redness on the front and side of L.M.'s neck, a swollen left wrist, a mark on her left cheek, and a bruise on her right shin.

Commission's Witnesses

9. The commission provided the testimony of three witnesses at the hearing, as well as documents received in evidence. Two of the commission's witnesses are detectives with SDPD, namely Bernadette Yee and Marisela Cooper. The third witness is a Special Investigator for the commission named Judith Arce. The following factual findings are based on their testimony and supporting documents received in evidence.

TESTIMONY OF BERNADETTE YEE

10. Detective Bernadette Yee graduated the police academy in 2009 and has served as a sworn peace officer for SDPD since that time. She was a patrol officer from

2009 to 2017, and she has been a detective since 2017. Detective Yee is currently assigned to the internal affairs unit of SDPD, and prior to that she was a detective in the domestic violence unit for two-and-a-half years where her duties included investigation of domestic partner crimes of violence. She investigated over 500 cases while assigned to the domestic violence unit. Detective Yee has undergone extensive training in the police academy, as well as on the job as an investigator in the execution of warrants and the preservation of evidence. On February 27, 2019, Detective Yee was assigned to investigate domestic violence allegations against respondent.

11. As part of her investigation of respondent, Detective Yee reviewed the SDPD police report of February 26, 2019, as well as police officer body worn camera footage. Detective Yee interviewed L.M. and obtained a Domestic Assault Forensic Investigation (DAFI) examination of L.M., which was conducted. Detective Yee testified that the DAFI examination revealed that L.M. suffered injuries with bruising, scratches, and change in her voice. Detective Yee stated that she believed L.M. to be credible in the account of the events of February 26, 2019. Detective Yee conducted a "records search" of respondent and L.M. and discovered there were no prior reported domestic violence incidents, but that respondent had "prior firearms reports" that were notable because they indicated that respondent had "a large number of firearms." Detective Yee concluded there was probable cause to arrest respondent for domestic violence. Detective Yee, along with another detective, Marisela Cooper, and other officers from SDPD, arrested respondent on February 28, 2019, at Pacific Beach Middle School. She stated that respondent was arrested at the school because SDPD knew he had firearms, and the school was "a sterile environment" with less access to firearms. At the time of respondent's arrest, Detective Yee gave respondent an opportunity to speak about the domestic violence incident of February 26, 2019, but respondent refused. She also told respondent that he needed to turn over whatever firearms he had in his

possession to the arresting officer from SDPD, but respondent refused to give consent to hand over firearms and refused to give consent to search his vehicle, which was parked on the Pacific Beach Middle School campus. However, the school's principal gave verbal consent to SDPD to conduct an administrative search of respondent's vehicle. SDPD located respondent's vehicle parked in the school parking lot open to the public and confirmed the vehicle was registered to respondent.

Detective Yee, Detective Cooper and SDPD officers observed as the San Diego Unified School District (SDUSD) campus officers searched respondent's vehicle. The SDUSD officers found a locked snap safe case in the glove compartment and a gun holster under the front passenger seat of respondent's vehicle. Detective Yee explained that a snap safe case is a lock box typically used to store firearms. Detective Yee picked up the snap safe box and it was heavy and consistent with the weight of a snap safe box with a firearm inside based on her experience and training. The SDUSD officers left the snap safe box in respondent's vehicle and Detective Yee photographed the SDUSD officer's search of the vehicle.

After SDUSD officers searched the vehicle, Detective Yee and Detective Cooper secured and locked the vehicle and arranged for the vehicle to be towed to the police station. Detective Yee and Detective Cooper both followed the tow truck driver to the police station and locked the vehicle in a secured evidence cage where the vehicle was thereafter stored. Detective Yee explained that the evidence cage is a secure area with limited access, and only the Detectives and Watch Commander would have access to the vehicle. After the vehicle was secured, Detectives Yee and Cooper applied for a search warrant to search respondent's vehicle and residence. Detective Yee obtained that search warrant later in the day on February 28, 2019. Thereafter, Detective Yee

and others went to respondent's condominium to conduct a search while Detective Cooper searched respondent's vehicle.

Detective Yee testified that Detective Cooper found the snap safe lock box in respondent's vehicle and transported it to respondent's condominium, which was being searched. Detective Cooper also found the gun holster and concealed weapons permits belonging to respondent in the vehicle. Detective Yee observed as a sergeant with SDPD opened the snap safe box at respondent's condominium showing a loaded firearm (a Glock) with an extra magazine inside the snap safe box. Detective Yee testified that no officer or detective or any SDPD employee ever exchanged the snap safe box found in respondent's vehicle with another snap safe box found in respondent's condominium. Instead, the snap safe box she observed being opened by the sergeant was the same as that found in respondent's vehicle. Detective Yee also photographed the firearm that was inside the snap safe box. Detective Yee wrote a report regarding her investigation of this matter that mirrored her testimony.

TESTIMONY OF MARISELA COOPER

12. Detective Marisela Cooper is currently employed by SDPD as a detective in the domestic violence unit, a position she has held since 2019. Prior to this position she worked for SDPD as an investigator in the narcotics unit. She has been employed by SDPD for 13 years and worked as an officer prior to becoming a detective. Detective Cooper has extensive experience executing search warrants and preserving evidence. She has also undergone narcotics training with SDPD, which includes four days devoted to the execution of search warrants and preservation of evidence. Her duties as a detective for the domestic violence unit include the investigation of domestic violence cases.

