

**BEFORE THE
COMMISSION ON PROFESSIONAL COMPETENCE
STATE OF CALIFORNIA**

In the Matter of the Accusation Against,
GLORY RANGEL,
Respondent.

OAH No. 2014050417

DECISION

The Commission on Professional Competence (Commission) heard this matter in Los Angeles, California, on March 2, 3, 11, 12, 13, 16, 17, 18, and 19, 2015. The Commission consisted initially of Deanna Clark, designated by Complainant, Mary Ann Meysenburg, designated by Respondent, and Administrative Law Judge (ALJ) Carla L. Garrett, Office of Administrative Hearings, State of California, who presided. After completing one day of hearing on March 2, 2015, Ms. Meysenburg advised the Office of Administrative Hearings on the morning of March 3, 2015 that, due to a medical injury, she could no longer serve on the Commission. Consequently, on the second day of hearing, March 3, 2015, ALJ Garrett advised the parties of Ms. Meysenburg's status, and continued the hearing until Respondent could designate a replacement panel member. On March 10, 2015, Respondent designated a replacement panel member, Mitzi Okamoto.¹ The hearing resumed on March 11, 2015 and proceeded day-to-day to March 19, 2015.

Michele M. Goldsmith, Attorney at Law, represented the Los Angeles Unified School District (District or Complainant). Ronald C. Lapekas, Attorney at Law, represented

¹ On March 10, 2015, the parties executed a stipulation (Exhibit 96) agreeing that Ms. Okamoto was qualified to serve as a Commission panel member based on her lifetime credential and her service as a second and third grade elementary school teacher. The stipulation also stated that Respondent and Respondent's counsel had been informed that Ms. Okamoto was a retired teacher for the Los Angeles Unified School District. Respondent and Respondent's counsel knowingly waived any objection to Ms. Okamoto serving as a replacement Commission member. In that regard, and pursuant to a written stipulation between the parties, Ms. Okamoto, prior to her service as a replacement Commission member, reviewed the transcript from the first day of hearing, specifically Complainant's opening statement, the direct testimony of Mark Paz, and the cross-examination of Mark Paz, which had begun, but had not been completed. Ms. Okamoto also reviewed trial briefs submitted by the parties, and Exhibits 25, 26, 27, and 28, which had been introduced into evidence on the first day of hearing.

Respondent Glory Rangel (Respondent). The parties submitted the matter for decision on March 19, 2015.

Respondent is a permanent certificated employee of the District assigned as a second grade teacher at Tenth Street Elementary School. District alleged that Respondent demonstrated unprofessional conduct (§ 44932, subd. (a)(1)),² unsatisfactory performance (§ 44932, subd. (a)(4)), evident unfitness for service (§ 44932, subd. (a)(5)), persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing her (§ 44932, subd. (a) (7)), and a willful refusal to perform regular assignments without reasonable cause, as described by reasonable rules and regulations of the employing district (§ 44939). District seeks Respondent's dismissal.

FACTUAL FINDINGS

1. On April 25, 2014, District served Respondent with a Statement of Charges executed by Justo H. Avila, Interim Chief Human Resources Officer, acting in his official capacity, on April 14, 2014. On May 15, 2014, the District served Respondent with an Accusation. On June 2, 2014, Respondent served her Special Notice of Defense.

A. *Background Information: Performance History (April 25, 2010 – May 31, 2012)*

2. Respondent began teaching at District's school, Tenth Street Elementary School (Tenth Street), as a probationary new hire on August 31, 1998. Respondent achieved permanent status on July 1, 2000, and continued in that capacity at Tenth Street as a teacher of several grade levels. Specifically, Respondent began at Tenth Street as a kindergarten teacher, taught third grade for the 2005-2006 school year through the 2009-2010 school year, and then taught second grade for the 2010-2011 school year to April 25, 2014. During Respondent's tenure at Tenth Street, the student body consisted mostly of children of Hispanic descent, whose primary language was Spanish. Tenth Street was a Title One school, which mandated reduced class sizes of 20 students per class. The school day at Tenth Street began at 8:00 a.m.

(1) *2009-2010 School Year*

3. During the 2009-2010 school year, when Respondent taught third grade, Linda Ariyasu and Mark Paz, who were Tenth Street's principal and assistant principal, respectively, visited classrooms randomly on a daily basis. The purpose for these visits was to monitor teachers' performance and student behavior, and offer guidance and assistance when necessary. These observations ranged generally from 10 to 30 minutes.

4. On May 3, 2010, Ms. Ariyasu entered Respondent's class at 9:09 a.m. and remained until 9:33 a.m. When she first arrived to Respondent's class, Respondent was on

²

All statutory references are to the Education Code unless otherwise noted.

her computer certifying attendance, instead of at 8:00 a.m., when the school day began, and not circulating around the classroom. Consequently, some students were not on task completing their lesson on suffixes, and were talking and throwing things. Additionally, Ms. Ariyasu noticed some students were confused about what a suffix was and when to use one. Ms. Ariyasu noted her observations on a Classroom Observation form, and provided a copy of it to Respondent. The Classroom Observation form included Ms. Ariyasu's list of assistance and guidance, including suggestions that Respondent be clear about the lesson objective, to watch the lesson pacing, to find ways to engage students in the learning that helped monitor for understanding, and, at the end of the lesson, summarize the objective and what the students learned. Ms. Ariyasu also attached a flyer from an online professional development program for effective teaching and encouraged Respondent to consider attending it.

5. On May 5, 2010, Mr. Paz entered Respondent's class at 8:20 a.m. and noted the learning goal and subject matter of Respondent's instruction was unclear. Respondent neither verbalized the lesson's objective to the students, nor had written the objective on the white board. When Mr. Paz examined Respondent's plan book, there was nothing in her plan book that correlated with the lesson she was teaching (i.e., crayfish). Mr. Paz noted his observations on a "Classroom Observation" form, and provided a copy of it to Respondent. Mr. Paz also verbally reminded Respondent to include objectives in her plan book.

6. On May 6, 2010, Mr. Paz entered Respondent's class again at 1:35 p.m. and noted the students were off-task and roaming the room. Respondent's plan book did not include any information setting forth what the students were supposed to be doing at that time. Mr. Paz noted his observations on a Classroom Observation form, and provided a copy of it to Respondent.

7. On May 7, 2010, Mr. Paz entered Respondent's room at 7:55 a.m., when the students were supposed to be completing an Open Court Reading Program (Open Court)³ skills assessment. Mr. Paz noted that all of the students, except for one, were not doing anything in relation to Open Court. Respondent asked one of the students what page in the book should the class be, resulting in Mr. Paz's conclusion that Respondent was not prepared. Mr. Paz noted his observations on a Classroom Observation form, and provided a copy of it to Respondent.

8. Because of what he observed on May 5, 6, and 7, 2010, Mr. Paz held a conference with Respondent on May 10, 2010. During the conference, Mr. Paz directed Respondent, among other things, to be prepared and to have comprehensive plans written in her plan book that included clear objectives of each lesson. Mr. Paz also told Respondent that when he entered her classroom, he often found her on the computer and not monitoring

³ The Open Court Reading Program was a comprehensive English/Language Arts reading and writing program adopted by District for its elementary school students. Open Court was known for its systematic instruction in phonological and phonemic awareness and phonics.

the students. Mr. Paz counseled Respondent to limit her time on the computer and spend that time monitoring her class instead.

(2) *2009-2010 Stull Evaluation*

9. On May 19, 2010, Mr. Paz prepared an “Evaluation of Instructional Personnel Final Evaluation,” also known as a Stull evaluation, of Respondent’s performance for the 2009-2010 school year. In the area of support for student learning, Mr. Paz noted Respondent needed improvement in guiding all students to be self-directed and assess their own learning, and engaging student in problem-solving, critical-thinking, and other activities. Mr. Paz commented that Respondent failed to meet the varied needs of her students and did not differentiate instruction for gifted students, and Respondent demonstrated no evidence that Respondent engaged students in problem-solving and critical-thinking.

10. In the area of planning and designing instruction, Mr. Paz noted Respondent required improvement in demonstrating evidence of short-term and long-term plans to foster student learning and achievement of the State Standards, and using instructional strategies, materials, resources, and technologies that are appropriate to the subject matter. The evaluation also noted that Respondent failed to plan instruction to ensure that all groups of students had equal access to the curriculum. Mr. Paz commented that Respondent’s short and longer-term planning needed to be focused on grade level standards and addressing the needs of all of the students. Mr. Paz additionally commented that Respondent’s lessons were inconsistent with District’s pacing plans.

11. In the area of classroom performance, Mr. Paz noted Respondent needed improvement in planning and implementing classroom procedures and routines that support student learning, and failed to use instructional time effectively. Mr. Paz commented that Respondent needed to maintain rules and procedures designed to support student learning.

12. In the area of developing as a professional educator, Respondent required improvement in working with colleagues to improve professional practice, and providing effective supervision of students. Mr. Paz commented that Respondent needed to continue to work with grade level colleagues to improve her professional practice.

13. Respondent’s overall evaluation was “below standard performance.” Mr. Paz included a three-page attachment to Respondent’s Stull evaluation, which listed specific deficiencies, recommendations, and assistance to be provided. In the area of specific deficiencies, Mr. Paz stated that Respondent: (1) failed to prepare for and teach lessons per lesson plans which affected student learning and resulted in loss of instructional time; (2) failed to teach a directed lesson⁴ with clear, rigorous instructional objectives with explicit

⁴ A directed lesson involves stating clear objectives, modeling and explaining the concept, practicing the concept with the students, instructing the students to practice the concept independently, and assessing for evidence the students mastered the objective.

and purposeful modeling of student expectations; (3) failed to properly evaluate and monitor student progress; failed to consistently use data to adjust teaching to address the instructional needs of all students, resulting in a classroom climate that lacked fairness and respect for students; and (4) lacked focus and attention during professional development and grade level meetings which adversely impacted instructional practice.

14. Mr. Paz recommended that Respondent (1) prepare and deliver daily lessons as planned; (2) teach the mandated District core programs with fidelity so that all students could develop the routines and procedures that help acquire the skills and strategies to be effective learners; (3) use elements of an effective directed lesson to guide teaching, including clear instructional objectives, check for student understanding, and re-teaching; (4) initiate opportunities for students to engage in their learning and explain their thinking; (5) incorporate concepts and strategies presented in professional development thinking; (6) use data and strategies to effectively monitor and evaluate student progress and guide the instructional program to meet the needs of each student; (7) differentiate instruction for students with differing abilities and language developmental levels; (8) consult with content area coaches on a regular basis to address instructional issues; (9) improve the fair and respectful treatment of all students, particularly in the area of student discipline; and (10) demonstrate a professional attitude and demeanor during professional development and grade level meetings.

15. Mr. Paz advised Respondent that he would provide her with the following assistance: (1) conferences with the principal (Ms. Ariyasu) regarding effective student learning, planning and lesson delivery, use of data to guide instruction, student engagement in response to intervention, and class management; (2) specific suggestions and materials as to how to improve Respondent's performance; (3) coaches in language arts, math, and English Language Development to confer and assist with the use of data to guide instruction, planning, preparation and delivery of effective core content instruction, modeling directed lessons, differentiation of instruction for English learners, and intervention strategies; (4) professional development; (5) opportunities to plan and work collaboratively with and observe grade level colleagues and others teach; (6) guidance from Ms. Ariyasu; (7) review by Ms. Ariyasu of lesson plans for the following week every Friday; (8) notice of outside professional development opportunities; and (9) opportunity to participate in District's Peer Assistance and Review (PAR) program.⁵

16. Mr. Paz recommended that Respondent be evaluated again at the end of the next school year (2010-2011).

⁵ The PAR program provides a professional to meet with a teacher requiring improvement, generally weekly, to discuss goals, the development of lesson plans, the implementation of lesson plans, and teaching tools and strategies. Additionally, the PAR professional provides reflection conferences with the teacher, refers the teacher to learning resources and developmental opportunities throughout the school year, and arranges for the teacher to observe a modeling teacher.

(3) *2010-2011 School Year*

17. Because Respondent attained enough seniority to select the grade level she wanted to teach, she elected to teach second grade instead of third grade for the 2010-2011 school year.

18. District provided all teachers, by grade level, a pacing plan at the beginning of the school year, which set forth how much material to cover within a certain period of time to ensure continuity of teaching, and to ensure students were receiving instruction pursuant to grade level standards. While there was flexibility in the pacing plan, District expected all material to be covered.

19. At the beginning of the school year, Tenth Street provided all teachers, including Respondent, with a handbook containing the policies and procedures of the school. One of the policies concerned student safety and required students who needed to visit the restroom during instructional time to be accompanied by a partner/monitor. The handbook also included guidelines for determining appropriate behavior instruction and intervention, and procedures concerning a school-wide behavior plan addressing misconduct in the classroom, preventative plans, examples of consequences, and examples of school responses. Additionally, the handbook included a “Discipline Foundation Policy Resource Manual” addressing school-wide positive behavior support, and required teachers to utilize “proactive strategies for defining, teaching, and supporting appropriate student behaviors.” In this regard, the policy listed, among other things, the necessity of teachers to monitor and correct behavioral errors, and to impose consistent consequences.

