

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

In the Matter of the Accusation against:

SHATARA JOHNSON

Child Development Teacher Permit,

Respondent.

Agency Case No. 2-202234951

OAH No. 2023060309

PROPOSED DECISION

Julie Cabos Owen, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on December 13, 2023. Cristina Felix, Deputy Attorney General, represented Mary Vixie Sandy, Ed.D. (Complainant), Executive Director of the California Commission on Teacher Credentialing (Commission). Shatara Johnson (Respondent) represented herself.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on December 13, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. On February 19, 2019, the Commission issued a Child Development Teacher Permit (Permit) to Respondent. The Permit is scheduled to expire on March 1, 2024.

2. On September 23, 2022, the Commission's Committee of Credentials (Committee) issued a written notice to Respondent, indicating that it had found probable cause to recommend revocation of Respondent's Permit. Respondent requested reconsideration, which the Committee denied in a written notice on November 28, 2022.

3. On February 27, 2023, Complainant filed the Accusation while acting in her official capacity.

4. Respondent requested an administrative hearing, and this matter ensued.

Events of July 4 and 5, 2021

5. The Accusation arose from events on July 4 and 5, 2021. The facts pertaining to those events were established by the testimony of Officer Matthew Alfaro and the findings in an arrest report admitted into evidence pursuant to *Lake v. Reed* (1997) 16 Cal.4th 448 (*Lake*). (Under *Lake*, the police officer's personal observations are admissible for all purposes, but all other statements are admitted as administrative hearsay unless they fall within a hearsay exception, such as party admissions. In this case, the officer's observations and Respondent's admissions were admitted for all purposes. However, any witness statements constituted inadmissible

hearsay, insufficient in themselves to establish any factual finding, and admitted only as administrative hearsay to explain or supplement other admitted evidence, pursuant to Government Code section 11513, subdivision (d).)

6. On July 4, 2021, Respondent went to a park with her two minor children, drank alcohol all day long, and smoked marijuana. While at her grandmother's residence, she argued with relatives. On at least one occasion she became involved in a physical fight with her uncle.

7. On July 4, 2021, at 10:14 p.m., the Los Angeles Police Department (LAPD) received a 911 call from a female caller named "Shatara." Respondent reported her uncle had assaulted her at her grandmother's residence. Respondent was yelling, slurring words, difficult to understand, and refusing to answer questions. Respondent was also arguing with and cursing at a male whose voice could be heard in the background. Respondent reported she was in a blue Kia parked in the driveway. A patrol unit with Officers Tamayo and Herrera responded to the call but were unable to locate Respondent.

8. On July 5, 2021, at 3:56 a.m., the LAPD received a second 911 call from a female from the same location. The caller stated that an unknown male brandished a handgun at her and her sister and that a female wearing a neon blue shirt threw a glass bottle at the caller. Patrol Officers Alfaro and Worley responded to the call but were unable to locate the caller.

9. On July 5, 2021, at 6:04 a.m., the LAPD received a third 911 call from the same location. Respondent reported a family dispute had occurred. She advised the LAPD there were two dead bodies at the location, and she was going to start CPR on them. Later in the conversation, Respondent stated she was "only playing" and

requested LAPD investigate a vehicle vandalism. Respondent also requested that the Los Angeles Fire Department respond to her location for a pit bull dog bite.

10. Officers Alfaro and Worley responded to the 911 call regarding the dead bodies and parked their vehicle on the street. As they arrived at the residence, Officer Alfaro observed several officers already at the scene. Officers Herrera and Tomayo were talking to Respondent, and two other officers were talking to Respondent's uncle. Officer Alfaro observed Respondent becoming agitated and starting to raise her voice. Respondent released a large pit bull breed dog, which began running around and barking. Respondent began yelling "I'm going to sic the dog on you (referring to officers)! Bite them! Bite them! Get off my property!" Respondent's yelling and releasing the dog were captured on an officer's body camera.

11. As Officer Alfaro started walking quickly toward his vehicle, the dog ran up to him barking and growling. When the dog was about one foot away, Officer Alfaro feared the dog would bite his leg, so he pepper-sprayed the dog's face. The dog retreated and ran toward the residence.