13. Detective Cooper accompanied Detective Yee on February 28, 2019, to arrest respondent at Pacific Beach Middle School. Detective Cooper observed the SDUSD officers search respondent's vehicle that day while the vehicle was parked in the school parking lot adjacent to the school. She also observed those officers find a snap safe box in respondent's car, as well as a gun holster under the passenger's seat. Detective Cooper explained that a snap safe box is typically used to store a firearm. After the SDUSD officers searched respondent's vehicle, Detectives Yee and Cooper locked and secured respondent's vehicle and had the vehicle towed to the secure storage lot and locked into an evidence cage. Detective Cooper explained that the evidence cage where the car was located is only accessible by herself, Detective Yee, and the Watch Commander overseeing the secured area. If she or Detective Yee wanted to access the vehicle, they would have to request access from the Watch Commander.

14. After Detective Yee informed Detective Cooper that she had obtained a search warrant for both respondent's condominium and vehicle, Detective Cooper executed the search warrant by searching respondent's vehicle on February 28, 2019, while it was still located in the secure area after requesting access to the vehicle from the Watch Commander. Detective Cooper found the snap safe lock box in respondent's vehicle, and she attempted to unlock the box with a key located on respondent's key chain. However, she was unable to open the box. She also found the gun holster under the front passenger seat of the vehicle, as well as respondent's military ID, and two concealed weapons permits, one from San Diego County and another from the State of Arizona. Detective Cooper took photos of her search of the vehicle. She then took the snap safe box, gun holster, military ID, and two concealed carry permits to respondent's condominium where Detective Yee and others were conducting a search. Detective Cooper stated that there was a patrol sergeant

overseeing the search of respondent's condominium. After Detective Cooper arrived at respondent's condominium, she took the snap safe box, gun holster, military ID, and two concealed carry permits to the patrol sergeant and explained that she was unable to open the snap safe box. The patrol sergeant met Detective Cooper outside of respondent's condominium and took the snap safe box and threw it on the ground to open it. The snap safe box opened to reveal a loaded firearm (a Glock) with a 10-round magazine with one bullet in the chamber and an extra magazine in the snap safe box. Detective Cooper unloaded the gun for safety reasons and photographed it. Detective Cooper then assisted Detective Yee in transporting all of respondent's firearms, including those found in his condominium, to the SDPD headquarters, and impounded them for safekeeping or evidence. Detective Cooper wrote a report regarding these events that mirrored her testimony at the hearing.

TESTIMONY OF JUDITH ARCE

15. Judith Arce is currently employed by the commission as a Special Investigator, a position she has held for the past three and one-half years. Ms. Arce's duties in that position include review and investigation of various cases on behalf of the commission, and writing reports summarizing her findings. She explained that after she completes an investigation and writes a report, the commission will review the matter in an informal review to determine whether a formal review should be conducted. If a formal review is required, Ms. Arce also conducts those investigations.

16. In March 2019, the commission received a report from the Department of Justice informing them that respondent had been arrested for criminal conduct, and the commission assigned Ms. Arce to investigate the matter. Thereafter, Ms. Arce, or one of her coworkers, requested records from the SDPD and the San Diego Superior Court regarding respondent's arrest and conviction. Ms. Arce had obtained those

records by the Fall of 2019. In November 2019 Ms. Arce contacted L.M. by telephone and requested, and soon obtained, an affidavit from L.M. regarding respondent's actions underlying his arrest and conviction. Ms. Arce completed her investigation and drafted a report summarizing her findings on January 27, 2020. Thereafter, the committee considered Ms. Arce's January 27, 2020, report during an informal review and determined that a formal review should be conducted, which Ms. Arce performed.

17. On December 8, 2020, Ms. Arce sent a "Letter of Inquiry" to respondent, which she explained was a letter notifying respondent that the commission was investigating allegations of his misconduct and would consider charges against him, and provided an opportunity for respondent to submit a written response to the letter. On March 25, 2021, Ms. Arce and the commission received a letter from respondent in which he responded to the December 8, 2020, Letter of Inquiry.

18. On April 14, 2021, Ms. Arce completed two reports summarizing her investigation of respondent as part of the formal review. The commission reviewed and considered both of those additional reports when making its findings regarding the formal review. On an unknown date thereafter, the commission made its findings regarding the formal review, and found "probable cause to recommend the revocation of Respondent's credential(s) and all other certification document(s)."

19. On June 23 to 25, 2021, the commission met and reconsidered its findings regarding respondent. In a letter dated July 2, 2021, the commission informed respondent that at its June 23 to 25, 2021, meeting the commission reconsidered and ultimately recommended to sustain its previous action.

Respondent's Evidence

20. Respondent testified on his own behalf and offered the testimony of his fiancée, Chalin James; three character witnesses; and a therapist who oversaw his court ordered domestic violence program. Respondent also provided various documents and videos, which were received in evidence.

TESTIMONY OF RESPONDENT

21. Respondent is 36 years old and currently self-employed at his own property management company, which he opened on September 30, 2021. Prior to this position, respondent worked as a special education teacher at Pacific Beach Middle School (PBMS), which is part of SDUSD. Respondent stated that he believes he is currently on unpaid administrative leave from PBMS, and he stopped working there on the day of his arrest on February 28, 2019. Documents received in evidence show that SDUSD issued a Notice of Intent to Dismiss respondent from his teaching position with the district on August 1, 2022, which was served on respondent at his address of record in this matter on August 1, 2022. Respondent testified that he never received the Notice of Intent to Dismiss documents. Respondent has an undergraduate degree in Business Marketing, a master's degree in an unknown major, and a doctorate degree in Special Education and Curriculum and Instruction. Respondent worked as a special education teacher from 2015 to 2019.