20. Additionally, the handbook also included an “Employee Code of Ethics,” providing, among other things, that employees set the best example by demonstrating excellence, integrity, and responsibility in their work, and that all employees keep policies, procedures, and rules of District, including following District’s “Code of Conduct, laws, and District rules, regulations, bulletins, policies and procedures.”

21. Ms. Ariyasu instructed teachers to make sure their lesson plans were visible, generally on their desks, so she could review them and ensure continuity of learning for each grade. Ms. Ariyasu also instructed teachers to post their objectives on the white board so the students would know on what they needed to focus. Teachers were also required to use differentiation of instruction, meaning they were required to tailor instruction to meet the individual needs of their students.

22. Pursuant to the provisions set forth in Mr. Paz’s attachment to Respondent’s 2009-2010 Stull evaluation, Respondent received assistance throughout the school year from the math and literacy coaches, who planned lessons with Respondent, demonstrated the lessons, critiqued Respondent when she presented the lesson, and, and provided one-on-one teaching to Respondent. Additionally, Respondent was required to observe teachers at other schools, and attend professional development programs to address English language arts, math, classroom management, and school safety.

23. Respondent also received guidance from a PAR professional that District assigned to assist Respondent in remedying her deficiencies set forth in the 2009-2010 Stull evaluation. The PAR professional met with Respondent, one-on-one, at least one time per week. All discussions were confidential between the PAR professional and Respondent, and no Tenth Street administrator, including Ms. Ariyasu (the principal), had any authority over the PAR professional. While the PAR professional kept all communications confidential, the PAR professional met monthly with Ms. Ariyasu to discuss Ms. Ariyasu's concerns.

24. On September 21, 2010, at 1:43 p.m., Ms. Ariyasu heard a lot of noise emanating from Respondent's classroom. Ms. Ariyasu entered Respondent's class and observed a noisy class and Respondent speaking loudly about student behavior. She also saw five students out of their seats, and only five students on task completing their assignment. Respondent then instructed the students to line up so that she could take them out for physical education (P.E.); however, when the students failed to line up to her satisfaction, Respondent decided to require her students to practice lining up. Twenty minutes later, only after Respondent modeled the behavior she expected, the students lined up to Respondent's satisfaction. The students missed a portion of P.E. as a result. Ms. Ariyasu, who discussed the results of her observation with Respondent, noted that the students missed a great portion of instructional time during the 20 minutes Respondent required the students practicing to line up. Ms. Ariyasu instructed Respondent to remain on schedule, be prepared, and teach the class in alignment with the lesson plan. Additionally, she instructed Respondent to post and review the purpose of each lesson with the students, adopt a classroom management strategy or plan and stick to it, and model to the students what they were expected to do.

25. On September 24, 2010, Ms. Ariyasu conducted an observation of Respondent's class from 10:40 a.m. to 11:05 a.m. During that period, Ms. Ariyasu observed Respondent teaching a lesson, but noted Respondent had not posted on the board the objective or learning goal. Ms. Ariyasu noted the students were not attentive to the lesson, as some were talking, and some were hitting each other, but Respondent did not redirect any of the students' behavior. Ms. Ariyasu conducted a conference with Respondent concerning her observations, and instructed Respondent to communicate the purpose of the lessons to the students, and ascertain how Respondent would determine whether the students mastered the objective.

26. On October 6, 2010, Ms. Ariyasu released Respondent from class to permit her to attend a two and one-half hour professional development session presented by Dr. Peter Gero, who possessed an expertise in classroom management. Dr. Gero provided the attendees with discipline philosophies and techniques for classroom management. Specifically, Dr. Gero provided strategies to ensure smooth transitions between lessons or activities, classroom control, positive demeanor, unemotional discipline, teaching classroom respect, conflict resolution, and addressing fighting.

27. On October 13, 2010, Ms. Ariyasu conducted an observation of Respondent's classroom, and on October 18, 2010, conferred with Respondent about her observations, and prepared a summary of that conference on October 21, 2010. During the conference, Ms. Ariyasu discussed concerns she observed in the areas of student safety, classroom management, unclear lesson objectives, and adherence to a lesson plan. Specifically, in the area of student safety, Ms. Ariyasu noted students carried their chairs with the legs pointed straight out, and that chairs were strewn in the aisle. In the area of classroom management, Ms. Ariyasu told Respondent that she failed to consistently implement a behavior management system, and, as a result, there was a constant and increasing loss of instructional time. For example, Respondent failed to appropriately discipline a student who had begun singing during Respondent's reading lesson, students who talked during the bulk of the lesson, a student who had gotten out of her chair to bother other students, or students who had thrown clips and books at each other. Additionally, Respondent failed to present a phonics lesson in the way the teacher's guide instructed, and did not state a clear objective or purpose of her Academic Language Development (ALD) lesson. Ms. Ariyasu mentioned Respondent's lesson plans failed to reflect the lessons set forth in Respondent's daily schedule. Ms. Ariyasu also noted that the issues raised in the conference were reflected in her observations and subsequent conferences of September 21, 2010 and September 24, 2010.

28. During the conference, Respondent told Ms. Ariyasu she was not sure how to teach Academic Language Development, and inquired into a pacing plan. Respondent also advised that she would like some help from the Title III Access to Core coach.

29. Ms. Ariyasu offered Respondent the following guidance and assistance during the conference: (1) choose a behavior management plan or strategy that Respondent learned during the October 6, 2010 professional development session with Dr. Gero, and implement it consistently; (2) establish regular routines to help eliminate the loss of instructional time; (3) work with the Title III Access to Core coach to assist in developing academic language through social studies and science; (4) consult the California State Framework for Language Arts for appropriate standards; (5) stick to the daily schedule for her grade level, and avoid deviating from it unless Respondent advises Ms. Ariyasu ahead of time; (6) post and review each lesson objective and purpose, and write them in kid-friendly language; (7) watch her lesson pacing; (8) deliver the lesson planned; and (9) use the elements of an effective directed lesson to guide teaching, including stating clear objectives, modeling and explaining, guided practice, independent practice, and assessing for evidence the students mastered the objective.

30. Ms. Ariyasu explained to Respondent at the conference that if she failed to make an immediate and sustained improvement in her class management, lesson planning, and delivering lessons, it would lead to disciplinary action.

31. On October 26, 2010, Ms. Ariyasu conducted a conference with Respondent regarding an earthquake drill held on October 21, 2010. All of the teachers at Tenth Street received notice of the earthquake drill on October 19, 2010 during a faculty meeting. The

earthquake drill commenced at 10:18 a.m. as scheduled, but Respondent's class did not arrive to the yard until 10:39, 21 minutes after the drill began. Ms. Ariyasu told Respondent that her lack of attention to procedures and details raised concerns about student safety. Additionally, Ms. Ariyasu noted Respondent failed to adequately monitor or address student behavior, in that Respondent's class line extended over several yards, as students were dancing or talking.

32. During the conference, Ms. Ariyasu offered Respondent the following guidance and assistance: (1) review emergency drill procedures; (2) consistently monitor students for appropriate behavior, particularly during emergency drill practice; and (3) call the office for assistance or clarification of procedures if needed. Ms. Ariyasu also told Respondent that if she were to evaluate Respondent's performance thus far, Respondent would receive a below standard Stull evaluation. Ms. Ariyasu instructed Respondent to review the California Standards for the Teaching Profession, including establishing and maintaining standards for student behavior, and planning and implementing procedures and routines to support student learning and safety.

33. Ms. Ariyasu also directed Respondent to do the following: (1) follow district and school policies and procedures; (2) monitor and maintain appropriate student behavior at all times; and (3) adhere to the California Standards for the Teaching Profession. Ms. Ariyasu advised Respondent that if she failed to demonstrate a marked and sustained improvement in her performance, it could lead to a Notice of Unsatisfactory Act/Service, suspension without pay, and dismissal from the District. Similarly, Ms. Ariyasu advised Respondent that if she failed to follow the directives or adhere to District policies and procedures, it would result in administrative or disciplinary action such as a Notice of Unsatisfactory Act/Service, suspension without pay, and dismissal from the District.

34. On November 5, 2010, Ms. Ariyasu conducted an observation of Respondent's classroom from 12:40 p.m. to 1:05 p.m., during a District writing assessment assignment. As Respondent stood before the class and explained the writing assessment assignment, Ms. Ariyasu observed students talking, playing with pencils, leaning over their desks, and overall, not paying attention. Respondent did not address the students' behavior. Additionally, Respondent's instructions to the students were unclear, leaving them confused about what, specifically, they were supposed to write. Later, during the close of the Response to Intervention (RTI)⁶ period, where students were placed in different groups in different classrooms to receive additional attention to address areas of need, one of Respondent's students did not return to class, but Respondent failed to notice. At 1:48 p.m., Ms. Ariyasu returned to the class and witnessed Respondent completing forms to parents concerning unsatisfactory progress of their children.

35. On November 9, 2010, Ms. Ariyasu held a conference with Respondent to discuss her November 5, 2010 observation. Ms. Ariyasu gave Respondent guidance and

⁶ Response to Intervention (RTI) is a multi-tier approach to the early identification and support of students with learning and behavior needs.

assistance. Specifically, Ms. Ariyasu told Respondent she needed to state clear objectives when teaching a lesson, explain and model what students were expected to learn, monitor student behavior at all times, stick to lesson plans, and consult the Title III Access to Core coach for assistance with teaching the writing process. Ms. Ariyasu directed Respondent to follow assessment directions as set forth in the teacher's manual. She also directed her not to complete paperwork during instructional time. Ms. Ariyasu advised Respondent that if she failed to follow her directives, or follow District policy and procedures in the future, Respondent could face administrative or disciplinary action, such as a Notice of Unsatisfactory Act/Service, suspension without pay, and dismissal from District service.

36. On December 6, 2010, Ms. Ariyasu held a conference with Respondent to discuss her observations of Respondent's classroom on November 29, 2010, and the periodic assessment data of Respondent's students. Ms. Ariyasu expressed concern about Respondent's failure to prepare for and teach lessons as planned, because Respondent only addressed two of the eight objectives indicated in her plan book. Ms. Ariyasu also expressed concern about Respondent's lack of classroom management, and the resulting loss of instructional time. Specifically, Ms. Ariyasu commented that one student was on the floor with her backpack, several students were talking, one student was clapping, one student had her head on her desk, and Respondent had scolded one student four times, but never had that student turn over her discipline card. Additionally, Ms. Ariyasu expressed that Respondent failed to teach the Open Court Reading program with fidelity, which resulted in ineffective directive lessons. Specifically, Ms. Ariyasu commented that Respondent's lesson objectives were not always clear because Respondent would teach only part of the lesson.

37. In Ms. Ariyasu's review with Respondent of the periodic assessments results of Respondent's students, Ms. Ariyasu advised, in the area of reading, 15 of 19 students showed a drop in scores in at least one or all of the areas of fluency, comprehension, and vocabulary, compared to the students' scores in the previous year. Eight students who were expected to reach their benchmark goals regressed in fluency, comprehension, and vocabulary. Only four students reached benchmark in the area of comprehension, and only one student reached benchmark in the area of vocabulary. In the area of math, only nine of the 19 students reached benchmark, and 10 of 19 students required strategic or intensive intervention.

38. Ms. Ariyasu offered Respondent the following guidance and assistance: (1) teach the lessons planned; (2) follow the proscribed Open Court Reading routines and procedures when delivering lessons; (3) meet with the literacy coach to assist with Open Court Reading routines and procedures, as well as pacing to ensure coverage of all material in a lesson; (4) select a classroom management strategy and stick to it; (5) refrain from showing frustration with certain students' behavior; (6) seat students with behavior issues in closer proximity to Respondent's desk; (7) meet with the math coach regarding the math scores and how to work with her students; (8) deliver the math program with fidelity; (9) follow the lessons the coaches model for her; (10) visit another second grade teacher to observe how she or he handles Open Court Reading routines and procedures; and (11) include the elements of an effective directed lesson in every lesson taught. Specifically,

Respondent should have a clear purpose or objective of each lesson, model and explain to the students what Respondent expects them to know and do, provide guided and independent practice; and evaluate student progress and determine next steps.

39. Ms. Ariyasu gave Respondent the following directives: (1) deliver the District mandated programs with fidelity; (2) teach the lessons planned; (3) deliver effective directed lessons; (4) maintain the daily schedule; (5) maintain a consistent plan or strategy for classroom management; and (6) maintain a professional demeanor with students. Ms. Ariyasu advised that if she were to evaluate Respondent at that time, she would have to issue a below standard Stull evaluation. Ms. Ariyasu advised Respondent that if she failed to follow her directives, or follow District policy and procedures in the future, Respondent could face administrative or disciplinary action, such as a Notice of Unsatisfactory Act/Service, suspension without pay, and dismissal from District service.

40. On January 10, 2011 and February 23, 2011, Ms. Ariyasu observed Respondent's classroom, and noted classroom management had improved.

