

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

**In the Matter of the Accusation Against:**

**CAROLYN RENEE WARREN,**

**Clear Multiple Subject Teaching Credential,**

**Respondent.**

**Agency Case No. 2-285473772**

**OAH No. 2022100792**

**PROPOSED DECISION**

Administrative Law Judge Chantal M. Sampogna, Office of Administrative Hearings, State of California, heard this matter by videoconference on April 5, 2023.

Deputy Attorney General Lisa A. Miller represented complainant Mary Vixie Sandy, Ed.D, Executive Director of the California Commission on Teacher Credentialing (Commission).

Respondent Carolyn Renee Warren did not appear despite her receipt of timely and appropriate notice of the hearing.

The matter proceeded as a default prove-up pursuant to Government Code section 11520. Testimony and documentary evidence was received from complainant. The record was closed and the matter was submitted for decision on April 5, 2023.

## **SUMMARY**

Complainant alleges that during the four academic years spanning the fall of 2017 through the spring of 2021, respondent engaged in unprofessional conduct, including multiple occurrences of being absent without notice and consuming intoxicants to the point she became unconscious in her classroom and unable to perform her job duties. Complainant further alleges aggravating factors, including respondent's conduct constituted multiple acts of wrongdoing for which she had received prior warnings.

Complainant established by clear and convincing evidence cause to revoke respondent's teaching credential. Respondent did not appear at hearing and did not present evidence in her defense. Based upon the facts established at hearing, all credentials, certificates, and authorizations issued to respondent will be revoked.

## **FACTUAL FINDINGS**

### **Jurisdiction**

1. On May 17, 2013, the Commission issued Clear Multiple Subject Teaching Credential (credential) to respondent. The credential was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2023, unless renewed.

2. Respondent previously held the following certification documents: Preliminary Multiple Subject Teaching Credential, issued on July 28, 2010, and valid to August 1, 2015; and a 30-Day Substitute Teaching Permit, issued on April 4, 2007, and valid to May 1, 2011.

3. On July 29, 2022, complainant, acting in her official capacity, filed the Accusation. Respondent timely filed a Notice of Defense.

### **Respondent's Conduct Warranting Credential Discipline**

4. Two witnesses testified on behalf of complainant, Yesenia Diaz, an elementary school principal with the Palmdale School District (District), and Timothy Barker, the Director of Human Resources for the District. Principal Diaz was the Principal at Barrel Springs Elementary School (Barrel Springs) during the 2019-2020 and the 2020-2021 school years. HR Director Barker has served as the District's HR Director since July 2019. The witnesses' credible testimony and the documents presented at hearing, including relevant absentee logs and photographs of alcohol bottles found in respondent's classroom, established the allegations in the Accusation by clear and convincing evidence.

5. At all times relevant to the allegations, respondent was employed with the District, assigned to Barrel Springs as a 5th grade teacher.

### **FAILURES TO PROPERLY NOTIFY THE DISTRICT OF ABSENCES AND TO PROVIDE LESSON PLANS**

#### **2017-2018 School Year**

6. During the 2017-2018 school year, on the following seven different occasions, respondent failed to provide advance notice of her absence at least one

hour prior to the start of the workday: October 6 and 26, 2017; November 2, 2017; January 9 and 29, 2018; and March 13 and 27, 2018. Respondent did not notify the District of her absences until after the school day had started and in some cases, after the school day had concluded. During the same school year, respondent also failed to prepare substitute lesson plans on the days she was absent.

### **2018-2019 School Year**

7. During the 2018-2019 school year, respondent failed to report to work and did not notify the District at any time to arrange a substitute teacher on the following dates: December 13, 2018; and February 4 and 15, 2019. During the same school year, respondent notified the District of her absences less than one hour prior to the start of her workday on the following dates: September 14, 2018; and January 14 and 17, 2019. In addition, on the following nine separate occasions, respondent failed to prepare substitute lessons for the days she was absent: November 14, 2018; December 13, 2018; January 17 and 24, 2019; and February 8, 14, 15, 21, and 22, 2019.