22. Respondent has known L.M. since they attended middle school together about 25 years ago. Respondent stated that their relationship has "organically evolved" and continued into high school. Respondent stated that the relationship "accelerated" in 2014. At the time respondent began a romantic relationship with L.M. in 2014, L.M. already had a daughter named J.M., who according to respondent does

not have a relationship with her biological father at all. Respondent was not initially close to J.M., but towards the end of 2014 respondent began a father-figure relationship with J.M. In late 2015 respondent informed L.M. that he no longer wanted a romantic relationship with L.M. However, even after the 2015 break-up, respondent continued to “co-parent” J.M. Respondent wrote in his letter to the commission that from 2015 to 2019 he was “heavily involved” in J.M.’s life, and was her father-figure, despite the fact that he had repeatedly told L.M. he was not interested in a romantic relationship with L.M. Respondent stated that he wanted to be a positive male father figure to J.M., despite the fact that he was not J.M.’s biological father and not in a relationship with L.M., because he had been a fatherless child himself, and had already built a relationship with J.M., and did not want to cause her harm. From 2015 to 2019 J.M. would sporadically stay with respondent at his condominium.

23. With regard to the February 26, 2019, incident involving L.M., respondent summarily denied any wrongdoing regarding the incident and blamed L.M. for everything that happened that day. Specifically, respondent testified that he believes L.M. is mentally unstable and is obsessed with him. Prior to the incident on February 26, 2019, that resulted in respondent’s arrest, at about 3:00 p.m. on February 26, 2019, L.M. had texted respondent asking him if his then girlfriend and now fiancée, Ms. James, was pregnant because L.M. had been monitoring what Ms. James was doing on social media. The text exchange was received in evidence. Respondent texted L.M. that Ms. James was not pregnant, and it was none of L.M.’s business. L.M. appeared to be angry in the text exchange, and respondent stopped communicating with L.M. by text.

About 30 minutes later J.M. showed up at respondent’s condominium knocking on the door. Respondent went to his master bedroom to look into the parking lot and saw L.M. standing in the parking lot. Ms. James was in respondent’s condominium with

him at the time of this incident. After about four minutes of knocking on respondent's door, J.M. walked back to L.M. in the parking lot. Thereafter L.M. came and "banged" on respondent's door and stated, "I know you are in there and I need to use the bathroom." Respondent did not answer the door or otherwise respond for about five minutes. Respondent then thought L.M. and J.M. had left the area, and he opened the door when J.M. "popped up" and asked to go inside to get some things. While speaking to J.M. with the door open, L.M. appeared and put her foot in the door, preventing respondent from closing the door. Respondent stated that L.M. pushed him into the condominium and L.M. forced herself inside his condominium. According to respondent, L.M. was yelling and cursing at respondent and asking if Ms. James was in the condominium.

Once L.M. was inside the condominium, L.M. saw an iPad on the couch, which respondent stated L.M. immediately recognized as belonging to Ms. James, and L.M. sprinted over to it "to destroy it." Respondent went to grab the iPad from L.M. and while this was happening J.M. entered the condominium. Respondent stated he grabbed the iPad from L.M. "as she was about to throw it." According to respondent, L.M. then "sprinted around my couch and was in the middle of my living room because she saw a picture of Chalin on my picture mantle." L.M. grabbed the framed picture and tried to throw it at respondent while yelling obscenities at respondent. The framed picture hit the wall, broke the frame, dented the wall, and L.M. picked up the photo from the frame and ripped it. Respondent stated that he knew L.M. was extremely upset and that L.M. knew there were firearms in his home and where to get them, as well as how to use them. Respondent wanted to "remove the threat from my house." Respondent stated that at this point L.M. started to attack him physically by punching him in his head and neck area with a closed fist, as well as attempting to kick respondent in his legs and lower body. Respondent stated that L.M. threatened to

shoot and kill respondent, and L.M. knew that respondent had a concealed firearm on his person. According to respondent, L.M. reached for the firearm on his person several times and yelled, "I am going to kill you." Respondent stated that he engaged with L.M. to protect himself only, but never engaged with her in an offensive manner.

According to respondent, during the time L.M. was attacking him, she was also yelling at J.M. to go get her belongings saying, "because [respondent] got some nigger fat bitch pregnant." Respondent stated that he saw J.M. going back and forth between the back room and living room gathering her belongings. At some point L.M. turned her attention to respondent's bedroom because L.M. believed Ms. Jones was in that room. Respondent stated that L.M. "sprints as I am trying to hold her around her waist" towards that bedroom. Respondent stated he was yelling at L.M. to get out of his home and not to behave this way in front of J.M., but L.M. ignored his requests and "continued to damage [respondent's] home." L.M. then tried to open the door to the bedroom where Ms. Jones was located, but the door was locked. Respondent stated that he then put himself between L.M. and that door, but L.M. began to "ram her shoulder" into his chest in an effort to open the door while yelling obscenities. L.M. began to get tired because "it had been about 15 minutes at this point" and "stumbled her way back into the living room." Respondent followed L.M. into the living room where L.M. "proceeds to attack [respondent] again" by "swinging at [him] several times." According to respondent, on the last swing L.M. lost her balance, fell on the couch, sat down, and rolled off the couch onto the floor. Respondent then "attempted to physically remove her from [his] home" by putting his arms under her armpits and dragging her out. However, respondent stated he had difficulty doing so because L.M. was kicking and punching. L.M. was also "yelling obscenities" and yelling at J.M. to "get all of her shit and we are never coming back." Respondent stated he was "using his

body as a shield" to get L.M. out of the condominium, which he successfully did. Respondent denied ever strangling, body slamming, or threatening L.M. at any point.