12. As Officers Alfaro and Worley entered their vehicle and started to drive away, Officer Alfaro heard Respondent yell, "You sprayed my dog!" Officer Alfaro looked in Respondent's direction, saw her throw a glass bottle toward the vehicle, and heard it striking the vehicle. Because the object could have shattered the vehicle's windows and injured the officers sitting inside, they stopped and exited their vehicle.

13. Officer Alfaro observed the pit bull dog was still in the front yard. The dog suddenly ran from the residence toward another officer, Officer Illsley, who was standing behind Officer Alfaro. The dog barked and aggressively lunged at Officer

Illsley, coming within two feet of her. Officer Illsley drew a firearm and fired one round at the dog, striking and killing it.

14. Respondent was arrested for assault with a deadly weapon, non-firearm, in violation of Penal Code 245, subdivision (c). After the arrest, LAPD detectives interviewed Respondent.

15. During her interview, Respondent informed detectives she resides with her two minor children at a housing development. She reported that the housing development management did not allow her pit bull on the property because he was considered too aggressive, so she had kept the dog at her grandmother's residence. Respondent stated there were other pit bulls at her grandmother's residence, but they were separated from her dog because they were aggressive toward each other.

16. When the detectives asked Respondent what occurred on July 4 and July 5, 2021, she admitted she drank alcohol all day long and smoked marijuana. She recalled going to her grandmother's residence, arguing with relatives, and engaging in a physical altercation with her uncle. Respondent admitted she called the police several times from her cell phone. She said the police did not initially respond so she went to sleep inside her vehicle, a blue Kia Forte.

17. Respondent recalled she woke up at about 5:00 a.m. and was upset the police did not respond to her prior call, so she called the police again and claimed there were two bodies on the property. She admitted she lied to the LAPD operator because she just wanted the police to come.

18. Respondent admitted she released her dog because she was upset at the police and wanted them off the property. She admitted throwing bottles. However, she maintained she threw the bottles at her uncle, and they missed him and landed near

the police vehicles. She denied aiming the bottles at the police. Respondent denied directing her dog to attack the officers. This denial was contrary to the video footage captured on the officer's body camera.

19. Respondent was not criminally charged as a result of her July 5, 2021 arrest.

20. The Los Angeles Office of the City Attorney (City Attorney) reviewed the arrest report but declined to file charges. In a letter dated August 17, 2022, Senior Hearing Officer Susan Kang (SHO Kang) wrote:

This letter is to inform you that the above numbered case was heard by this office on November 2, 2021. The case was resolved at this hearing and no criminal charges were filed against you.

The law provides that this case remain open for three years from the date of the alleged incident. If there should be any further incidents during this time that require police investigation, we will review the above numbered case to determine whether to file the case in criminal court.

If no further incidents were reported, the case will be closed three years from the date of the incident July 5, 2021.

(Exhibit D.)

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Prior Law Enforcement Encounter

21. Respondent had an encounter with law enforcement six months before her July 5, 2021 arrest.

22. On January 1, 2021, Respondent was arrested for violating Penal Code section 273.5 (inflicting corporeal injury on spouse causing traumatic condition). That arrest arose from Respondent's physical altercation with her child's father during which she pepper-sprayed him.

23. In a letter from the Family Violence Unit of City Attorney, dated May 16, 2022, Supervising Attorney Alex T. Perez wrote:

As you know, this office has reviewed and considered a Los Angeles Police report dated January 1, 2021 concerning a possible violation of Penal Code 273.5(a).

After review, our office declined to file criminal charges. However, the case can be re-opened and filed any time prior to the expiration of the applicable statute of limitations.

(Exhibit B.)

Respondent's Rehabilitation and Character Evidence

24. Respondent testified at the administrative hearing in a respectful manner.

25. Respondent apologized for her misconduct. She stated, "I accept full responsibility for my actions now that we are here." However, Respondent's acceptance of responsibility was perfunctory, and she did not fully recognize the

wrongfulness of her actions. Respondent's testimony about her misconduct was strategically vague, and she pointed to others as the instigators. For example, she testified her "dog was murdered," but she never admitted that she directed her dog to attack the officers. She testified her uncle was abusing her on July 4 and 5, 2021, but she did not sufficiently explain why she could not leave the premises and return home. Given the foregoing, Respondent's testimony lacked credibility.