8. On April 9, 2019, Tracey Webb, at the time the Assistant Principal at Barrel Springs, issued respondent a Letter of Warning, with directives to arrive at work on time, timely report any absences, and provide substitute lesson plans when absent.

### **2019-2020 School Year**

9. During the 2019-2020 school year, Principal Diaz received more than ten complaints from students' families regarding respondent's failure to report to work and failure to let the students enter the virtual classroom on Zoom. Principal Diaz also received several complaints respondent failed to show up for virtual office hours to assist students and answer questions. Principal Diaz called respondent to discuss her conduct. Often respondent was unavailable; when respondent was available and spoke

with Principal Diaz, she would not acknowledge wrongdoing, but would say she would improve. Ultimately, Principal Diaz removed two students from respondent's classroom following parents' complaints of respondent's absenteeism and nonresponsive behavior.

10. Respondent's conduct left her students unsupervised and without a teacher or instructional materials, causing her students to lose instructional time and leaving her students without a reliable and safe learning environment. To compensate for respondent's unavailability, the Barrel Springs fifth-grade team of teachers provided instruction to respondent's students via their own virtual classroom and provided instructional materials to respondent's students by adding classwork to respondent's Google Classroom or opening their own Google Classroom platforms to respondent's students. The District was required to pay these teachers additional compensation for covering respondent's duties.

### **2020-2021 School Year**

11. During the 2020-2021 school year, respondent was absent without notice on the following dates: January 29, 2021; and April 1 and 2, 2021.

12. At the beginning of the 2020-2021 school year, Principal Diaz and Assistant Principal (AP) Wiseman scheduled individual meetings with the Barrel Springs teachers to review instructional plans and goals for the 2020-2021 school year. However, respondent failed to report to her August 2020 scheduled meeting.

13. On December 3, 2020, respondent failed to attend an annual staff meeting despite having volunteered to present at the meeting. Because of her failure to attend and present, Principal Diaz had to dismiss the staff members and reschedule the meeting.

## **CONSUMPTION OF ALCOHOL DURING THE PERFORMANCE OF DUTIES**

14. On May 3, 2021, following Barrel Spring's resumption of in-person instruction, respondent released her students from class approximately 35 minutes early, at approximately 10:10 a.m., leaving them unsupervised in the dismissal area.

15. At approximately 10:47 a.m., after learning that respondent had dismissed her students early, Principal Diaz checked on respondent in her classroom. Respondent informed Principal Diaz she did not feel well and wanted to work from home for the remainder of the day.

16. Later that morning, AP Wiseman went to respondent's classroom to check on her and knocked multiple times with no response. AP Wiseman observed respondent slumped over her desk in an unnatural position. Concerned, AP Wiseman entered respondent's classroom and noticed that respondent appeared unconscious and noticed an odor that smelled like a mixture of alcohol and Lysol. AP Wiseman unsuccessfully attempted to wake respondent and called Principal Diaz over the radio for assistance. Principal Diaz responded to respondent's classroom and unsuccessfully attempted to wake her. Principal Diaz went to find Health Assistant (HA) Arlene Lefeele for assistance with respondent.

17. At approximately 11:45 a.m., Principal Diaz returned to respondent's classroom with HA Lefeele. HA Lefeele was able to wake respondent, but respondent was disorientated and slurred her words. AH Lefeele called 9-1-1. When paramedics arrived, they asked respondent various identifying questions and respondent was only able to answer correctly as to her name. Principal Diaz asked respondent if she could look in respondent's purse to ascertain if respondent was taking any medications.

After respondent nodded her head, Principal Diaz located a bottle of Lorazepam in respondent's purse, along with an empty vodka bottle in respondent's teaching bag.