After respondent got L.M. out of the condominium, he followed her in the parking lot. Respondent stated that "we are outside and L.M. is attacking me again and I thought I have to get this on film, and I took out my cell phone" to record a video of the interaction. Respondent offered the video recording, which was received in evidence. Respondent testified that he recorded this interaction "to get on film everything that had just transpired." Notably, the video shows respondent following L.M. around the parking lot while she is trying to get to her car, but respondent is preventing her from doing so. L.M. is seen repeatedly telling J.M. to get in the car and lock the doors while respondent prevents L.M. from getting to her car. At one point the video shows respondent corner L.M. against a fence (and push her into the fence) while repeatedly asking her to admit on video that she hit him. The video shows respondent as an aggressor. Additionally, red marks can be seen on L.M.'s neck in the video.

Respondent testified that he had physical contact with L.M. on that day only because L.M. forced her way into his home, and he was trying to protect Ms. Jones. He stated that he did not call the police or 911 because he has never had a positive interaction with the police, and the last time he called the police on L.M. on February 19, 2017, they did nothing.

24. Respondent stated that L.M. has had a pattern of harassing him. Respondent testified that on February 19, 2017, L.M. came to his home and tried to break into his home. Respondent stated he asked L.M. to leave the property several times but she refused. Respondent called the police, who arrived after L.M. left the property. Respondent provided a page "incident history" document from the SDPD

regarding the incident. Respondent stated that he was very disappointed in the police response to the February 19, 2017, incident because the police refused to even go to L.M.'s residence to talk to her, and nothing happened as a result of his calling the police. Respondent testified about various other incidents involving L.M., including: one incident on July 1, 2018, when L.M. showed up at his former residence, which he was then renting to another individual, looking for respondent, and another incident on July 2, 2018, when L.M. sent an "irate communication" through social media to respondent's fiancée's father regarding respondent.

25. Respondent testified that he understood by entering a guilty plea in his criminal case that the judgment would be deferred, and when he completed the required domestic violence program, the case would be dismissed, which it was. Respondent stated he understood that meant he would not have a criminal conviction as a result of the plea agreement he made with the District Attorney. Respondent admitted that he signed the plea agreement with the understanding that his plea "would not have any negative ramifications on [his] teaching license." With regard to the handwriting on the plea agreement above respondent's signature stating: "I willfully and unlawfully inflicted a corporal injury resulting in a traumatic injury upon the mother of my child," respondent testified that he did not write that language and does not understand it.

26. Respondent also testified, and wrote in his letter to the commission, that he is a "huge firearms enthusiast" and has two Concealed Carry Weapons permits (CCW), one from California and another from Arizona. With regard to the allegations that respondent had a loaded gun in his vehicle on school property, respondent denied that allegation outright. Respondent admitted that he had a snap safe box in the glove compartment of his vehicle that day, but he claimed that it contained six

rolls of California quarters because he is a coin collector. He stated that he put the coins in the snap safe box to secure them. However, in his letter to the commission received March 25, 2021, respondent wrote that the lockbox in his vehicle contained "my watch, grandmother's earrings she gave me before she passed, rings, and several other items." Respondent also admitted to owning three identical snap safe boxes with one in his car and two in his home. One of the snap safe boxes in his home contained a Glock handgun, but he denied that snap safe box was in his vehicle that day. On cross-examination respondent stated that he heard the two detectives testify in this matter that they found the Glock handgun in the snap safe box in his vehicle, but he stated that those detectives "were mistaken." Respondent testified that he believes "someone could have easily mistaken the boxes because they are identical, and if the box in the vehicle was correctly handled and taken into evidence then we would know what was in the box [located in his vehicle], but that box was taken to a location with other identical boxes." Essentially, respondent asserts that the detectives took a snap safe box from his home and wrongly claimed it was located in his vehicle.

27. In response to the question of "what assurances can you provide to the commission that you will not have a lapse in judgment like this again?" respondent testified that he did not have a lapse in judgment. Respondent stated that he does not understand why the commission has concerns about him keeping his teaching credential.

TESTIMONY OF CHALIN JAMES

28. Chalin James is respondent's fiancée and has known him since 2011. Ms. James testified that she has "encountered L.M." only on one occasion, but she has received messages from L.M. through social media about four to six times. Ms. Jones stated that those social media messages essentially stated that respondent was not

mentally stable, had a family back home, and that Ms. James should leave him and go on with her life in Germany. At the time Ms. James received these messages she was still living in Germany. Ms. James also stated that the messages called her "nigger, girlfriend, homewrecker, bitch, and other insulting words." Ms. James testified that she felt threatened by L.M. and was going to file a restraining order against L.M., but she and respondent decided not to do so "for J.M.'s sake."