26. Respondent contended she has rehabilitated herself through individual therapy and anger management counseling sessions. Respondent reported that SHO Kang "advised [her] to check into counseling or anger management." However, it was unclear whether these sessions were mere advisements or required to avoid the filing of criminal charges. In a letter dated October 22, 2022, Tiffany L. Matthews, Licensed Marriage and Family Therapist with Matthews Family Counseling, wrote:

Please be advised that [Respondent] enrolled in Matthews Family Counseling's court counseling program on May 25, 2022. Her program consists of Individual Therapy, and Anger Management Classes. As [of] October 22nd, 2022, [Respondent] has completed 20 of 20 Anger Management class[es] and 20 of 20 Individual Therapy Sessions.

[Respondent] participated in her sessions and was open to discussion regarding the issues outlined by the court. In her sessions, she has covered topics such as anger rooted from childhood trauma, pain and disappointment[,] and how to control the hurt that turn[s] into anger and reflective listening. [Respondent] has been active and eager throughout her therapy program.

(Exhibit C.)

27. Respondent denied her counseling was court-ordered. However, she failed to sufficiently explain why Ms. Matthews alluded to a "court" counseling program and "issues outlined by the court." (Exhibit C.)

28. Respondent believes the therapy and anger management sessions were helpful. She learned about "triggers that were making [her] react out of anger," and "things from [her] childhood that led to [her] adulthood."

29. Respondent has attended no further therapy or anger management sessions since completing the sessions with Matthews.

30. Respondent provided no letters from any counselors or therapists addressing her current rehabilitation and recommendations for further counseling to avoid recidivism. Given that her issues reportedly stemmed from childhood, it is unlikely her anger and other issues could be completely addressed in 20 sessions.

31. Respondent has not attended any Alcoholics Anonymous or 12-step programs to address issues with substance abuse. She still drinks alcohol occasionally.

32. Respondent noted "nobody is perfect," and she "cannot change the past," but "can only move forward." Respondent assured the Commission she has learned from her past. She now understands that when she is not in a professional setting, she must still have to have self-control.

33. Respondent does not believe she will repeat her behavior from January and July 2021. She noted she no longer associates with the people in her prior environments. She is separated from her child's father, and she no longer sees him or her uncle.

34. Respondent is currently involved in her community and her children's sports.

35. Respondent is unemployed. She worked as a child development teacher for a company called PACE from June 27, 2022, until November 29, 2022, when "they were notified of this case." It is unclear whether Respondent's employment was terminated because of this case.

LEGAL CONCLUSIONS

1. Pursuant to Education Code section 44421:

The [Commission] shall privately admonish, publicly reprove, revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

2. Pursuant to Education Code section 44345, subdivision (e), "The [C]ommission may deny any application for the issuance of a credential or for the renewal of a credential made by any applicant who . . . (e) Has committed any act involving moral turpitude."

3. The standard of proof to be used in these proceedings is "clear and convincing" evidence. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

4. In this case, Complainant alleges causes for discipline for unprofessional conduct, immoral conduct, acts of moral turpitude, and evident unfitness for service.

5. Unprofessional conduct is conduct that "violates the rules or ethical code of a profession" or conduct that is "unbecoming a member of a profession in good standing." (*Board of Ed. of City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 553, overruled on other grounds by *Bekiaris v. Board of Ed. of City of Modesto* (1972) 6 Cal.3d 575, 588, fn. 7.)

6. Immoral conduct is conduct that 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 Ed. of San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811.)

7. Although not amenable to a precise definition, "moral turpitude" connotes a readiness to do evil, an act of baseness, vileness or "depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man." (*People v. Forster* (1994) 29 Cal.App.4th 1746, 1757, quoting from *People v. Mansfield* (1988) 200 Cal.App.3d 82, 87.)