41. On May 2, 2011, Ms. Ariyasu held a conference with Respondent to discuss her observations of Respondent's classroom on April 27, 2011. Ms. Ariyasu noted several students were distracted during Respondent's reading lesson, as some were playing with their hands instead of reading, four had their heads down on the desk, two were looking for things in their desks, and two were whispering to each other. Ms. Ariyasu commented that Respondent tended to remain in the front of the class when teaching instead of walking around and interacting with students. Ms. Ariyasu also told Respondent that although Respondent wrote the lesson objective on the board, the objective was not always clear during the lesson. Additionally, Ms. Ariyasu noted that pacing continued to be an issue, and Respondent failed to follow her lesson plans.

42. During the conference, Ms. Ariyasu offered Respondent the following guidance and assistance: (1) maintain the classroom rules; (2) initiate opportunities for students to engage in their learning and explain their thinking; (3) be clear in the purpose and objective of the lesson; (4) be prepared; (5) include elements of an effective directed lesson when planning and teaching; (6) circulate among the students whenever possible; (7) follow and deliver lessons as planned; (8) use assessment data to identify students who need additional support and provide appropriate intervention; (9) differentiate instruction for students with differing abilities; (10) continue working with the coaches for guidance concerning increasing student participation, lesson pacing, delivering a directed lesson, and differentiating instruction to meet the needs of all students; and (11) submit all reports and assessments on time. Ms. Ariyasu advised that if she were to evaluate Respondent at that time, she would have to issue a below standard Stull evaluation.

43. Ms. Ariyasu gave Respondent the following directives: (1) maintain classroom rules; (2) consistently implement selected classroom management strategies; (3) increase student engagement in learning; (4) be prepared; (5) deliver effective directed lessons; (6) deliver lessons planned; (7) work with coaches to improve the areas of concern;

and (8) submit all reports and assessments on time. Ms. Ariyasu advised Respondent that if she failed to show immediate and sustained improvement, Respondent could face administrative or disciplinary action, such as a Notice of Unsatisfactory Act/Service, suspension without pay, and dismissal from District service. Additionally, Ms. Ariyasu advised Respondent that if she failed to follow her directives, Respondent could receive a Notice of Unsatisfactory Act/Service, suspension without pay, or dismissal from District service.

44. The PAR panel submitted a reporting form to the District's employee services stating that Respondent participated in the PAR program from September 15, 2010 to June 1, 2011 for the 2010-2011 school year, but failed to meet her established PAR goals.

(4) *2010-2011 Stull Evaluation*

45. On May 19, 2011, Ms. Ariyasu prepared a Stull evaluation of Respondent's performance for the 2010-2011 school year. In the area of support for student learning, Ms. Ariyasu noted Respondent needed improvement in using the results of multiple assessments to guide instruction, guiding all students to be self-directed and assess their own learning, engaging students in problem-solving, critical-thinking, and other activities, and using a variety of instructional strategies and resources to respond to students' diverse needs. Ms. Ariyasu commented that Respondent used limited student data, failed to differentiate instruction for struggling and gifted students, and provided infrequent opportunities for students to engage in their learning and explain their thinking.

46. In the area of planning and designing instruction, Ms. Ariyasu noted Respondent required improvement in demonstrating evidence of short-term and long-term plans to foster student learning and achievement of the State Standards, and planning instruction to ensure that all groups of students had equal access to the curriculum. Ms. Ariyasu also commented that Respondent's lessons often lacked a clear objective, that she often failed to teach the lessons planned, and she often failed to deliver a lesson with components of an effective directed lesson.

47. In the area of classroom performance, Respondent needed improvement in establishing and maintaining standards for student behavior and creating a climate that promoted fairness and respect, planning and implementing classroom procedures and routines that supported student learning, and using instructional time effectively.

48. Respondent's overall evaluation was "below standard performance." Ms. Ariyasu included a three-page attachment to Respondent's Stull evaluation, which listed specific deficiencies, recommendations, and assistance to be provided. In the area of specific deficiencies, Ms. Ariyasu stated that Respondent: (1) failed to consistently monitor student behavior and implement class management strategies that supported student learning; (2) failed to teach lessons with a clear and rigorous instructional objective; (3) lacked consistent monitoring to check for student understanding of lesson objectives, negatively impacting effective instruction and student learning; (4) limited the use of student data which hindered

Respondent's ability to differentiate instruction and meet individual student needs, particularly struggling and gifted students; (5) failed to follow her lesson plans; and (6) failed to teach the District's core programs and assessments with fidelity, as Respondent failed to implement routines and procedures.

49. Ms. Ariyasu recommended that Respondent (1) monitor student behavior at all times and maintain class rules; (2) consistently implement classroom management strategies; (3) provide opportunities for students to engage in their learning and explain their thinking; (4) deliver effective directed lessons, including providing clear and rigorous objectives, purposeful modeling, checking for understanding, evaluation, and re-teaching, if needed; (5) teach the mandated District core programs with fidelity; (6) use State frameworks, teacher's guides, and District program guides as resources to prepare and deliver a rigorous program that meets the needs of all students; (7) use data and other strategies to effectively monitor and evaluate student progress; (8) follow assessment directions as given; (9) prepare and deliver lessons as planned; (10) maintain daily instructional schedule, be prepared, and watch pacing; (11) refrain from completing grading forms during instructional hours; (12) differentiate instruction for students with differing abilities and language development levels; (13) plan and implement independent work time for students on a regular basis; (14) work with content area coaches on a regular basis to address instructional issues and improve in all areas of concern; and (15) submit plans to Ms. Ariyasu every Friday for lessons for the upcoming week.

50. Ms. Ariyasu advised Respondent that she would provide her with the following assistance: (1) Ms. Ariyasu to continue meeting with Respondent in post-observation conferences concerning areas of deficiencies; (2) Ms. Ariyasu to continue providing Respondent with class-observation summaries; (3) Ms. Ariyasu to continue previewing Respondent's lesson plans every Friday; (4) Ms. Ariyasu and other staff to continue to provide Respondent with specific suggestions as to how she can improve her performance; (5) Ms. Ariyasu to continue providing opportunities for Respondent to plan and work collaboratively with and observe grade level colleagues; (6) literacy, math, and English Language Development coaches to continue providing lesson demonstrations and assistance in areas of concern, including effective directed instruction, planning and preparation, increasing student discourse and engagement in their learning, use of student data to guide instruction, differentiation of instruction, certain aspects of class management, teaching the District mandated core curriculum with fidelity, incorporating routines and procedures proscribed, and the use of a variety of resources to ensure all students have access to the core curriculum; (7) Ms. Ariyasu and staff to continue providing Respondent with professional development sessions focused on rigorous instruction in the core content areas; (8) Ms. Ariyasu and others to continue providing Respondent with notices regarding outside professional development opportunities covering the areas of concern; and (9) Respondent to be given an opportunity to participate again in the PAR program.

51. Respondent's failure to meet her PAR goals was not used to determine Respondent's Stull evaluation.

52. Ms. Ariyasu recommended that Respondent be evaluated again at the end of the next school year (2011-2012).

53. In a written response dated May 19, 2011, Respondent stated, in the area of support for student learning, she depended on the results of periodic assessment to know the skills the students mastered, and applied a wide variety of techniques to guide students to become self-directed and assess their own learning. Respondent stated that while Ms. Ariyasu indicated Respondent needed improvement in this area, she never suggested any modifications Respondent could have made in order to meet her expectations. Respondent further stated that Ms. Ariyasu failed to recognize the significance of many of the techniques she had incorporated from the *ABC's of Student Engagement* or any of the innovative trainings she had attended. Respondent felt Ms. Ariyasu was never on board with any of the strategies designed to improve the relevance of academic activities for the students and their culture. Additionally, Respondent stated Ms. Ariyasu belittled any creativity and use of imagination as far as instructional strategies and resources were concerned, because Ms. Ariyasu seemed more eager to magnify deficiencies in her students' behavior, as opposed to noting the ways Respondent has tried to respond to her students' diverse needs.

54. In her written response, Respondent stated, in the area of planning and designing instruction, she worked with her colleagues to develop short-term and long-term plans, and made necessary adjustments when needed to foster student learning and achievement of the State Standards. Additionally, Respondent stated that when she scaffolded instruction in order to ensure struggling students had equal access to the curriculum, Ms. Ariyasu accused her of not having rigorous instructional objectives. Conversely, Respondent stated that when she provided opportunities for her gifted students "to take the spotlight," Ms. Ariyasu failed to notice Respondent's special projects given to gifted students.

55. In her written response, Respondent stated, in the area of classroom performance, Ms. Ariyasu failed to see how Respondent helped her students develop a level of maturity, take responsibility for their actions, and express empathy for the feelings of others. As for maintaining a daily schedule, Respondent stated Ms. Ariyasu was quick to magnify "petty issues."

56. In her written response concerning the overall evaluation, Respondent stated she did not deserve to receive an unsatisfactory Stull evaluation for a second year in a row, and considered such action "harassment . . . designed to open the doors to further mistreatment by the administration." Respondent further stated that if the overall evaluation deserved any credence, then the burden of the "below standard performance" rested "on the lack of genuine instructional leadership" by Ms. Ariyasu.

(5) *2011-2012 School Year*

57. Pursuant to the provisions set forth in Ms. Ariyasu's attachment to Respondent's 2010-2011 Stull evaluation, Respondent received assistance throughout the

school year from the math and literacy coaches, who planned lessons with Respondent, demonstrated the lessons, critiqued Respondent when she presented the lesson, and provided one-on-one teaching to Respondent. Additionally, Respondent attended professional development programs to address English language arts, math, classroom management, and school safety.

58. Respondent also received guidance from a PAR professional that District assigned to assist Respondent in remedying her deficiencies set forth in the 2010-2011 Stull evaluation. The PAR professional met with Respondent, one-on-one, at least one time per week. All discussions were confidential between the PAR professional and Respondent, and no Tenth Street administrator, including Ms. Ariyasu, had any authority over the PAR professional. While the PAR professional kept all communications confidential, the PAR professional met monthly with Ms. Ariyasu to discuss Ms. Ariyasu's concerns.

59. On December 1, 2011, Ms. Ariyasu held a conference with Respondent to discuss an incident that occurred on November 29, 2011, involving two of Respondent's students. Specifically, two male students had gotten into a fight during the class's walk to the yard for recess, resulting in one of the students suffering a bloody lip. Respondent failed to accompany her class to the yard. Rather, Respondent watched the students from her upstairs classroom. Ms. Ariyasu reminded Respondent that school policy required all teachers to accompany their class to and from the yard, and also stated that in September 2011, all teachers were reminded of that policy. Ms. Ariyasu advised Respondent that she was responsible for the safety and well-being of her students, and should never, for any reason, permit her students to walk up or down the stairs to the yard by themselves. Ms. Ariyasu told Respondent to review with her students the appropriate behavior and expectations when using the stairs, and if she required assistance in the future, to contact the office immediately.

60. During the conference, Ms. Ariyasu directed Respondent to (1) walk with her class to and from the yard; (2) supervise her students at all times; (3) review student behavior standards regarding the use of the stairs; (4) call the office for assistance if unable to provide appropriate supervision; (5) refrain from discussing the incident with students, parents, or staff members; and (6) refrain from retaliating against any student, parent, or staff member who reported the incident. Ms. Ariyasu advised Respondent that any failure to follow administrative directives would lead to a Notice of Unsatisfactory Act/Service, suspension without pay, or dismissal from the District.

61. On December 14, 2011, Ms. Ariyasu held a conference with Respondent to discuss an incident that occurred on December 9, 2011, involving one of her students. Specifically, Ms. Ariyasu found the student standing in the doorway of Respondent's classroom, with the door partially closed, looking down the hall at the stairway exit. The student told Ms. Ariyasu that he had vomited. Ms. Ariyasu took the student into the classroom and discovered the classroom was empty. The student advised Ms. Ariyasu that he was in the front of the classroom when Respondent walked out the door with the other

students, and then the door closed. The student was left alone in the classroom, became frightened, and vomited. He had been waiting for Respondent to return to the class.

62. During the conference, Ms. Ariyasu advised Respondent that she should be the last one out the door when exiting the room to ensure all of her students have exited. Ms. Ariyasu told Respondent that she was responsible for the safety and well-being of her students, and she should never leave her students unsupervised. Additionally, Ms. Ariyasu reminded Respondent that this was the second conference in less than two weeks concerning her supervision of her students. Ms. Ariyasu then directed Respondent to (1) never leave a student unattended; (2) be the last person to exit the room to ensure all students have left the classroom; (3) supervise her students at all times; (4) refrain from discussing the incident with any students, parents, or staff members; and (5) refrain from retaliating against any student, parent, or staff member who reported the incident. Ms. Ariyasu advised Respondent that any failure to follow administrative directives would lead to a Notice of Unsatisfactory Act/Service, suspension without pay, or dismissal from the District. On December 15, 2011, Respondent submitted a memo to Ms. Ariyasu stating she intended to adhere to her administrative directives.