29. On February 26, 2019, at approximately 3:00 p.m., Ms. James was at respondent's condominium sitting in the living room on the couch, and they heard someone knocking at the door. Ms. James stated she learned at some point that both L.M. and J.M. were at the door. Ms. James moved to the bedroom, and respondent went outside. Eventually L.M. entered the condominium and was very angry. Respondent repeatedly told L.M. to leave. Ms. James stated that she heard L.M. call her numerous names, such as "pregnant fat nigger, homewrecker, black bitch, etc." Ms. James testified that she could see L.M. in the living room with respondent while Ms. James was in the back bedroom because the door was partially open at that point. Ms. James stated she saw L.M. reach for the iPad and "was going to throw it against the wall." Ms. James claims to have seen L.M. see Ms. James's framed photograph, L.M. "bolt over to get it," and L.M. throw the frame against the wall. Ms. James claims to have seen L.M. attempt to rip the photograph, but she could not do so and instead crumpled it up. L.M. then started attacking respondent by kicking him, slapping him, and punching him. Ms. James stated that L.M. said that she would shoot respondent and Ms. James. At the hearing Ms. James testified that thereafter L.M. started to move toward the back bedroom where Ms. James was located to "try to get" her. At that point Ms. James closed and locked the bedroom door. However, in the preliminary hearing transcript Ms. James testified that she and respondent both closed the bedroom door together. L.M. started banging on the bedroom door trying to get in by

using her body weight to do so. Ms. James stated that the door “started bending at one point.” Ms. James testified that while L.M. was in the hallway with respondent, respondent was not physically attacking L.M., but L.M. was continuing to hit respondent.

During cross-examination Ms. James testified that during the time the bedroom door was closed and L.M. was in the hallway with respondent, Ms. James could see “foot movement” through the gap or slit underneath the bedroom door. She claims that she saw this because she was “crouched down and laying flat.” On cross-examination Ms. James also admitted that from the bedroom with the door open she could only see 50 to 60 percent of the living room. Ms. James denied that respondent yelled at L.M. that day other than to say, “Get the fuck out of my house.” Ms. James also denied that respondent displayed anger towards L.M. that day.

TESTIMONY OF MONICA CASHIOTTA MUNN, PSY.D

30. Monica Cashiotta Munn, Psy.D., is a licensed marriage and family therapist, and a psychologist. Dr. Munn conducts group therapy sessions for a 52-week domestic violence program in which respondent was a participant. Respondent attended the group therapy sessions from September 2019 to 2020. The group therapy sessions consisted of two-and-a-half hours each week for 52 weeks. Dr. Munn explained that participants in this domestic violence program are mandated to take the program by the court. Dr. Munn testified that respondent attended every session of the program, never missed a group session, and completed a lot of homework. Respondent came prepared for each group session, took feedback, and was overall a good group member. Dr. Munn was never respondent’s treating therapist.

TESTIMONY OF RESPONDENT'S CHARACTER WITNESSES

31. Respondent provided testimony from additional character witnesses. The first character witness was Jeffrey Mercer Dennis. Mr. Dennis is a licensed attorney in California and has been practicing for 25 years. Mr. Dennis has known respondent for seven or eight years and met respondent when respondent worked at PBMS because Mr. Dennis's daughter was a student there. Mr. Dennis testified that his daughter spent a lot of time with respondent because he helped her through a tumultuous year in eighth grade because other students were teasing her. Mr. Dennis stated that respondent spent a lot of time with his daughter helping her talk through issues and giving her emotional support. According to Mr. Dennis, respondent's mentorship of Mr. Dennis's daughter did not end in middle school but continued through high school as well. Mr. Dennis has never observed respondent as a teacher in his classroom and is not familiar with the allegations in this matter, other than his teaching credentials are at issue because of respondent's previous criminal matter, and has never seen respondent act violently or unprofessionally.

32. The second character witness was Robert Lewis Brooks. Mr. Brooks is currently a border patrol agent, a position he has held for the past 25 years. Mr. Brooks first met respondent when Mr. Brooks coached respondent for track when respondent was 10 years of age. Mr. Brooks stated that they stayed in touch and respondent is close friends with Mr. Brooks' daughter, who is the same age as respondent, and was on the same track team. Mr. Brooks and respondent both currently coach high school football together, which they have both done for the past four years. Mr. Brooks characterized respondent as patient, detailed, pleasant, enjoyable, and football players respect him. Mr. Brooks has never seen respondent act violently or have an anger problem. Mr. Brooks is not aware of the allegations in this

matter other than “there is some kind of domestic violence and some gun charge” at issue.

33. The final character witness was Danielle Nicole Gilmour. Ms. Gilmour was in a romantic relationship with respondent in 2016 and 2017. Ms. Gilmour testified and wrote a letter to the commission, which was received in evidence. In the letter, Ms. Gilmour wrote that respondent is “an extremely mild mannered, caring, well-respected, philanthropist, community man, youth & adult mentor and much more.” She further wrote that she has never seen respondent “demonstrate aggression towards anyone.” Ms. Gilmour also testified about her knowledge of L.M.’s reputation for dishonesty. Specifically, Ms. Gilmour testified that she has never met L.M. in person, but that L.M. has reached out to her through social media and through friends of Ms. Gilmour during the time period of 2017 to 2019. Ms. Gilmour initially testified that L.M. sent her a message through social media instructing her to leave respondent alone. However, during cross-examination Ms. Gilmour admitted that she does not participate in any form of social media and never received such a message directly, but instead L.M. had reached out through social media to Ms. Gilmour’s friends and told the friends to tell Ms. Gilmour to stay away from respondent. Ms. Gilmour also stated that L.M. created a fake Facebook account with Ms. Gilmour’s name. Ms. Gilmour learned this because respondent reached out to her to ask if that was her Facebook account, and it was not. Ms. Gilmour stated that the only personal knowledge she has of L.M.’s dishonesty consists of instances when L.M. “would say she was with [respondent], when Ms. Gilmour was with respondent,” so that Ms. Gilmour knew L.M. was lying.