18. The paramedics informed Principal Diaz it appeared respondent had taken Lorazepam in combination with alcohol, which could result in an overdose; respondent's open water bottle next to her chair contained vodka; and respondent's breath smelled of alcohol. The paramedics transported respondent to the hospital.

19. After respondent was transported to the hospital, Principal Diaz and AP Wiseman secured respondent's classroom. They observed respondent had written the following nonsensical message on the classroom whiteboard: "finisishihffi EARTH SCIIIII." Principal Diaz and AP Wiseman found an open can on respondent's desk which contained vodka, and also found the following items: an empty travel-size bottle of wine in respondent's desk; a plastic cup filled with vodka in respondent's desk drawer; and another empty bottle of vodka in respondent's mini-fridge.

20. Following the incident on May 3, 2021, respondent failed to comply with multiple directives issued by HR Director Barker. HR Director Barker directed respondent to report to him at the District's Human Resources Office (office) on May 4, 5, and 6, 2021. On May 4, respondent signed in at the office, and then immediately left, failing to meet with HR Director Barker. Respondent did not report to the office on May 5 or 6, 2021. On May 5, 2021, against HR Director Barker's direction to not report to Barrel Springs until after she had met with him, respondent walked on to the Barrel Springs' campus and Principal Diaz had to direct her to leave and had respondent escorted off campus.

21. On May 12, 2021, respondent provided HR Director Barker with an unsigned medical note excusing her from work from May 3 through 7, 2021. The

medical note was admitted pursuant to Government Code section 11513, subdivisions (c) and (d). No testimony was provided authenticating the letter and the letter is unsigned. The letter alone is not reliable and will not be relied on to establish respondent was not able to work from May 3 through 7, 2021. (Gov. Code, § 12513, subd. (c).) The contents of the letter do not supplement or explain the evidence presented and are insufficient to support a finding respondent was unable to report to work between May 3 and 7, 2021. (*Id.* at subd. (d).)

22. On July 7, 2021, the District served respondent with a Proposed Notice of Intent to Immediately Suspend Without Pay and Dismiss. Respondent resigned from the District effective July 29, 2021.

## **LEGAL CONCLUSIONS**

### **Commission's Authority**

1. Established by the Bergeson Act (Ed. Code § 44200, et seq.), the Commission's primary function relates to the licensing and development of professional standards for public school teachers in California. (§ 44225.) (Undesignated statutory references are to the Education Code.)

### **Burden and Standard of Proof**

2. Complainant bears the burden of proving the existence of grounds for disciplining respondent's credentials and must do so by clear and convincing evidence to a reasonable certainty. (*Daniels v. Department of Motor Vehicles* (1983) 33 Cal.3d 532, 536 ["When an administrative agency initiates an action to suspend or revoke a license, the burden of proving the facts necessary to support the action rests with the



agency making the allegation”]; *Gardener v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1036, 1039-1040 [recognizing that the clear and convincing evidence standard applies to proceedings to discipline a teacher’s credential, whereas the lesser preponderance of the evidence standard applies to proceedings to dismiss a teacher from particular employment].)

3. “The courts have defined clear and convincing evidence as evidence which is so clear as to leave no substantial doubt and as sufficiently strong to command the unhesitating assent of every reasonable mind. [Citations.] It has been said that a preponderance calls for probability, while clear and convincing proof demands a *high probability* [citations].” (*In re Terry D.* (1978) 83 Cal.App.3d 890, 899; italics original.)

## **Cause to Revoke Credential**

4. The Commission must privately admonish, publicly reprove, revoke or suspend a credential for: immoral or unprofessional conduct; persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system; any cause that would have warranted the denial of an application for a credential, or the renewal thereof; or for evident unfitness for service. (§ 44421.)

5. The Commission may deny any application for the issuance of a credential or for the renewal of a credential if the individual is addicted to the use of intoxicating beverages to excess. (§ 44345, subd. (c).)