63. On December 16, 2011, Ms. Ariyasu held a conference with Respondent concerning her Stull lesson observation of December 13, 2011. Ms. Ariyasu noted that although Respondent had written the objective on the board concerning the use of four types of possessive nouns, and read it aloud with the students, the purpose of the lesson became unclear as she taught the lesson. Specifically, the students became confused about how to indicate possession when a noun was plural. No one understood the rationale behind apostrophe placement for “class’s” and “goggles.”

64. Ms. Ariyasu also noted that although Respondent provided guided and independent practice, Respondent was not sure what to do when students could not complete the task correctly. Specifically, only one out of 17 students completed the task (i.e., grammar transparency sentences) correctly, and almost all of the students got the last two problems wrong because they could not identify the correct possessive noun or could not determine whether the noun was singular or plural. Additionally, when Respondent pulled aside a small group of three students, Respondent told them what to circle on their practice sheet instead of re-teaching the objective. Respondent also marked one student’s work correct when the work was incorrect.

65. Ms. Ariyasu also stated during the conference that Respondent’s pacing remained an issue, and the lessons scheduled for teaching were not necessarily taught. Specifically, it took 50 minutes to complete the lesson, even though the teacher’s manual recommended 30 minutes for both the grammar and writing lessons. Respondent abbreviated the writing lesson, because only 10 minutes remained in the school day, which resulted in Respondent failing to provide an explicit explanation, modeling, or practicing. Ms. Ariyasu also noted Respondent failed to develop routines and procedures with the students, consequently resulting in a loss of instructional time. Specifically, students should have known to work independently when Respondent put them in small groups.

66. Ms. Ariyasu offered Respondent the following guidance and assistance: (1) use guiding questions during lessons to keep the students focused on the lesson; (2) manage time to include small group instruction to meet the individual needs of the students; (3) have clear objectives, and teach to those objectives; (4) deliver effective directed lessons, including providing clear and rigorous objectives, purposeful modeling, checking for understanding, evaluation, and re-teaching, if needed; (5) use instructional time to maximize learning, and if most students fail to understand the lesson or assignment, re-teach; (6) differentiate instruction for students with differing abilities and language development levels by using a variety of instructional strategies and resources that respond to student needs; (7) establish effective routines and procedures that provide students with a productive learning environment and maximize instructional time; (8) incorporate concepts and strategies presented in professional development sessions; (9) consult with content area coaches on a regular basis to address instructional issues; and (10) continue working with the PAR coach.

67. During the conference, Ms. Ariyasu directed Respondent to (1) establish clear learning objectives and align all activities to accomplishing those objectives; (2) teach the lesson as planned; (3) monitor pacing in order to teach the program with fidelity; (4) establish appropriate routines and procedures; (5) include small group instruction daily; (6) teach effective directed lessons; (7) differentiate instruction to meet the needs of all students; (8) maximize instructional time and re-teach when needed; (9) continue to incorporate concepts and strategies presented in professional development sessions; (10) continue to consult with content area coaches and the PAR mentor regarding Respondent's instructional issues.

68. On February 2, 2012, Ms. Ariyasu memorialized the substance of a conference she held with Respondent on January 30, 2012, regarding Ms. Ariyasu's observation of Respondent's classroom on January 24, 2012. In the area of planning and designing instruction, Ms. Ariyasu noted Respondent's organization of her curriculum did not support student understanding of the time-related mathematical concepts Respondent presented. Specifically, Respondent failed to follow the sequence of the math lessons set forth in the teacher's edition or in the lesson plan for interactive learning. Additionally, Respondent failed to establish and articulate goals for student learning at the beginning of the lesson, and failed to engage the students in problem-solving, critical-thinking and/or other activities effectively. Particularly, when Respondent asked the students a time-related question, which resulted in inaccurate responses from the students, Respondent told the students to take out their own clocks, but failed to provide the students with an opportunity to practice counting time on their clocks, either as a whole group, small group, pairs, or independently. Ms. Ariyasu also noted Respondent made a word usage error. Specifically, she used the word "past" instead of "passed" in the question she had written on the board: "How much time has past?"

69. In the area of classroom performance, Ms. Ariyasu found Respondent's explanation of content unclear and confusing. Specifically, when telling the students how much time elapsed between five o'clock and eight o'clock, Respondent told the students to

begin counting from five o'clock (i.e., "five o'clock, six o'clock, seven o'clock, eight o'clock") for a total of four hours, instead from six o'clock, for the correct total of three hours.

70. Ms. Ariyasu told Respondent that she failed to establish a climate that promoted fairness and respect, and that her response to students was inconsistent and judgmental. Specifically, Respondent asked the students what they could do in five hours. One student responded he could do homework in five hours, which Respondent wrote on the projector sheet so the entire class could see the response. A second student responded he could play hide-and-seek, which Respondent questioned, but did not write the response on the projector sheet. A third student said he could play video games, which prompted Respondent to say, "I hope not," and did not write the answer on the projector sheet.

71. In the area of support for student learning, Ms. Ariyasu noted Respondent failed to create a physical environment that engaged all of the students. Specifically, Respondent displayed minimal current student work, and the work displayed was not cohesive. Additionally, Ms. Ariyasu found that Respondent's behavior management system did not include incentives for students to behave properly. Specifically, Respondent posted six rules and four consequences, but did not post any rewards.

72. During the conference, Ms. Ariyasu offered Respondent the following guidance and assistance: (1) display current, rubric-scored student work with constructive, specific feedback, and include engaging, thought-provoking captions; (2) remove outdated work samples and add rewards to the behavior management system; (3) follow the lesson plan and the teacher's edition with program fidelity; (4) use materials and resources to make the subject matter accessible to all students; (5) review all instructional content and ensure accuracy; (6) check classroom technology to ensure students could see all material presented; (7) build a safe and trusting learning environment by validating the students' ideas when responding to open-ended questions; (8) teach the lessons planned, be prepared, deliver effective directed lessons, and deliver the District mandated programs with fidelity; and (9) differentiate instruction by including daily small group instruction.

73. Ms. Ariyasu advised that if she were to evaluate Respondent at that time, she would have to issue a below standard Stull evaluation. Such an evaluation could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Ms. Ariyasu also told Respondent that if she failed to make an immediate and sustained improvement in her performance, it could lead to the issuance of a below standard Stull evaluation and/or a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

74. On February 6, 2012, Respondent submitted a written response to Ms. Ariyasu concerning her February 2, 2012 conference memo. In the area of planning and designing, Respondent stated the organization of the second grade math curriculum had been affected by the numerous revisions made to the second grade schedule at Ms. Ariyasu's behest, but she had presented math lessons and materials in an appropriate manner. In the area of

classroom performance, Respondent stated her explanation of the math content was clear enough for half of the students to answer correctly all of the problems in the independent practice section, and most of the other half had missed one question only. In the area of support for student learning, Respondent stated she was doing her best to keep her classroom clean and free from teacher clutter, and she would continue to display current student work on her closet doors. Respondent also stated that she had a behavior management system that included several levels of incentives for her students to behave appropriately.

75. On February 7, 2012, Respondent attended a professional development session addressing grade level routines and procedures for writing, collaborative agreements on pacing writing lessons, and grade level prompts, rubrics, and resource materials.

76. On March 14, 2012, Ms. Ariyasu memorialized a March 9, 2012 conference with Respondent concerning her observation of Respondent's Academic Language Development (ALD) lesson on February 23, 2012. In the area of classroom performance, Ms. Ariyasu noted Respondent failed to follow the guidelines of the lesson set forth in the teacher's edition, and did not engage the students in problem-solving, critical-thinking, and other activities designed to make the subject matter meaningful. Additionally, Respondent gave unclear instructions to the students about what they were to write in their journals, resulting in students becoming confused and unable to complete the assignment, or completed the assignment incorrectly. Also, Respondent had written a grammatically incorrect sentence on the board. Specifically, Respondent wrote, "Your (sic) moving your body around," instead of writing, "You're moving your body around."

77. In the area of support for student learning, Ms. Ariyasu noted Respondent failed to establish a climate that promoted fairness and respect, in that certain students were given more attention than others. Specifically, Respondent allowed one student to dominate the classroom discussion who constantly called out comments and questions without permission and who got out of her seat six times without permission. Respondent failed to respond to the student's inappropriate behaviors. Additionally, when a student misbehaved, instead of having the student change his behavior card to promote individual responsibility and self-reflection, Respondent requested a different student to turn over the misbehaving student's card. Respondent also mentioned a student's weakness in front of the other students. Specifically, in response to a student's comment that another student failed to participate in choral reading, Respondent stated that that student was "learning how to read so . . ." Finally, Respondent excluded some students from a class-wide display by failing to post photos of three students near their respective work, as Respondent had done for all of the other students.

78. During the conference, Ms. Ariyasu offered Respondent the following assistance and guidance: (1) Respondent to follow her lesson plan and the teacher's edition

of the reading/language arts program (Treasures),⁷ and teach it with fidelity; (2) lower her voice when not addressing the whole class; (3) review for accuracy what she has written on the board; (4) use all learning modalities when teaching and giving instructions; (5) during small group instruction, provide students with a list of “Must Do’s” and “May Do’s” so students could be clear about what they needed to do; (6) use assessment results to plan small group instruction; (7) post the missing photos of the three students so they could feel included; (8) require students to turn over their own behavior cards, rather than assigning the task to somebody else; and (9) develop a behavior contract with the student that disrupted the class discussion.

79. Ms. Ariyasu directed Respondent to follow the Treasures teacher’s edition program with fidelity. Ms. Ariyasu stated that if she were to evaluate Respondent that day, Ms. Ariyasu would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Ms. Ariyasu advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

80. On March 21, 2012, Respondent submitted a written response to Ms. Ariyasu’s March 14, 2012 conference memo. In the area of classroom performance, Respondent stated that “Treasures [was] not an infallible program,” but she followed the guidelines of the program. Additionally, Respondent stated that she used kinesthetic, visual, and verbal strategies to engage the students in the lesson and critical-thinking. In the area of support for student learning, Respondent stated she was interested in learning more about Ms. Ariyasu’s ideas for establishing a climate that promoted fairness and respect and how to measure the amount of positive and negative attention students should receive. Respondent also stated that, in her experience, assigning a card monitor was more practical than allowing students an opportunity to further disrupt the class while walking to the behavior chart. Further, her PAR professional previously suggested to Respondent to assign a card monitor.

81. On April 12, 2012, Ms. Ariyasu memorialized a March 29, 2012 conference with Respondent concerning her March 20, 2012 observation of Respondent’s reading and language arts lesson. In the area of classroom performance, Ms. Ariyasu noted Respondent failed to follow the guidelines of the lesson set forth in the teacher’s edition, resulting in a disjointed sequence of learning. In the area of support for student learning, Ms. Ariyasu stated Respondent failed to establish a climate that promoted fairness and respect, as Respondent gave one student more leeway than the other students. Specifically, the student exhibited a lack of self-control by calling out answers, comments, and questions without permission, and leaning on two legs of his chair, without Respondent responding to those actions. Additionally, when a student misbehaved, instead of requiring the misbehaving

⁷ The District’s Treasures reading /language arts program, implemented at the commencement of the 2011-2012 school year, replaced the District’s Open Court reading program.

student change his behavior card to promote individual responsibility and self-reflection, Respondent requested a different student to turn over the misbehaving student's card.

82. During the conference, Ms. Ariyasu offered Respondent the following assistance and guidance: (1) follow the lesson plan and the teacher's edition of the reading program (*Treasures*), and teach it with fidelity; Ms. Ariyasu arranged for the Title III coach to work with Respondent to plan clear objectives, to use the teacher's edition, and to pace lessons; (2) require students to turn over their own behavior cards, rather than assigning the task to somebody else; and (3) pay attention and intervene when a student engaged in inappropriate behavior.

83. Ms. Ariyasu stated during the conference that Respondent had been directed on March 14, 2012 to follow the *Treasures* reading/language arts program with fidelity, yet Respondent had failed to do so. Consequently, Ms. Ariyasu again directed Respondent to follow the program's teacher's edition and teach with fidelity. Additionally, Ms. Ariyasu directed Respondent to require students to turn over their own behavior cards, rather than assigning the task to somebody else. Ms. Ariyasu stated that if she were to evaluate Respondent that day, Ms. Ariyasu would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Ms. Ariyasu advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

84. On April 13, 2012, Respondent submitted a written response to Ms. Ariyasu concerning the April 12, 2012 conference memo. In the area of classroom performance, Respondent stated that during the week Ms. Ariyasu had observed Respondent's class, it was parent conference week, resulting in shortened school days. These shortened days had an impact on the number of minutes to cover the *Treasures* reading lesson. In the area of support for student learning, Respondent stated she was interested in learning more about Ms. Ariyasu's ideas for establishing a climate that promoted fairness and respect, but stated to "optimize learning time, sometimes it [was] necessary to refrain from harping on every single mistake a kid might make." Respondent further stated that during Ms. Ariyasu's observation, Respondent thought "it was alright for [Respondent] to model a modicum patience and tolerance instead of superciliousness."