Respondent's Motion to Dismiss Based upon the Statute of Limitations

34. During the hearing, respondent made a motion to dismiss this matter based upon information that came to light from the testimony of Ms. Arce and based upon Education Code section 44242.7, subdivision (a). The parties were instructed to file briefs on the issue. Education Code section 44242.7, subdivision (a), provides:

Any allegation of an act or omission by the holder of a credential, except for an allegation that involves sexual misconduct with a minor or recurring conduct resulting in a pattern of misconduct, shall be presented to the Committee of Credentials for initial review within four years from the date of the alleged act or omission, or within one year from the date the act or omission should reasonably have been discovered.

35. Respondent asserts that Ms. Arce testified that she received the affidavit from L.M. in November 2019, which informed the commission about the act or omission of respondent, but the commission did not send the Letter of Inquiry to respondent until December 9, 2020, which is over one year from the time the commission reasonably should have known of respondent's act or omission. Respondent argues that the statute is "without clarification of whether the four-year or one-year limit should be considered 'whichever occurs first' or 'whichever occurs last'." Respondent argues that "whichever occurs first" should apply to interpret the statute based on legislative history. Respondent also argues that the commission had L.M.'s affidavit on November 22, 2019, which respondent argues is the date that the

commission initiated its investigation, but sent the Letter of Inquiry on December 9, 2020, which is outside of the one-year statute of limitation above.

36. In its opposition to this motion, the commission presents three different arguments: (1) that there is a lack of jurisdiction to hear a motion to dismiss in an administrative hearing as the Administrative Procedure Act provides no clear mechanism for deciding them; (2) that the Governor's Executive Orders N-35-20 and N-65-20 issued in response to the COVID-19 pandemic extended the deadlines set forth in Education Code section 44242.7, subdivision (a) for at least 120 days making the commission's actions timely even under respondent's theory of a one-year statute of limitations; and (3) that the plain meaning of the statute sets forth that the "discovery rule" extends, and does not restrict the four-year statute of limitations and the four-year statute of limitations applies in this case.

37. In his reply respondent argues that an Administrative Law Judge (ALJ) may rule on a statute of limitations defense and is not barred from doing so under the Administrative Procedure Act or applicable case law. Otherwise, a statute of limitations defense would be rendered meaningless if the ALJ has no mechanism to address it. Additionally, respondent argued that the Governor's Executive Orders cited above did not create an extension of the statute of limitations beyond 60 days of the date of the executive order, which at its latest date would be July 18, 2020, which is prior to the December 8, 2020, date that both parties agree is the date of initial review applicable in this case. Also, pursuant to California Code of Regulations, title 5, section 80306, subdivision (b):

For purposes of Education Code section 44242.7(a), a matter is presented to the Committee when the credential

holder or applicant is notified that the matter is set for initial review by the Committee.

In this case the date that Ms. Arce sent the Letter of Inquiry, December 8, 2020, is the date the matter is presented to the committee.

38. As an initial matter, the commission's argument that an ALJ has no mechanism to rule on a motion to dismiss based on the statute of limitations is misplaced. While an ALJ has no mechanism to rule on a motion to dismiss prior to hearing and receiving evidence and drafting a proposed decision for consideration by the agency, there is no statutory or case law that prevents an ALJ from making such findings in a proposed decision that an agency may consider for its final decision.

39. Furthermore, the plain language of the statute above makes clear that there is no need for a qualifier of "whichever occurs first" or "whichever occurs last" with regard to the four-year or one-year limit. If the language of a statute is clear and unambiguous, "there is no need for judicial construction and [the court's] task is at an end." (*Little v. Commission on Teacher Credentialing* (2022) 84 Cal.App.5th 322, 331-32 [citations omitted].) Specifically, the statute above requires the commission to have the initial review either "within four years from the date of the alleged act. . . or within one year from the date the act . . . should reasonably have been discovered." The "or within one year" clause provides an extension of time for the statute of limitations beyond the four years for situations involving when the commission discovers or reasonably should discover the acts underlying discipline, which is known as the discovery rule. There is no language in the statute, and no need for language in the statute, to add a qualifier of "whichever is first or last" because adding that language would eviscerate the purpose of the discovery rule. The language in the statute is clear as written. Applying the statute as written, respondent's misconduct occurred on February 26,

2019, and February 28, 2019, and the initial review happened on December 8, 2020, which is well within the four-year limit set forth in Education Code section 44242.7, subdivision (a). Accordingly, the commission is not barred by the statutory of limitations in this matter.

40. Based on the findings above, there is no need to interpret the applicable time frames for any extensions to the statute of limitations granted by the Governor's Executive Orders in this matter.

41. Based on the above, respondent's motion to dismiss this matter pursuant to Education Code section 44242.7, subdivision (a), is denied.

LEGAL CONCLUSIONS

Standard and Burden of Proof

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

Applicable Statutes and Regulations

2. Education Code section 44421 authorizes the commission to privately admonish, publicly reprove, revoke or suspend the credential or certificate of one who

has engaged in immoral or unprofessional conduct, persistently defied or refused to obey the laws regulating the duties of persons serving in the public school system, or demonstrated evident unfitness for service or for any cause that would have warranted the denial of an application for, or a renewal of, a credential.

3. Education Code section 44345, subdivision (e), permits the commission to “deny any application for the issuance of a credential or for the renewal of a credential made by any applicant who . . . has committed any act involving moral turpitude.” This section further provides that any denial pursuant to this section:

shall be based upon reasons related to the applicant's fitness to teach or fitness to perform other duties for which that applicant is certificated, or competence to perform the duties which the credential would authorize the applicant to perform.