8. In addition, a teacher is regarded as a role model for students, as noted by several courts:

The calling (of a teacher) is so intimate, its duties so delicate, the things in which a teacher might prove

unworthy or would fail are so numerous that they are incapable of enumeration in any legislative enactment. [Her] habits, [her] speech, [her] good name, [her] cleanliness, the wisdom and propriety of [her] unofficial utterances, [her] associations, all are involved. [Her] ability to inspire children and to govern them, [her] power as a teacher, and the character for which [she] stands are matters of major concern in a teacher's selection and retention." (*Board of Education v. Weiland*, 179 Cal.App.2d 808, 4 Cal.Rptr. 286, citing from *Goldsmith v. Board of Education*, 66 Cal.App. 157, 168, 225 P. 783.)

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

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

words and actions are likely to be followed by the
(students) coming under [her] care and protection.”

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

9. It has also been established that “[t]he Commission has broad discretion in determining what constitutes unfitness to teach and immoral conduct, and whether dismissal or suspension is the appropriate sanction. [Citation] ‘[A] disciplinary discharge often involves complex facts and may require a sensitive evaluation of the nature and seriousness of the misconduct and whether it warrants the grave sanction of dismissal.’ [Citation].” (*California Teachers Ass’n v. State of California* (1999) 20 Cal.4th 327, 343-344.)

10. Respondent’s deceptive 911 call and her aggressive and violent conduct toward the police officers who responded to her call are greatly concerning. Her behavior was “unbecoming a member of a profession in good standing,” “contrary to the accepted and customary rule of right and duty,” and showed an “inconsiderate attitude toward good order and the public welfare.” If Respondent had engaged in such conduct with a student, it would undoubtedly be considered unprofessional conduct, immoral conduct, and acts of moral turpitude for purposes of imposing discipline on her Permit. However, as set forth in *Morrison v. State Board of Education* (1969) 1 Cal.3d 214 (*Morrison*), a teacher’s conduct cannot be abstractly characterized as “immoral,” or “unprofessional,” thus warranting discipline, “unless that conduct indicates that [teacher] is unfit to teach.” (*Id.* at p. 229.)

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11. California Code of Regulations, title 5, section 80302, subdivision (a), sets forth the factors used in determining the relationship between the alleged misconduct and the teacher's fitness, competence, or ability to effectively perform the duties authorized by their credential. These factors include, but are not limited to:

- (1) The likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity anticipated;
- (2) The proximity or remoteness in time of the conduct;
- (3) The type of credential held or applied for by the person involved;
- (4) The extenuating or aggravating circumstances surrounding the conduct;
- (5) The praiseworthiness or blameworthiness of the motives resulting in the conduct;
- (6) The likelihood of the recurrence of the questioned conduct;
- (7) The extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the person involved, or other certified persons;
- (8) The publicity or notoriety given to the conduct.

12. These eight factors (also known as the *Morrison* factors) must be applied in determining whether a teacher's conduct indicates unfitness to teach. (*Morrison*, *supra*, at pp. 229-230; *Board of Education v. Jack M.* (1977) 19 Cal.3d 691, 701, fn. 5.)

13. Regarding *Morrison* factor number four, California Code of Regulations, title 5, section 80300, subdivision (b), states, in pertinent 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, school children, or the profession.

Aggravating factors may include, but are not limited to, the following:

(1) a prior record of adverse action including the nature and extent of that record;

(2) that the misconduct evidences multiple acts of wrongdoing or demonstrate a pattern of misconduct;

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

(6) that the holder or applicant had prior notice, warnings, or reprimands for similar conduct from any reliable source.

14. The application of the *Morrison* factors to the instant case is set forth below.

(1) The likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity anticipated. There was no evidence of any adverse effects on Respondent's students, fellow teachers, or the educational community.

(2) The proximity or remoteness in time of the conduct. Respondent's wrongful conduct occurred relatively recently, just over two years ago. The proximity in time of Respondent's misbehavior negatively affects her fitness to teach.

(3) The type of credential held by the person involved. Respondent holds a Child Development Teacher Permit authorizing her to provide care and instruction for young children in a childcare or development program. This gives her the ability to exert authority and influence over impressionable children, including the power to affect their mental health and safety. Aggressive or violent behavior is antithetical to the characteristics required of a Child Development Teacher and negatively affects Respondent's fitness to teach.