85. Respondent also stated the following in her response to Ms. Ariyasu:

If you want to implement your type of behavior management strategy, it should have been introduced at the beginning of the school year. By having students change their own cards, I have to stop my lessons to watch them so I can make sure they change their own cards. Students cause more distractions or even amplify their attention-seeking strategies while walking from one side of the room to the other to change their cards. Some students will stall as long as they can before

reaching the cards. Sometimes students even try to change other students' cards instead of their own. . . . Whenever it doesn't interfere with instructional delivery, I will ask students to change their own cards. But I developed the procedures and routines involving a card monitor with my 2010-2011 PAR Consulting Teacher in order to optimize learning time.

86. On May 2, 2012, Ms. Ariyasu memorialized an April 30, 2012 conference with Respondent concerning her April 19, 2012 observation of Respondent's reading and language arts lesson. Ms. Ariyasu noted that in the area of planning and designing instruction, Respondent had no short-term or long-term plans that built on or extended her students' understanding of subject matter. Respondent's lesson plans were blank in two mandatory subjects for the entire week of April 16, 2012.

87. In the area of classroom performance, Mr. Ariyasu noted Respondent did not effectively develop and sequence instructional activities and materials for student learning. Specifically, Respondent failed to follow her lesson plan or the teacher's edition of the Treasures reading/language arts program for unit five, week two, day four, resulting in a disjointed, rather than a seamless, sequence of learning. Additionally, Respondent skipped elements of her lesson plan and of the teacher's edition that were crucial to student learning, such as comprehension of the text feature, written directions, content vocabulary, the daily writing prompt, and revising, editing, and proofreading a story.

88. In the area of support for student learning, Ms. Ariyasu noted Respondent failed to establish a climate that promoted fairness and respect. Specifically, during her lesson, Respondent gave eight of eighteen students more than one opportunity to respond verbally to her questions, as a result of Respondent's inconsistent use of equity sticks.⁸ Respondent also failed to create a physical environment that engaged all students. Specifically, Respondent had outdated student work posted on her closet doors, and failed to include authentic written feedback on students' tests she did post. Additionally, Respondent failed to model Standard English verbally for the students in her classroom, in that Respondent repeatedly said "gonna" instead of "going to" during the lesson. Moreover, Ms. Ariyasu noted Respondent failed to create a classroom environment that was safe and accessible for all students. Specifically, the adjoining classroom door was blocked by a pocket chart, a pair of children's scissors was on the floor, and the walkway behind one of the students' tables was obstructed by three backpacks and three jackets on the floor.

89. Ms. Ariyasu offered Respondent the following assistance and guidance: (1) Respondent to strategically design and deliver lessons in all areas; (2) follow her lesson plans and the Treasures teacher's edition reading/language arts program with fidelity; (3) implement suggestions given to Respondent by the Title III coach; (4) use equity sticks consistently to ensure the random and fair selection of students; (5) provide an accurate oral and written language model for students at all times, using Standard English when speaking to students; (6) update bulletin boards with current, rubric-scored student samples that

⁸ Equity sticks are popsicle sticks, each one containing a name of a student.

include visible, comprehensive, constructive feedback; and (7) ensure all walkways remained unobstructed.

90. Ms. Ariyasu directed Respondent to remove all obstructions from door immediately. Additionally, Ms. Ariyasu noted that she had directed Respondent on March 14, 2012 and April 12, 2012 to follow the Treasures teacher's edition reading program with fidelity, but Respondent still had not done so. Ms. Ariyasu once again directed Respondent to follow the Treasures teacher's edition with fidelity daily. Ms. Ariyasu stated that if she were to evaluate Respondent that day, Ms. Ariyasu would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Ms. Ariyasu advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

91. On May 5, 2012, Respondent submitted a written response to Ms. Ariyasu's May 2, 2012 conference memo. In the areas of classroom performance, Respondent stated that she had been following the Treasures reading/language arts program with absolute fidelity, and had been using strategies given by the Title III coach. In the area of support for student learning, Respondent stated she worked hard to create a physical environment that engaged all students and made them feel happy to come to class. Additionally, Respondent stated it would be helpful if she could receive some positive feedback so she would know what she should build upon. Respondent also stated she would refrain from saying "gonna" and enunciate her words clearly. In addition, Respondent stated that due to budget cuts, the custodial staff had been reduced, so Respondent often swept the floor and encouraged the students pick up their own trash. Consequently, there were no major safety hazards.

92. The PAR panel submitted a reporting form to the District's employee services stating that Respondent participated in the PAR program from September 15, 2011 to May 11, 2012, but she failed to meet her established PAR goals.

93. Ana Guzman, who was assigned to Tenth Street as a full-time Title III coach in August 2011, worked with Respondent to help address her instructional and classroom management issues. Specifically, Ms. Guzman worked closely with Respondent, using techniques such as modeling, demonstrating lessons, observations, co-planning with Respondent, and co-teaching with Respondent. Despite her intervention, Ms. Guzman noted Respondent's failure to improve in the area of classroom management, and the delivery of Respondent's lessons lacked structure and focus, and took too long. For example, Respondent would often begin teaching a lesson, a student would ask Respondent personal questions to which Respondent would respond and go on tangents, resulting in the students becoming distracted and disconnected from the lesson. Additionally, Ms. Guzman witnessed Respondent demonstrating inconsistency concerning whether she would post objectives on the board, and generally failed to follow Ms. Guzman's assistance and guidance concerning posting objectives on the board. Ms. Guzman also noted Respondent failed to meet the needs of her students in her class, because she failed to do a good job of differentiating

instruction. For example, Respondent selected students for small group instruction based on disciplinary issues instead of on assessment data. Moreover, Ms. Guzman witnessed safety issues in Respondent's classroom, as students would roam outside of the classroom, yet Respondent did not seem to notice, resulting in Ms. Guzman directing the students to return to the classroom.

(6) *2011-2012 Stull Evaluation*

94. On May 9, 2012, Ms. Ariyasu prepared a Stull evaluation of Respondent's performance for the 2011-2012 school year. In the area of support for student learning, Respondent needed improvement in using the results of multiple assessments to guide instruction, guiding all students to be self-directed and assess their own learning, engaging student in problem-solving, critical-thinking, and other activities, and using a variety of instructional strategies and resources to respond to students' diverse needs. Ms. Ariyasu commented that Respondent used limited student data, and failed to differentiate instruction for struggling and gifted students.

95. In the area of planning and designing instruction, Respondent required improvement in demonstrating evidence of short-term and long-term plans to foster student learning and achievement of the State Standards, using state subject matter content standards to establish rigorous goals for students, using instructional strategies, materials, resources, and technologies appropriate to the subject matter, and planning instruction to ensure that all groups of students had equal access to the curriculum. The evaluation also noted that Respondent often failed to teach the lessons planned, often failed to deliver a lesson with components of an effective directed lesson, provided students with limited opportunities to engage in problem-solving and critical-thinking, and failed to effectively deliver developed and sequenced lessons.

96. In the area of classroom performance, Respondent needed improvement in establishing and maintaining standards for student behavior and creating a climate that promoted fairness and respect, planning and implementing classroom procedures and routines that supported student learning, and using instructional time effectively. Ms. Ariyasu noted that Respondent's failure to consistently monitor student behavior resulted in a lack of equity of access for all students. Additionally, Respondent provided limited opportunities for small group instruction targeted at meeting specific student needs, and struggled with lesson pacing. Also, in the area of developing as a professional educator, Ms. Ariyasu noted Respondent needed improvement in providing effective supervision of students, and commented Respondent's lack of appropriate supervision placed students' safety at risk.

97. Respondent's overall evaluation was "below standard performance." Ms. Ariyasu included a three-page attachment to Respondent's Stull evaluation, which listed specific deficiencies, recommendations, and assistance to be provided. In the area of specific deficiencies, Ms. Ariyasu stated that Respondent: (1) lacked appropriate supervision and attention to the physical environment which placed students' safety at risk; (2) failed to teach

the lessons planned, limiting student achievement of State content areas; (3) failed to organize lessons in a way that supported the students' understanding of concepts, in that Respondent did not follow the lesson plans and teacher's editions of core programs; (4) failed to deliver lessons in a clear and rigorous manner, and often lacked an appropriate instructional objective; (5) failed to provide differentiation of instruction to meet the needs of students; and (6) inconsistently monitored the standard for student behavior, which created a climate that lacked fairness and respect.

98. Ms. Ariyasu recommended that Respondent (1) supervise students at all times, never leave students unattended, and maintain a safe classroom environment accessible to all students; (2) be prepared, teach lessons as planned, and follow the core programs' teacher's edition with fidelity; (3) establish effective routines and procedures; (4) deliver effective directed lessons and establish a clear, rigorous learning objective and align activities to accomplish that objective; (5) provide opportunities that engage students in their learning to ensure meaningful subject matter; (6) plan and provide for rigorous small group instruction daily; (7) deliver District mandated programs with fidelity and monitor pacing; (8) monitor student behavior at all times, hold students accountable for their behavior, and require them to change their own behavior card; (9) create a physical environment designed to engage all students; (10) incorporate concepts and strategies presented in professional development; and (11) consult with content area coaches to address instructional issues.

99. Ms. Ariyasu advised Respondent that she would provide her with the following assistance: (1) Ms. Ariyasu to continue meeting with Respondent in post-observation conferences concerning areas of deficiencies; (2) Ms. Ariyasu to continue providing Respondent with class-observation summaries; (3) Ms. Ariyasu to continue previewing Respondent's lesson plans every Friday; (4) Ms. Ariyasu and other staff to continue to provide Respondent with specific suggestions as to how she can improve her performance; (5) Ms. Ariyasu to continue providing opportunities for Respondent to plan and work collaboratively with and observe grade level colleagues; (6) literacy, math, and English Language Development coaches to continue providing lesson demonstrations and assistance in areas of concern, including effective directed instruction, planning and preparation, increasing student discourse and engagement in their learning, use of student data to guide instruction, differentiation of instruction, certain aspects of class management, teaching the District mandated core curriculum with fidelity, incorporating routines and procedures proscribed, and using of a variety of resources to ensure all students have access to the core curriculum; (7) Ms. Ariyasu and staff to continue providing Respondent with professional development sessions focused on rigorous instruction in the core content areas; (8) Ms. Ariyasu and others to continue providing Respondent with notices regarding outside professional development opportunities covering the areas of concern; and (9) Respondent to be given an opportunity to again participate in other District resources, as Respondent was no longer eligible to participate in the PAR program. A teacher is entitled to receive PAR services for two years only. Because Respondent received PAR services for the 2010-2011 school year and the 2011-2012 school year, she was not entitled to receive PAR assistance for the upcoming 2012-2013 school year.

100. Respondent's failure to meet her PAR goals was not used to determine Respondent's Stull evaluation.

101. Ms. Ariyasu recommended that Respondent be evaluated again at the end of the next school year (2012-2013).

102. On May 10, 2012, Respondent submitted a written response to the Stull evaluation, and stated in the area of support for student learning, she used the results of a wide variety of assessments to guide instruction, and guided students to be self-directed and assess their own learning. Additionally, Respondent stated she did not simply have students recall information, but rather she allowed her students to use their natural curiosity as children to imagine different ways a problem could be solved. Respondent also stated she worked hard to meet the diverse needs of her students.

103. In the area of planning and designing instruction, Respondent stated she created monthly and weekly plans for her class, which she turned in to Ms. Ariyasu every week, although on Monday instead of Friday as Ms. Ariyasu requested, and reflected on the California common core standards as a guide to establish rigorous learning goals for her students. Additionally, Respondent stated she took more PAR classes, continued using a variety of instructional strategies and technologies she practiced with her PAR professional, and implemented what she acquired from the trainings she attended. Respondent also stated she adapted her presentation of subject matter in ways that allowed students of differing performance levels to make progress, and considered it one of her greatest strengths as an educator to demonstrate flexibility with lesson designs in order to challenge her students and keep them engaged in learning.

104. In the area of classroom performance, Respondent stated she established and maintained standards for student behavior through rules, procedures, and routines, and had posters, pictures, charts, signals, and sayings to remind students of expectations for student behavior. Additionally, Respondent stated that she had requested Ms. Ariyasu to specify how she wanted Respondent to demonstrate fairness and respect, but had yet to hear from Ms. Ariyasu in that regard. Respondent also stated she strived to perfect the art of planning and implementing classroom procedures and routines to support student learning, and with so much to teach, she wasted no time, but rather maximized all the minutes in her classroom schedule and kept up with a rigorous pacing plan.

105. Respondent stated she felt Ms. Ariyasu gave her an overall evaluation of "below standard performance" because Ms. Ariyasu had unfairly held Respondent to a higher standard than other teachers under her supervision.

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B. Facts Underlying Charges: Performance (August 29, 2012 – April 25, 2014)

(1) 2012 – 2013 School Year

106. For the 2012-2013 school year, Respondent had fewer students in her class than the class norm of 20. Specifically, Respondent had 16 to 18 students in her class. Ms. Ariyasu assigned more high performing students to Respondent's class than the norm.