4. California Code of Regulations, title 5, section 80300, subdivision (a), authorizes commission to take “adverse action” against certificate holders which includes “a denial, a private admonition, public reproof, suspension or a revocation of one or more credentials.” Subdivision (b) provides in part:

“Aggravating factor” is an event or circumstance which demonstrates that a greater degree of adverse action for an act of professional misconduct is needed to adequately protect the public, schoolchildren or the profession. Aggravating factors may include, but are not limited to, the following:

[¶] . . . [¶]

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

(4) that the misconduct significantly harmed a child entrusted to the care of a credential holder or applicant, significantly harmed the public or the educational system

....

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

[T]hat which is hostile to the welfare of the general public and contrary to good morals. Immorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable members of the community, and as an inconsiderate attitude toward good order and the public welfare. (*Palo Verde etc. School Dist. v. Hensey* (1970) 9 Cal.App.3d 967, 972, citing *Bd. of Education of San Francisco Unified School Dist. v. Weiland*, 179 Cal. App 2d 808, 811.)

6. Unprofessional conduct has been defined as “that conduct which breaches the rules or ethical code of a profession or conduct which is unbecoming a member in good standing of a profession.” (*Shea v. Bd. of Medical Examiners*, (1978) 81 Cal. App.3d 564, at 575; *Bd. of Education v. Swan* (1953) 41 Cal.2d 546, 553.)

7. Moral turpitude has long been defined, in broad terms, as “baseness, vileness or depravity.” (*Cartwright v. Bd. of Chiropractic Examiners* (1976) 16 Cal.3d 762, 767 [citing (*In re Craig* (1938) 12 Cal.2d 93, 97.) It is conduct that, by its very nature, evidences inherent bad character. (*In re Lesansky* (2001) 25 Cal.4th 11, 16, citing *In re Hallinan* (1954) 43 Cal.2d 243, 249, 272 P.2d 768.)

8. Immoral or unprofessional conduct must also be considered in conjunction with the unique position of public school teachers, upon whom are imposed responsibilities and limitations on freedom of action which do not exist in regard to other callings. (*San Diego Unified School Dist. v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1466.) The determinative test of a charge of immoral or unprofessional conduct is fitness to teach, which is a question of ultimate fact. (*Bd. of Education v. Jack M.* (1977) 19 Cal.3d 691.)

Evaluation

9. Respondent argued at hearing that his September 24, 2019, plea of guilty does not constitute a conviction, and as a result is not “conclusive evidence of a criminal act.” Notably, respondent’s argument was set forth in his motion *in limine*, which was denied in a Tentative Rulings Regarding Motions *in Limine* issued on November 30, 2022. All of those tentative rulings in the November 30, 2022, order were made final on the first day of this hearing. As noted in that order, under Education Code section 44009, and existing law, respondent’s guilty plea alone

constitutes a conviction under the Education Code irrespective of any subsequent order dismissing the charges. Furthermore, as set forth in *Arneson v. Fox*, (1980) 28 Cal.3d 440, 452, respondent may not collaterally attack his conviction in these proceedings, but may present evidence regarding its circumstances, including mitigation evidence.

Despite his guilty plea and the language in that plea admitting that he “willfully and unlawfully inflicted corporal injury resulting in traumatic injury” upon L.M., respondent repeatedly denied doing so, claimed he did not understand what that language means, and refused to take any responsibility for his actions at the hearing. While respondent presented evidence that L.M. was obsessed with him, entered his home without his permission, used profanity, yelled at him, and exhibited other bad behavior, respondent failed to recognize his own bad actions resulting in his conviction, which is very serious in nature. Respondent even provided a video of L.M. taken immediately after the altercation in his condominium that shows respondent following L.M. around the parking lot, preventing her from getting to her car to leave, pushing L.M. against a fence, and repeatedly harassing her to get her to admit on video that she hit him. The video shows respondent as the harasser in that situation, and it also shows red marks on L.M.’s neck, which is exactly where L.M. alleged that respondent tried to strangle her. Respondent continues to blame L.M. and fails to take any personal responsibility for his actions.

10. With regard to the firearm found in respondent’s vehicle, which was parked on school grounds at PBMS, the commission presented substantial evidence from the testimony of Detectives Yee and Cooper that on February 28, 2019, to clearly establish that when respondent was arrested on the school grounds of PBMS, he had a loaded firearm (a Glock) in a snap safe box inside his vehicle located on school

grounds. Both detectives provided credible and clear testimony to establish the chain of custody for that firearm showing it was located in respondent's vehicle on February 28, 2019, on school grounds. Respondent argued that the detectives and the SDPD exchanged a snap safe box from his home with the snap safe box located in his vehicle on February 28, 2019. Respondent provided no evidence whatsoever to establish this theory, which has no basis. Respondent stopped short of testifying that he thought the two detectives were lying about the firearm located in his car, but instead stated that he believed the detectives to be "mistaken." Respondent also testified at hearing that the snap safe box in his vehicle that day contained six rolls of quarters, which could account for the weight that Detective Yee felt rather than a firearm. However, in his letter to the commission respondent claimed that the snap save box in his vehicle contained jewelry and never mentioned the coins. Respondent's testimony regarding the firearm in his vehicle was less credible than the testimony of Detective Yee and Detective Cooper.

The Morrison Criteria – Relationship to the Teaching Profession

11. The criteria set forth in *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 220, are embodied in California Code of Regulations, title 5, section 80302, subdivision (a). The factors include the extent to which the conduct has adversely affected students, fellow teachers, or the educational community and the degree of impact; the proximity or remoteness in time of the conduct; the type of certificate held; the extenuating or aggravating circumstances surrounding the conduct; the praiseworthiness or blameworthiness of the motives resulting in the conduct; the probability that the questioned conduct will recur; the extent to which adverse action may have a chilling effect upon the constitutional rights of the person involved or on

other certificated persons; and the publicity or notoriety given to the conduct. Those factors were reviewed and considered in this decision and summarized below.