(4) The extenuating or aggravating circumstances surrounding the conduct. Respondent did not establish any extenuating circumstances. Aggravating circumstances are that Respondent engaged in prior violent behavior, only six months before the July 5, 2021 incident, demonstrating a pattern of misconduct. She has also failed to fully accept responsibility for her wrongdoing. The foregoing all negatively affect Respondent's fitness to teach.

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(5) The praiseworthiness or blameworthiness of the motives resulting in the conduct. There was nothing praiseworthy in Respondent's inappropriate and aggressive conduct. This weighs against Respondent's fitness to teach.

(6) The likelihood of the reoccurrence of the questioned conduct. Respondent has failed to fully accept responsibility for her misconduct, and she established insufficient rehabilitation. She has no references from any work supervisors or counselors attesting to her fitness to teach. Respondent has only a four-month work history under her permit, and her employment was cut short when her violent behavior gave rise to this disciplinary action. Given the foregoing, there is a significant risk of recurrence of her misbehavior, and this negatively affects Respondent's fitness to teach.

(7) The extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers. There was no evidence that disciplinary action would inflict an adverse impact or chilling effect on Respondent's or other teachers' constitutional rights.

(8) The publicity or notoriety given to the conduct. There was no publicity or notoriety regarding Respondent's conduct.

15. Analysis of the totality of the *Morrison* criteria, set forth above, indicates that Respondent is unfit to teach. Given her repeated violent behavior and lack of sufficient rehabilitation, the risk of recidivism is high. Although Respondent did not engage in violent or aggressive behavior in her work setting, her four-month work history is insufficient to establish her disinclination to do so.

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16. Cause exists to discipline Respondent's Permit, pursuant to Education Code section 44421, for unprofessional conduct, as set forth in Factual Findings 1 through 35, and Legal Conclusions 1 through 15.

17. Cause exists to discipline Respondent's Permit, pursuant to Education Code section 44421, for immoral conduct, as set forth in Factual Findings 1 through 35, and Legal Conclusions 1 through 15.

18. Cause exists to discipline Respondent's Permit, pursuant to Education Code sections 44421 and 44345, subdivision (e), for acts of moral turpitude, as set forth in Factual Findings 1 through 35, and Legal Conclusions 1 through 15.

19. Complainant also alleged Respondent's "evident unfitness for service." "Evident unfitness for service" has been defined by the Court in *Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, as follows:

"Evident unfitness for service" . . . means "clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies." [Footnote.] Unlike "unprofessional conduct," "evident unfitness for service" connotes a fixed character trait, presumably not remediable merely on receipt of notice that one's conduct fails to meet the expectations of the employing school district. [¶] . . . [¶]

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Our conclusion does not mean that the criteria for unfitness set out in *Morrison v. State Board of Education* . . . may be disregarded where “evident unfitness for service” is at issue. These criteria must be analyzed to determine, as a threshold matter, whether the cited conduct indicates unfitness for service. (*Board of Education v. Jack M.* (1977) 19 Cal.3d 691, 696.) If 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.

(2 Cal.App.4th 1429, 1444-1446.)

20. As set forth in Legal Conclusions 14 and 15, Respondent’s conduct, measured by the *Morrison* factors, indicates her unfitness for service. Additionally, Respondent’s conduct apparently arises from a fixed character defect. Respondent has repeatedly engaged in violent behavior, and her violence reportedly stemmed from prior anger issues that Respondent failed to establish were adequately addressed in the 20 therapy sessions she underwent. Since teachers must refrain from violent behavior and must model proper comportment, Respondent has demonstrated an “evident unfitness for service.”

21. Cause exists to discipline Respondent’s Permit, pursuant to Education Code sections 44421, for evident unfitness for service, as set forth in Factual Findings 1 through 35, and Legal Conclusions 1 through 15.

22. Respondent’s Permit is subject to discipline. Given her lack of sufficient rehabilitation and likelihood of recidivism, public protection warrants the revocation of her Permit.

ORDER

The Child Development Teacher Permit issued to Respondent, Shatara Johnson, is hereby revoked.

DATE: 12/22/2023

Julie Cabos-Owen

JULIE CABOS-OWEN

Administrative Law Judge

Office of Administrative Hearings