107. On September 19, 2012, Ms. Ariyasu memorialized the substance of a conference she held with Respondent on September 14, 2012, regarding Ms. Ariyasu's observation of Respondent's classroom on August 29, 2012 during her reading lesson. In the area of planning and designing instruction, Ms. Ariyasu noted Respondent failed to establish or articulate standards-based objectives for student learning, and failed to follow the Treasures teacher's edition with fidelity by omitting important elements, such as vocabulary.

108. In the area of classroom performance, Ms. Ariyasu failed to demonstrate knowledge of State Standards and student development. Specifically, Respondent failed to address two standards in the selected lesson, namely demonstrating map skills, and restating facts and details to clarify and organize ideas. Additionally, Ms. Ariyasu noted Respondent did not establish and maintain standards for student behavior to create a climate that promoted fairness and respect. Specifically, throughout the entire lesson, students shouted out their responses, which Respondent accepted, while other students raised their hand and waited for Respondent to give them permission to speak. Ms. Ariyasu noted Respondent failed to provide an effective classroom environment in that she posted students' work that contained no standard, rubric, or teacher feedback, and there were no student samples posted for core curricular areas such as math. Also, Ms. Ariyasu noted Respondent failed to use instructional time effectively. Specifically, Respondent spent three minutes looking through a stack of sound and spelling cards to find the ones that addressed the lesson Respondent was to teach, instead of having those cards ready beforehand.

109. Ms. Ariyasu noted Respondent failed to create a safe and engaging physical environment for all students in that pencil shavings were on the classroom floor, two chairs were placed randomly in the middle of the floor, and the ceiling lights were faint, yet Respondent had not notified Ms. Ariyasu or the custodial staff. In the area of support for student learning, Ms. Ariyasu found that Respondent failed to use a variety of instructional strategies and resources to respond to students' diverse needs. Specifically, Respondent recited a sentence frame that was too lengthy for the students to use by memory, mispronounced a phoneme during the phoneme segmentation, used "gonna" instead of "going to," and failed to respond to the raised hands of students requesting help. Ms. Ariyasu noted that three students in Respondent's class had an Individualized Education Program (IEP) because of speech and language impairments, and, thus, required Respondent to provide them with clear and accurate speech models. Additionally, Respondent failed to engage the students in problem-solving, critical-thinking, or other activities that would make the subject matter meaningful, and did not provide effective supervision of students.

Specifically, several students were off task, not engaged in the lesson, kicking their feet, making noises, and out of their seats, which went unnoticed by Respondent.

110. Ms. Ariyasu offered Respondent the following guidance and assistance: (1) Respondent to write and state the standards-based learning objective at the beginning and at the end of each lesson to help focus Respondent and the students on the intended learning; (2) follow the instructions for the lessons set forth in the Treasures teacher's edition to ensure lessons remain standards-based, engaging, focused, and rigorous; (3) establish and maintain standards for student behavior, particularly the appropriate manner in which students should respond to Respondent's questions posed during lessons; (4) prepare instructional materials prior to teaching lessons in order to maximize instructional time and effectiveness; (5) use all three learning modalities (auditory, visual, and kinesthetic) when teaching in order to accommodate all learning styles and needs; (6) review the reading/language arts framework for phonemic awareness and carefully enunciate sounds and words to ensure the students have an accurate speech model presented; (7) read and implement all relevant aspects of IEP plans for students with special needs in Respondent's class; (8) remove trash from the floor and organize all classroom furniture to ensure a safe classroom environment; (9) notify custodial staff when things fail to work properly in the classroom; (10) engage and monitor students for understanding as well as compliance with tasks of each lesson; and (11) display current student work that have been rubric-scored with constructive specific feedback, and an engaging, thought-provoking caption.

111. Ms. Ariyasu directed Respondent to do the following: (1) read, follow, and implement immediately all applicable elements of the IEP plans for all students with special needs in her classroom; (2) write and state the standards-based learning objective at the beginning and at the end of each lesson; (3) adhere to the instructions for the lessons in the Treasures teacher's edition to ensure the delivery of engaging, focused, and rigorous standard-based lessons; (4) establish and maintain standards for student behavior; (5) prepare instructional materials prior to teaching lessons; (6) review the reading/language arts framework for phonemic awareness and carefully enunciate sounds and words to ensure the students have an accurate speech model presented; (7) remove trash from the floor and organize all classroom furniture to ensure a safe classroom environment; (8) engage and monitor students for understanding as well as compliance with tasks of each lesson; (9) circulate and scan the classroom regularly to avoid safety hazards and inappropriate behavior by the students; (10) and display current student work that have been rubric-scored with constructive specific feedback, and an engaging, thought-provoking caption.

112. Ms. Ariyasu advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

113. On September 21, 2012, Ms. Ariyasu memorialized the substance of a conference she held with Respondent on September 21, 2012, regarding Ms. Ariyasu's observation of Respondent's classroom on September 10, 2012 during her writing lesson. In

the area of planning and designing instruction, Ms. Ariyasu noted Respondent failed to provide an appropriate grade-level standard or rigorous learning goal for the students, in that Respondent failed to write the topic on the board. Students did not understand the objective or the purpose of the writing lesson. Additionally, Respondent skipped other components planned in her lesson plan for that day, such as fluency reading that focused on punctuation, phrasing, and pausing, and students did not read the main selection.

114. In the area of classroom performance, Ms. Ariyasu noted Respondent ignored or delayed addressing inappropriate student behavior, and failed to maintain established classroom rules, resulting in a climate of unfairness and disrespect. Specifically, Ms. Ariyasu entered the classroom because she heard loud noises emanating from Respondent's class as she walked down the hall, and observed students throwing blocks on the floor, the entire class talking, a "gun fight" with sound effects between students, students hopping, jumping, and whistling, all of which Respondent ignored or failed to address. Respondent failed to use instructional time effectively as a result of Respondent's lack of classroom procedures. Specifically, a five-minute writing prompt activity lasted 33 minutes, it took eight minutes for Respondent to pass out the students' readers, and Respondent failed to use the decodable text routine as indicated in the Treasures teachers' guide. Ms. Ariyasu also noted Respondent failed to use subject matter knowledge to organize and sequence the lessons in order to increase student learning, in that Respondent failed to model or provide a clear, coherent explanation of what she wanted to the students to know and be able to do, failed to follow the lesson sequence in the Treasures teachers' guide, and failed to use transparencies provided to support student learning for writing, fluency, and comprehension objectives.

115. In the area of support for student learning, Ms. Ariyasu noted Respondent failed to engage the students in problem-solving, critical-thinking, and other activities designed to make the subject matter meaningful, causing students to lose interest, disengage in their learning, and drift off-task. Additionally, Ms. Ariyasu observed no differentiation of instruction to respond to students' diverse needs. Also, Respondent demonstrated inequity in calling on students, in that only 11 out of 20 students spoke, seven of those speaking more than once.

116. During the conference, Ms. Ariyasu offered Respondent the following guidance and assistance: (1) identify a clear, standards-based instructional objective and teach to that objective; (2) deliver an effective directed lesson designed to activate prior knowledge; model and explain what students should know and be able to do; include guided and independent practice to check for understanding; provide evidence that students understood the lesson; reteach when needed; (3) teach pursuant to the lesson plan and use the Treasures teachers' guide to help plan and organize lessons; (4) use all learning modalities when teaching and giving instructions, and verbalize and write instructions; (5) differentiate instruction for students with differing abilities and language development needs by using a variety of instructional strategies and resources that respond to student needs; (6) manage time to ensure the inclusion of small group instruction to meet the individual needs of students, use assessment results to plan small group instruction, and provide academic rigor

for each small group to maximize the use of time with those students to pre-teach, reteach, or enrich lessons; (7) maintain standards for student behavior, pay attention to student behavior, and intervene when necessary; (8) use equity sticks consistently to ensure the random and fair selection of students; (9) develop behavior contracts with the students and parents as needed; (10) review the 2012-2013 professional development schedule from the PAR program and review the class management selections; (11) establish effective routines for passing out papers and books; (12) review *How to Teach Routines* article Ms. Ariyasu gave Respondent; (13) incorporate concepts and strategies presented in the Tenth Street professional development sessions; and (14) consult with content coaches on a weekly basis to address instructional issues.

117. Ms. Ariyasu directed Respondent to (1) establish a clear objective and align all activities to accomplish that objective; (2) teach the lesson as planned; (3) be prepared and teach an effective directed lesson with a clear, rigorous learning objective; (4) follow the Treasures teacher's edition program with fidelity; (5) monitor pacing to ensure the teaching of the Treasures program with fidelity; (6) maintain standards for students; (7) differentiate instruction to meet the needs of all students; (8) include small group instruction daily; (9) continue to incorporate concepts and strategies presented in professional development sessions; and (10) continue to consult with content area coaches weekly regarding instructional issues. Ms. Ariyasu advised that if Respondent failed to follow the directives or make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

118. On October 1, 2012, Respondent submitted a written response to Ms. Ariyasu, stating, in the area of classroom performance, she wanted Ms. Ariyasu to provide a list of the standards and/or goals appropriate and approved for use at Tenth Street. Additionally, Respondent stated that she had been using strategies suggested by the PAR professional. In the area of classroom performance, Respondent stated the standards of student behavior were "more easily maintained in a classroom of student who [had] not suffered through such traumatic personal histories and family tragedies as the ones haunting the lives of the students in [Respondent's] current class." Respondent stated that the students' inappropriate behavior was "a symptom of the turmoil and hardships the youngsters in [Respondent's] class have been enduring for quite some time." Consequently, in certain situations, Respondent "chose to remain calm and not overreact to every single quirk, tic, or disorder exhibited by some students."

119. On November 15, 2012, Ms. Ariyasu memorialized the substance of a conference she held with Respondent on November 14, 2012, regarding Ms. Ariyasu's observation of Respondent's classroom on November 14, 2012 during her math lesson. In the area of planning and designing instruction, Ms. Ariyasu noted no evidence of short-term or long-term planning to foster student learning and achievement of State Standards, as Respondent had written nothing in her lesson plan for math independent work time for the week of October 22 – 26, 2012.

120. In the area of classroom performance, Respondent failed to establish and maintain standards for student behavior and create a climate that promoted fairness and respect. Specifically, Respondent continued to allow and acknowledge students who shouted out their responses, while others raised their hand and waited for Respondent to give them permission to speak. Additionally, Ms. Ariyasu noted no evidence of planned or implemented classroom procedures and routines that supported student learning. Specifically, students left their seats without Respondent's permission, and Respondent lacked a system for students to acquire pencils and erasers or to have their pencils sharpened. Ms. Ariyasu also noted Respondent did not provide an engaging and safe classroom environment for all students, in that Respondent continued not to post student samples of math work, failed to include scoring rubrics, or teacher feedback on the posted work, and failed to keep the walkways clear of debris and tripping hazards. Moreover, Ms. Ariyasu noted Respondent failed to use instructional time effectively, in that Respondent failed to follow her lesson plan and begin teaching math at 8:00. Instead, Respondent did not begin the math lesson until 8:18, nearly 20 minutes behind schedule, because Respondent was using the time for students to eat snacks.

121. In the area of support for student learning, Ms. Ariyasu noted Respondent failed to use a variety of instructional strategies and resources to respond to students' diverse needs. Specifically, Respondent did not attempt to capture or redirect the attention of some students or include them in the math review, as they played with pencils, squirmed, placed head on desk, talked to neighbors, and left their chairs.

122. Ms. Ariyasu offered Respondent the following assistance and guidance: (1) Respondent to show evidence of planning by having complete lesson plans for the entire school day, including for small group instruction; (2) establish and maintain standards for student behavior, especially the appropriate way to respond to Respondent's questions and to leave their seats, and be consistent when requiring students to raise their hands and gain permission before speaking or leaving their seats; (3) refrain from isolating students from the rest of the class for extended periods of time; (4) be mindful of what to say to students in order to avoid being offensive to them; (5) ensure an adequate supply of instructional materials for students; (6) remove trash from the floor and hold students responsible for putting away their belongings to avoid the blocking of walkways; (7) avoid using instructional time for snacking; (8) engage all students and monitor them for understanding; (9) attend professional development workshops to improve in areas of instruction and classroom management; and (10) display current student work, which includes rubric-scoring, constructive feedback , and a thought-provoking caption.