Adverse Impact on Students/Teachers: Respondent's conduct most definitely had an adverse impact on J.M., a child who witnessed the violence between respondent and L.M. on February 26, 2019. Respondent's actions caused harm to J.M. Additionally, there was certainly potential adverse impacts on the students and teachers at PBMS when respondent brought a loaded firearm into the school parking lot.

Proximity/Remoteness in Time of Conduct: Respondent's conduct occurred in February of 2019, approximately four years ago, making it relatively recent in time.

Type of Teaching Credential Held: Respondent holds teaching credentials for special education students, who are a most vulnerable population of students.

Extenuating/Aggravating Circumstances: The circumstances underlying respondent's actions arise from a volatile relationship with L.M. However, during the hearing respondent continued to refuse to take any personal responsibility for his actions at issue in this hearing.

Praiseworthiness/Blameworthiness of Motive: Respondent's motive for his acts of physical violence against L.M. in the presence of J.M. are unknown, but certainly are not praiseworthy. His motives for bringing a loaded firearm onto school grounds are also blameworthy as there is no legitimate reason to do so.

Likelihood of Future Misconduct: Clear and convincing evidence established that respondent continues to take no responsibility for his wrongful acts. As a result, respondent has presented no evidence to establish that he will not repeat the same

bad acts in the future. Accordingly, the likelihood that these bad acts will continue is high. This is particularly true with regard to the issue of respondent bringing a loaded firearm on school grounds because he admitted he has an affinity for firearms, and he also denied bringing the firearm on school grounds despite the substantial evidence otherwise. Although he did successfully complete the court-ordered domestic violence course, he took no responsibility for his actions at this hearing, raising concerns about him repeating his actions in the future.

Chilling Effect: No evidence was presented to demonstrate that an adverse action against respondent would have a chilling effect upon the constitutional rights of the person involved or on other certificated persons.

Publicity or Notoriety of the Conduct: Clear and convincing evidence established that there was no publicity or notoriety of respondent's conduct.

Cause for Adverse Action

12. Complainant established by clear and convincing evidence cause for adverse action against respondent's credential pursuant to Section 44421 because respondent engaged in unprofessional conduct by intentionally and unlawfully inflicting harm on L.M. in the presence of J.M., a child; as well as by bringing a loaded firearm onto school grounds on February 28, 2019.

13. Complainant established by clear and convincing evidence cause for adverse action against respondent's credential pursuant to Section 44421 because respondent engaged in immoral conduct by intentionally and unlawfully inflicting harm on L.M. in the presence of J.M., a child; as well as by bringing a loaded firearm onto school grounds on February 28, 2019.

14. Complainant established by clear and convincing evidence cause for adverse action against respondent's credential pursuant to Sections 44421 and 44345, subdivision (3), because respondent engaged in moral turpitude by intentionally and unlawfully inflicting harm on L.M. in the presence of J.M., a child; as well as by bringing a loaded firearm onto school grounds on February 28, 2019.

15. Complainant established by clear and convincing evidence cause for adverse action against respondent's credential pursuant to Section 44421 because respondent demonstrated inadequacies indicating an evident unfitness for service by intentionally and unlawfully inflicting harm on L.M. in the presence of J.M., a child; as well as by bringing a loaded firearm onto school grounds on February 28, 2019.

Factors in Aggravation Alleged

16. Complainant alleged respondent engaged in misconduct that was surrounded by or followed by bad faith, dishonesty, or other violation of the law; and engaged in misconduct that significantly harmed a child trusted to his care and the public. Clear and convincing evidence established that respondent engaged in the misconduct of intentionally and unlawfully inflicting harm on L.M. in the presence of J.M., a child; as well as by bringing a loaded firearm onto school grounds on February 28, 2019, and he continued to deny all of these allegations at hearing, which demonstrates dishonesty. Furthermore, clear and convincing evidence established that respondent's misconduct above harmed J.M., a child trusted to his care because respondent was J.M.'s father-figure at that time. These factors in aggravation establish good cause to impose a greater degree of adverse action in this case.

Degree of Adverse Action

17. The degree of adverse action to impose in this case requires consideration of the *Morrison* Factors as discussed above, as well as consideration of the factors in aggravation. Respondent's actions were very serious in nature and caused harm to J.M. Respondent continues to take no responsibility for his actions and instead blames L.M. Additionally, with regard to the loaded firearm on school grounds, respondent continues to deny he ever brought a loaded firearm onto school grounds despite the clear and convincing evidence that proves otherwise. These circumstances demonstrate a high likelihood of repetition of his misconduct. Respondent provided character witnesses at the hearing, but they did not know the specifics of the allegations making their testimony less persuasive, he provided no evidence of any positive evaluations of his teaching from supervisors or SDUSD, and no testimony from other teachers or supervisors regarding his teaching. While he did successfully complete his court-ordered classes, he has done nothing else.

Taking into account all the circumstances presented in this matter, it is concluded that the only measure that will provide public protection is the revocation of respondent's teaching credentials, certifications and authorizations. This measure of adverse action is the most appropriate under the circumstances.

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ORDER

All credentials, certificates, and authorizations issued to respondent Jeremy Lamont Henderson by the Commission on Teacher Credentialing are revoked.

DATE: January 19, 2022

Debra D. Nye-Perkins

DEBRA D. NYE-PERKINS

Administrative Law Judge

Office of Administrative Hearings