## **UNPROFESSIONAL CONDUCT**

6. Unprofessional conduct is “that which violates the rules or ethical code of a profession or such conduct which is unbecoming a member of a profession in good

standing." (*Board of Educ. of City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 553 [overruled by *Bekiaris v. Board of Education* (1972) 6 Cal.3d 575 on other grounds].)

7. "... [T]he 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 . . . the teacher is entrusted with the custody of children and their high preparation for useful life. His habits, his speech, his good name, his cleanliness, the wisdom and propriety of his unofficial utterances, his associations, all are involved. His ability to inspire children and to govern them, his power as a teacher, and the character for which he stands are matters of major concern in a teacher's selection and retention." (*Goldsmith v. Board of Education* (1924) 66 Cal.App. 157, 169.)

## **EVIDENT UNFITNESS TO TEACH**

8. Unfitness for service has been defined as 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," which demonstrates the teacher is "clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies." (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.)

9. Immoral conduct, unprofessional conduct, and moral turpitude cannot be the basis for removal of a teacher unless that conduct indicates the teacher is unfit to teach. (*Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 229.) The *Morrison* criteria must be analyzed to determine whether the cited conduct indicates unfitness for service. (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1445, citing *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." (*Id.*)

10. A court may determine unfitness after considering the most pertinent *Morrison* factors and is not required to make findings on all the *Morrison* factors. (*West Valley-Mission Community College Dist. v. Concepcion* (1993) 16 Cal.App.4th 1766, 1777.)

11. Factors that assist the Commission in determining whether the teacher's fitness and overall impact on the students are likely to meet the Commission's standards include the following: the likelihood the conduct may have adversely affected students or fellow teachers; the degree of such adversity anticipated; the proximity or remoteness in time of the conduct; the type of teaching certificate held by the party involved; the extenuating or aggravating circumstances, if any, surrounding the conduct; the praiseworthiness or blameworthiness of the motives resulting in the conduct; the likelihood of the recurrence of the questioned conduct; 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; and the notoriety and publicity accorded to the conduct (Collectively referred to as "*Morrison* criteria" though established in additional regulatory and case law). (Cal. Code Regs., tit. 5, § 80302, subd. (a); *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 229-30; *Board of Education v. Jack M.* (1977) 19 Cal.3d 691, fn. 5.)

## **AGGRAVATING FACTORS**

12. California Code of Regulations, title 5, section 80300, subdivision (b), defines "Aggravating factors" as follows:

[A]n 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: ¶ . . .

(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;

[¶] . . . [¶]

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

## **ANALYSIS**

13. Complainant established by clear and convincing evidence cause exists under sections 44421 and 44345, subdivision (c), to revoke respondent's teacher credential. Between the fall of 2017 and spring of 2021, respondent's conduct was unprofessional, she persistently defied and refused to obey the laws regulating the duties of persons serving in the public school system, and during this time she was addicted to the use of intoxicating beverages to excess. Respondent's conduct was

egregious and harmed students; despite warnings, respondent did not remediate her conduct and did not establish sobriety or rehabilitation, demonstrating her behaviors have not been remediated and respondent is unfit for service. (Factual Findings 6-22.)

### **Unprofessional Conduct**

14. Respondent's conduct between the fall of 2017 and spring of 2021 constituted unprofessional conduct. During this time, she repeatedly failed to show to work, provide reasonable notice of her absence, or to provide lesson plans. In addition, on May 3, 2021, respondent was present at work with students in her classroom while she was under the influence of intoxicating substances and unable to properly perform her job duties. Respondent's conduct left the District and Barrel Springs with insufficient time to properly cover her absences and placed her students in an unsafe learning environment, without supervision, instruction, or instructional materials; as result of her conduct, respondent's coworkers were required to perform respondent's job duties. (Factual Findings 6-22.)

### **Persistent Defiance**

15. Respondent repeated this conduct multiple times each school year, and failed to improve her conduct after receiving an April 2019 written warning. Respondent's repeated failures to properly notify the District of absences and provide lesson plans was a persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system. (Factual Findings 6-13.)