123. Ms. Ariyasu directed Respondent to do the following: (1) demonstrate evidence of planning by developing complete lesson plans for the entire day and for small group instruction; (2) follow lesson plans and the daily schedule; (3) establish and maintain standards for student behavior in how students should respond to questions and leave their seats; (4) engage all students in all lessons and monitor them for comprehension of the lesson, participation in learning activities, and compliance of both classroom and school rules; (5) circulate and scan the classroom regularly to prevent and correct safety hazards and

inappropriate behavior by the students; (6) display current student work in math and language arts, which includes rubric-scoring, constructive feedback , and thought-provoking captions; and (7) maintain a clean, neat, and orderly room, free of tripping hazards. Ms. Ariyasu advised that if Respondent failed to follow the directives or make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

124. On November 29, 2012, Ms. Ariyasu memorialized the substance of a conference she held with Respondent on November 16, 2012, regarding Ms. Ariyasu's observation of Respondent's classroom on November 9, 2012 during her math lesson, and of two student injuries during class on November 9 and 15, 2012. In the area of planning and designing instruction, Ms. Ariyasu noted there was no evidence of an appropriate grade level standard or rigorous learning goal for students, in that there was no objective written on the board when Ms. Ariyasu entered at 8:13 a.m., students were walking around, talking, sitting, and waiting because Respondent had not given them an assignment. Also, at 8:25 a.m., after Respondent spent ten minutes telling students how to "borrow and take away," students did not understand the objective or the purpose of the lesson. Specifically, three students worked on the assignment, while 16 students talked. Ms. Ariyasu also noted Respondent lacked preparation and failed to teach the District's math program with fidelity, leading to a loss of instructional time. Specifically, math should have begun at 8:00 a.m., but Respondent did not begin teaching the math lesson until 8:13 a.m., and did not follow the procedures indicated in the teacher's guide.

125. In the area of classroom performance, Ms. Ariyasu noted Respondent failed to establish and maintain standards for student behavior and create a climate that promoted fairness and respect. Specifically, Respondent's lack of classroom management allowed student behavior to become so disruptive, students could not learn. Respondent either ignored or delayed addressing inappropriate student behavior, failed to maintain established classroom rules, and responded to students inconsistently, judgmentally, or non-responsively.

126. In the area of support of student learning, Ms. Ariyasu noted Respondent failed to engage the students in problem-solving, critical-thinking, and other activities to make the subject matter meaningful. Specifically, Respondent failed to provide differentiation of instruction during whole group instruction, failed to use a variety of instructional strategies and resources to respond to students' diverse needs, and told students what number to place on their assignments to get the answer instead of having the students figure out the answer on their own. Additionally, Respondent favored some students over others, in that Respondent frequently called on some to answer a question or contribute to the discussion, while others were ignored or scolded when they made efforts to participate.

127. Ms. Ariyasu expressed concerns that Respondent's lack of supervision and failure to effectively manage her class resulted in two incidents in which students were injured in the classroom. Specifically, on November 9, 2012, one student chased another student in the classroom, and then pushed the student, causing him to slide onto the floor and

strike his head on the metal leg of a chair, requiring him to undergo first aid at the nurse's office. At 12:13 p.m., when Ms. Ariyasu returned the student to Respondent's class, Ms. Ariyasu noted Respondent's classroom environment was loud and disruptive, with students running around the classroom and three students on the yard without a hall pass, instead of the students in their seats working on their journal writing assignment. On November 15, 2012, one student had kicked another student in the head while in the classroom, in response to the student throwing a juice bag that hit the other student in the face. Additionally, Ms. Ariyasu had received two parent complaints that week stating that Respondent's classroom was out of control.

128. Ms. Ariyasu offered Respondent the following guidance and assistance: (1) plan and identify a clear, standards-based instructional objective by writing it on the board in words that students can understand, teach to that objective, and check students for understanding throughout the lesson; (2) deliver an effective directed lesson that activated prior knowledge, model and explain what students should know and be able to do, include guided and independent practice to check for understanding, provide evidence students understood lesson, and reteach when necessary; (3) teach the lesson planned and use the teacher's guide to help plan and organize lessons; (4) use all learning modalities when teaching and giving instructions; (5) differentiate instruction by providing small group instruction to reteach critical concepts; (6) manage time to include small group instruction to meet the individual needs of students, and use assessment results to plan small group instruction; (7) maintain standards for student behavior; (8) contact parents and create behavior contracts for students; (9) use equity sticks consistently to ensure the random and fair selection of students; (10) complete a classroom management professional development session; (11) follow the instructional routines and procedures indicated in the teacher's guide in order to provide students with a productive learning environment, maximize instructional time, and increase student participation; (12) read weekly articles and tips regarding classroom management on www.smartclassroommanagement.com; (13) incorporate concepts and strategies presented in Tenth Street's professional development sessions; (14) meet with math coach to address Respondent's math instructional issues; (15) implement a new behavior plan and be consistent with the implementation of that plan; (16) monitor student behavior by walking around the classroom frequently; (17) seek the assistance of an administrator when encountering student discipline issues; (18) send students in pairs to the bathroom and monitor the time they are out of class; (19) maintain regular communication with parents when concerns arise regarding a student's behavior; (20) review intervention strategies from the *Behavior Intervention Manual*, for students who fail to demonstrate appropriate behavior; (21) effectively address student concerns immediately; and (22) post an agenda on the board with specific times for each activity.

129. Ms. Ariyasu directed Respondent to do the following: (1) establish a clear learning objective and align all activities as addressed in the instructional guide to accomplish the learning objective; (2) use teachers' guides when planning and then teach the lesson as planned; (3) be prepared and teach an effective directed lesson with a clear and rigorous learning objective; (4) follow the enVision (math program) with fidelity; (5) monitor pacing to ensure the teaching of the math program with fidelity; (6) differentiate

instruction to meet the needs of all students; (7) include small group instruction daily; (8) continue to incorporate concepts and strategies presented in professional development sessions; (9) continue to consult with content area coaches on a weekly basis to address instructional issues; (10) establish effective routines and procedures to maximize instructional time; (11) evaluate the behavior plan and make changes as needed, and be consistent in its implementation; (12) seek administrative assistance after exhausting all of the consequences of the discipline plan; (13) communicate with parents on a regular basis; and (14) address student and parent concerns in a timely manner. Ms. Ariyasu stated that if she were to evaluate Respondent that day, Ms. Ariyasu would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Ms. Ariyasu advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

130. On December 4, 2012, Ms. Ariyasu memorialized the substance of a conference she held with Respondent on November 30, 2012, regarding Ms. Ariyasu's observation of Respondent's classroom on November 30, 2012. In the area of planning and designing instruction, Ms. Ariyasu noted Respondent indicated no small group instruction in her lesson plan, despite Respondent sending five students to five different small groups, and there were no instructional objectives posted on the board.

131. In the area of classroom performance, Ms. Ariyasu noted Respondent failed to provide evidence of an effective directed lesson as she did not explain the instructional purpose to the students and the students were unable to communicate the objective, and failed to use a variety of instructional strategies, materials or resources appropriate to the subject matter. Specifically, Respondent spent 27 minutes in a discussion that offered limited student participation, failed to require students to consistently refer to the test to justify or explain their answers, and did not check understanding in order to determine whether the students mastered the concept. Additionally, Ms. Ariyasu noted Respondent had not taught the lesson planned. Also, Respondent failed to establish and maintain standards for student behavior to promote fairness and respect, as Respondent ignored or delayed addressing appropriate and inappropriate student behavior. Specifically, Respondent permitted students to continue shouting out their responses, despite other students' raised hands. Additionally, Respondent failed to maintain established classroom rules, by allowing a student to deliberately disrupt the class without issuing consequences. Ms. Ariyasu also commented that Respondent's failure to effectively manage her classroom resulted in her class becoming disruptive (i.e., yelling, loud noises, talking, slamming books on tables, leaving seats without permission, and dropping chairs). Moreover, Ms. Ariyasu noted Respondent's lack of established routines and procedures during small group instruction resulted in a loss of instructional time and more behavioral issues. Specifically, no evidences existed demonstrating how Respondent assigned students to small groups, what data Respondent used to determine the student groups, and instructional groups did not support student learning towards the instructional outcome of the lesson.

132. In the area of support of student learning, Ms. Ariyasu noted Respondent failed to use a variety of instructional strategies and resources to respond to students' diverse needs as Respondent failed to provide any re-teaching for those students who required extra support or enrichment for those students who were advanced. Specifically, Respondent failed to ask students to explain their thinking when answering questions, give benchmark or above benchmark students more rigorous instruction based on their academic needs, use strategies or activities provided in the teachers' guide for small group instruction, and use results of any assessments to guide instruction or determine groups for small group instruction. Additionally, Ms. Ariyasu noted Respondent failed to provide effective supervision of students, as many students were off-task during Ms. Ariyasu's observation. Also, Respondent failed to notice unsafe actions committed by some students, such as a student leaving class without permission for 15 minutes, and Respondent failing to ask where the student had been.

133. Ms. Ariyasu offered Respondent the following assistance and guidance: (1) show evidence of planning by having complete lesson plans for the entire day and for small group instruction; follow the grade level schedule in order to provide students with the appropriate number of instructional minutes in each curricular area; (2) identify clear, standards-based instructional objective and teach to that objective; (3) follow with fidelity the instructions for lessons in the Treasures teacher's edition to make lessons standards-based, more engaging, focused, and rigorous; (4) teach lessons as planned and follow the teacher's edition with fidelity; (5) deliver an effective directed lesson that activates prior knowledge, model and explain what students should know and be able to do, include guided and independent practice to check for understanding, provide evidence students understood lesson, and reteach when necessary; (6) establish and maintain standards for student behavior, especially the appropriate way to respond to Respondent's questions, leave their seats, and leave the classroom, and be consistent when requiring students to raise their hands and gain permission before speaking, leaving their seats, or leaving the classroom; (7) continue to create and reinforce behavior contracts for students requiring extra behavioral support; (8) establish effective routines and procedures during small group instruction; (9) pay attention to student behavior and intervene when necessary; (10) engage all students and monitor them for understanding; (11) attend professional development workshops and sessions to help improve instructional and classroom management areas; and (12) work with the core coach to assist with organizing for small group instruction.

134. Ms. Ariyasu directed Respondent to do the following: (1) turn in evidence of planning to Ms. Ariyasu every Friday for plans to be implemented the following week; (2) follow lesson plans and daily schedule by teaching the lesson planned; (3) establish a clear learning objective and align all activities in order to accomplish that objective; (4) be prepared and teach directed lessons; (5) follow the Treasures teacher's edition program with fidelity; use materials and resources to make the subject matter accessible to all students; monitor pacing; (6) establish and maintain standards for student behavior, especially the appropriate way to respond to Respondent's questions, leave their seats, and leave the classroom, and be consistent when requiring students to raise their hands and gain permission before speaking, leaving their seats, or leaving the classroom; (7) establish routines and

procedures for small group instruction; (8) engage all students in all lessons and monitor them for comprehension of the lesson, participation in learning activities, and compliance to both the classroom and school rules; (9) develop behavior contracts as needed; (10) circulate and scan the classroom regularly to prevent and correct safety hazards and inappropriate behavior by students; and (11) work with the core coach to assist with organizing for small group instruction. Ms. Ariyasu stated that if she were to evaluate Respondent that day, Ms. Ariyasu would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Ms. Ariyasu advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

135. On December 13, 2012, Ms. Ariyasu issued to Respondent a Notice of Suspension of Certificated Employee, suspending Respondent without pay for a period of five days, and a Notice of Unsatisfactory Service or Acts of Certificated Employee for the period from November 29, 2011 to May 16, 2012, for (1) failing to follow District and school policies and procedures; (2) failing to follow administrative directives; (3) failing to demonstrate proper presentation of subject matter; (4) failing to follow recommended course of study; (5) failing to meet the individual needs of students; (6) failing to provide a safe learning environment for students; (7) failing to provide appropriate supervision of students; and (8) failing to adequately plan and/or prepare for instruction.

136. Ms. Guzman, who had worked closely with Respondent as the Title III coach since August 2011, ended her tenure at Tenth Street in December 2013. Ms. Guzman noted Respondent failed to improve during Ms. Guzman's period at Tenth Street.

137. On February 1, 2013, Ms. Ariyasu memorialized the substance of a conference she held with Respondent on January 31, 2013, regarding Ms. Ariyasu's observation of Respondent's classroom on January 31, 2012 during Respondent's language arts lesson. In the area of planning and designing instruction, Ms. Ariyasu noted Respondent failed to use instructional strategies, materials, resources, and technologies appropriate to the subject matter. Specifically, Respondent did not properly or adequately use the teacher's assistant assigned to her class to provide instructional support to the students. Respondent had not provided the teacher's assistant with a plan or discussed with him his responsibilities prior to assigning him to work with a group of students, each of whom had different worksheets to complete. Consequently, the teacher's assistant had to individually explain to each student what their particular worksheet required. Additionally, the paper Respondent provided her students were not developmentally appropriate for second graders as the line spaces were narrow, and Respondent had previously provided them with unlined paper to write letters. Ms. Ariyasu also noted Respondent continued to not plan instruction to ensure all students had equal access to the curriculum, in that one student was isolated from the rest of the students for more than 16 minutes.

138. In the area of classroom performance, Ms. Ariyasu noted Respondent failed to establish and maintain standards for student behavior and create a climate that promoted fairness and respect, as Respondent's behavior management practices were negative. Specifically, Respondent erased table points rather than simply giving table points to tables where the students behaved properly, and told two students to turn their behavior cards without telling them why they were being penalized. Additionally, Ms. Ariyasu noted Respondent failed to provide an engaging and safe classroom for all students by continuing to not post student samples of math work, posting writing samples that continued to include no scoring rubric, rubric scores, standards, or teacher feedback, and by continuing to permit debris and other tripping hazards in the walkway, such as jackets, books, scraps of papers, pencils, and backpacks. Ms. Ariyasu also noted Respondent failed to use instructional time effectively, as Respondent failed to follow her lesson plan and schedule.