### **Addiction to the Use of Intoxicating Beverages**

16. On May 3, 2021, respondent was present in the classroom with her fifth-grade students while under the influence of alcohol and Lorazepam, wrote nonsensical

directions on the board, and then released her students 35 minutes early. She had multiple containers containing alcohol, and some empty alcohol bottles, located in her teaching bag, in her desk, and her classroom refrigerator, all within reach of herself and her students. Respondent ultimately became unconscious and nonresponsive and required medical assistance from paramedics. Respondent's conduct on May 3, 2021, placed her students in an unsafe learning environment and without adult supervision. Respondent's conduct on May 3, 2021, coupled with the multiple alcohol containers in her classroom, established by clear and convincing evidence respondent was addicted to the use of intoxicating beverages to excess. (Factual Findings 14-22.)

### **Unfitness to Teach**

17. Respondent was entrusted with the custody of her young students and charged with the duty of teaching her students the information they needed to successfully complete the fifth-grade curriculum. Respondent's conduct occurred less than two years ago. Respondent holds a clear multiple subject teaching credential, which, were she to maintain her credential, would place her in the classroom with children who require constant supervision and attention. (Factual Findings 1, 2, 11-20.)

18. Respondent's conduct adversely affected her students as they were left multiple times without supervision, instruction, or instruction materials, and some of her students were present with respondent while she was intoxicated and while open containers of alcohol were accessible to them. The degree of anticipated adversity is great. By repeatedly failing to properly call off from work and then, on May 3, 2021, dismissing her students early, respondent repeatedly left her students unsupervised and therefore in an unsafe learning environment. Recurrence of respondent's behavior is likely. Respondent demonstrated addiction to alcohol to the point she was

intoxicated in the classroom, where she became unconscious, and has not presented evidence of sobriety or rehabilitation. (Factual Findings 6-22.)

19. Respondent's conduct included four factors in aggravation and demonstrates a greater degree of adverse action is needed to adequately protect the public, school children, and the profession. Respondent committed multiple acts of wrongdoing, demonstrating a pattern of misconduct. Respondent's conduct between May 4 and 6, 2021, when she failed to report to the office but instead reported to Barrel Springs, in violation of HR Director Baker's directions, demonstrated bad faith. Respondent's conduct on May 3, 2021, significantly harmed students, placing them at significant risk of harm based on her intoxicated state and dismissing them without supervision; respondent's conduct also significantly harmed her fifth-grade teacher team in spring of 2020 who repeatedly had to cover respondent's job duties without notice or cause. Finally, respondent had prior warnings, and reprimands for similar conduct from her supervisors at Barrel Springs. (Factual Findings 6-22.)

20. Sufficient evidence was not presented to assess praiseworthiness or blameworthiness. Generally, an individual cannot be blamed for their addiction, and without more evidence it is not possible to discern how much of respondent's conduct was, possibly, a direct result of her active addiction.

21. Imposing disciplinary action against respondent will not inflict an adverse impact or chilling effect upon the constitutional rights of respondent or other teachers. No evidence was presented regarding the notoriety and publicity accorded respondent's conduct.

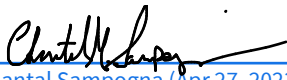
22. Based on respondent's unprofessional conduct, persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public

school system, respondent's addiction to the use of intoxicating beverages to excess, and in consideration of the *Morrison* factors, including factors in aggravations, respondent is unfit to teach. Respondent's credentials will be revoked.

## **ORDER**

The Clear Single Subject Teaching Credential, and all credentials, certificates, and authorizations, issued to respondent Carolyn Renee Warren are revoked.

DATE: **04/27/2023**

  
Chantal Sampogna (Apr 27, 2023 14:41 PDT)

CHANTAL M. SAMPOGNA

Administrative Law Judge

Office of Administrative Hearings