139. In the area of support of student learning, Ms. Ariyasu noted Respondent failed to engage students in problem-solving, critical-thinking, and other activities by instructing the students to visualize something and then write "what happened in Chapter 3" without demonstrating how they should complete their task. Ms. Ariyasu also noted Respondent failed to provide effective supervision of students by not noticing or not addressing off-task behavior, and by remaining in her chair at the front of the class instead of walking around and monitoring student learning and student behavior. Additionally, Ms. Ariyasu noted Respondent failed to use a variety of instructional strategies and resources to respond to students' diverse needs. Specifically, when Respondent instructed students to write a summary of one their reading chapters, she failed to provide them with a visual example of one, even though it was something required by one of her student's IEP.

140. Ms. Ariyasu offered Respondent the following assistance and guidance: (1) provide students with developmentally appropriate writing paper; (2) plan the duties of the teacher's assistant in order to maximize his time in the classroom; (3) support the use of instructional resources such as dictionaries or word books by allowing and encouraging students to use them; (4) promote a climate of fairness and respect by not continuing to isolate students from the rest of the class for extended periods of time, erasing table points from table groups rather than adding points to others, and being mindful of behavior management practices and supporting positive behavior by being positive with the students; (5) refrain from assigning students to work on subject matter not taught to the rest of the students to avoid providing unequal access to the curriculum; (6) follow the daily schedule in order to provide students with the appropriate number of instructional minutes for each subject; (7) remove trash from the floor and hold students responsible for putting away their belongings to avoid blocking walkways; (8) make sure closet doors remain closed to avoid safety hazards; (9) engage all students by using a variety of instructional strategies and monitor them for understanding and compliance; circulate and scan the classroom regularly to prevent or respond to sage hazards and inappropriate behavior; (10) attend some professional development workshops to help improve instruction and classroom management skills; and (11) display current, rubric-scored student work in language arts and math, and include specific feedback and an engaging, thought-provoking caption.

141. Ms. Ariyasu directed Respondent to (1) follow lesson plans and daily schedule by teaching the lesson planned; (2) engage all students in all lessons and monitor them for comprehension of the lesson, participation in learning activities, and compliance to both the classroom and school rules; (3) treat all students with respect; (4) circulate and scan the classroom regularly to prevent or respond to safety hazards and inappropriate behavior; (5) display current, rubric-scored student work in language arts and math, and include specific feedback and an engaging, thought-provoking captions; (6) maintain a clean, neat, orderly room and keep all walkways clear of any item which could be a tripping hazard. Ms. Ariyasu stated that if she were to evaluate Respondent that day, Ms. Ariyasu would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Ms. Ariyasu advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

142. At hearing, Ms. Ariyasu, who had been employed with the District since 1973, served as an elementary school teacher for 12 years, served as an assistant principal for one and one-half years, and who began serving as a principal in 1986, opined, based on her experience and observations, that Respondent should not return to the classroom, because she failed to demonstrate the ability to make substantial and sustained improvement in her ability to carry out her duties as a teacher, despite the extensive assistance and guidance provided to Respondent over the years. Ms. Ariyasu considered Respondent to be unprepared, unorganized, unable to demonstrate classroom management or monitor student behavior, unable to deliver directed lessons properly, unable to teach core District programs with fidelity, and an overall ineffective teacher.

143. At the beginning of February 2013, Ms. Ariyasu left her position as a principal at Tenth Street to accept a promotion to a staff relations position with the District. The new principal, Juan Alfayate, began at Tenth Street immediately thereafter. Ms. Ariyasu did not talk to Mr. Alfayate about Respondent, but did provide him with all of the personnel files of all of the teachers at Tenth Street, and talked to him about the operation of the school.

144. Mr. Alfayate visited and observed all of the classrooms during his first week at Tenth Street, including Respondent's, for approximately five to seven minutes. During these observations, Mr. Alfayate became concerned about Respondent's class. Specifically, Mr. Alfayate noted Respondent's lack of classroom management, where students were off-task and not engaged. Consequently, Mr. Alfayate made plans to return to Respondent's class to conduct further observations.

145. On February 15, 2013, Mr. Alfayate memorialized the substance of a conference he held with Respondent on February 14, 2013, regarding Mr. Alfayate's observation of Respondent's classroom on February 14, 2013, during Respondent's Academic Language Development (ALD) lesson. In the area of planning and designing instruction, Mr. Alfayate noted Respondent failed to use state subject matter content standards to establish rigorous learning goals for students. Specifically, as Respondent

started her lesson, she wrote on the board, "Objective: Oral vocabulary," which was part of a daily schedule, but did not qualify as a standards-based objective. Additionally, at no time during the lesson did Respondent tell the students the purpose of the lesson. Mr. Alfayate also noted Respondent failed to use instructional strategies, materials, resources, or technologies that were appropriate to the learning activities. Specifically, Respondent failed to refer to her lesson plan during the lesson, or adhere to the lesson plan, which resulted in Respondent's introduction of vocabulary words unrelated to the planned lesson.

146. In the area of classroom performance, Mr. Alfayate noted Respondent failed to establish and maintain standards for student behavior or create a climate that promoted fairness and respect. Specifically, during the transition from math to ALD, one student remained on the floor distracting other students, yet Respondent never redirected his behavior. Additionally, during the ALD lesson, several students were off-task, yet Respondent did not redirect them. Mr. Alfayate also noted Respondent failed to use instructional time effectively. Specifically, according to Respondent's lesson plan, Respondent was supposed to deliver the ALD lesson at 10:00 a.m. until 10:30 a.m., however, when Mr. Alfayate entered Respondent's classroom at 10:10 a.m., most of the students were working on a math activity, which Respondent did not conclude until 10:18 a.m., resulting in a loss of 18 minutes of instruction for ALD. Also, Respondent wasted approximately eight minutes during the transition to small group instruction, because Respondent failed to plan and prepare for small group activities. Specifically, Respondent spent five minutes of instructional time to explain to the teacher's assistant what she expected the teacher's assistant to accomplish in his small group, instead of providing the teacher's assistant with a written plan beforehand. Respondent wasted an additional three minute setting up the computer, as opposed to completing such tasks prior to the beginning of the school day.

147. Mr. Alfayate offered Respondent the following assistance and guidance: (1) keep the lesson plan in close proximity so Respondent could use and refer to it, and adhere to its timelines and content; (2) shorten transitions to ensure a minimal loss of instructional time, and make certain to have all materials ready, including any notes to the teacher's assistant outlining his duties for the day; (3) redirect students when they drift off-task; and (4) clearly state and write the standards-based learning objective for each lesson, refer to it during the lesson, and ask students to restate it.

148. Mr. Alfayate directed Respondent to (1) implement carefully designed lesson plans with program fidelity; (2) plan and develop effective transitions between activities; (3) effectively redirect students when off-task; and (4) effectively integrate the objective of the lesson as a teaching strategy. Mr. Alfayate stated that if he were to evaluate Respondent that day, Mr. Alfayate would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Mr. Alfayate advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

149. On April 8, 2013, Mr. Alfayate memorialized the substance of a conference he held with Respondent on April 5, 2013, regarding Mr. Alfayate's observation of Respondent's classroom on March 11, 2013, during Respondent's language arts lesson. In the area of planning and designing instruction, Mr. Alfayate noted Respondent failed to use instructional strategies, materials, resources, or technologies that were appropriate to the subject matter. Specifically, Respondent failed to provide students with appropriate writing paper for them to copy words Respondent had written on the projector and instructed the students to write five times, as the paper was blank, containing no lines.

150. In the area of classroom performance, Mr. Alfayate noted Respondent failed to establish and maintain standards for student behavior or create a climate that promoted fairness and respect. Specifically, Respondent alternated between accepting student responses called out to Respondent and calling students names randomly. Respondent's use of the equity sticks was ineffective, as Respondent randomly pulled sticks and then returned them back to the same container, thus causing Respondent to repeatedly call some of the same students, rather than leaving all used/called sticks outside of the container until all the students names had been pulled or called. Additionally, Ms. Alfayate noted Respondent failed to provide an engaging and safe classroom for all students. Specifically, the closet doors included postings of student samples of personal narratives that were outdated by more than two months, posted math student samples lacking teacher feedback or a scoring rubric, items spilled out of the closet, such as backpacks, a jacket, and a bottle of water, some items were on the floor such as pencils and stickers, unapproved zip ties connected the legs of the desks, Respondent's desk and surrounding area were cluttered, and instructional materials were not stored in their proper place.

151. In the areas of support of student learning, Mr. Alfayate noted Respondent failed to guide the students to be self-directed or to access their own learning, in that Respondent directed students to complete a page from their reading/language arts practice book that required them to choose words with various spelling patterns they had just learned, namely the /u/ sound, but told students to consider words that made sense in the sentences, instead of referencing the spelling patterns they had just learned. Additionally, Respondent failed to establish and maintain standards for student behavior and create a climate that promoted fairness and respect, by not requiring students to change their own behavior cards, but rather assigned other students to turn the cards. Mr. Alfayate also noted Respondent failed to engage students in problem-solving, critical-thinking, and other activities as they exhibited off-task behavior, such as flipping through their reading/language arts practice books, cleaning out their desks, talking to other students, fiddling with their clothing, playing with their hands, and putting their heads down on the desk. Additionally, Respondent failed to provide effective supervision of the students as Respondent did not appear to notice or respond appropriately to a student leaving the class without her knowledge to participate in adapted physical education, a student sitting unsafely in her seat on her knees, a student tossing paper in the air, and Respondent rarely left her seat in front of the class to walk around and monitor student learning and student behavior. Respondent also failed to use a variety of instructional strategies and resources to respond to students' diverse needs. Specifically, when a student approached Respondent complaining of a stomach ache,

Respondent responded, "Let's wait for our visitor to leave. They're here to see us work, not to see me send you to the nurse."

152. Mr. Alfayate offered Respondent the following assistance and guidance: (1) follow the Treasures teacher's edition suggestions in order to engage the students in the learning activities; (2) engage all students by using a variety of instructional strategies and monitor them for understanding and compliance; (3) use instructional time in order to explain all terms used by Respondent to teach concepts contextually so that students can create a connection to learning rather than being exposed to the information in isolation; (4) when teaching and assigning students to practice or apply new learning, constantly refer to the standards-based learning objectives so that they see the connection between the learning goal and their activities; (5) provide students with developmentally-appropriate writing paper; (6) ensure to create and maintain a climate that promotes fairness and respect for every student in learning activities by pulling equity sticks randomly from a container without re-inserting them until all names have been called, and require students to turn over their own behavior card; (7) immediately remove the zip ties from the legs of the students' desks so they can move freely; (8) Respondent to clean and organize her desk and the surrounding area; (9) remove trash from the floor and hold students responsible for disposing of their trash; (10) ensure no items rest on the floor of the closet, and teach students how to hang their items properly; (11) circulate and scan the classroom regularly in order to prevent safety hazards and inappropriate behavior; (12) respond to students' needs immediately and appropriately; (13) attend some of the professional development workshops addressing instruction and classroom management; and (14) display current rubric-scored student work, and include constructive feedback, a visual scoring rubric, standard, and an engaging thought-provoking caption.

153. Mr. Alfayate directed Respondent to do the following: (1) use the teacher's editions in order to engage the students in their learning activities and to accommodate all types of learners; (2) use the instructional time effectively in order to teach the students new concepts and to help them make connections to the learning in real contexts rather than in isolation; (3) engage all students in all lessons and monitor them for comprehension of the lesson, participation in learning activities, and compliance to both classroom and school rules; (4) provide the students with developmentally appropriate writing paper at all times; (5) treat all of the students equitably by giving them equal opportunities to participate in all learning activities; (6) respond to and address the students' needs immediately and appropriately; (7) circulate and scan the classroom regularly to prevent and correct safety hazards and inappropriate behavior by the students, and supervise them with diligence; (8) display current rubric-scored student work, and include constructive feedback, a visual scoring rubric, and an engaging thought-provoking caption; (9) maintain a neat and orderly room, including keeping walkways clear of tripping hazards; and (10) immediately remove the zip ties from the legs of the students' desks so they can move freely. Mr. Alfayate stated that if he were to evaluate Respondent that day, Mr. Alfayate would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Mr. Alfayate advised that if Respondent failed to make an immediate and sustained improvement in her

performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

154. On April 15, 2013, Respondent submitted a written response to Mr. Alfayate's April 8, 2013 conference memo. Respondent stated that the school often had a shortage of lined paper, so she had become accustomed to having students write on scratch paper. In the area of classroom performance, Respondent stated she used equity sticks to encourage all students to participate in class discussions and activities. Also, Respondent stated that teachers used duct tape or rope to keep their classroom desks in straight, orderly positions, and thought using plastic zip ties was an acceptable variation of this practice. Respondent was not aware there were any District restrictions against connecting the desks. Respondent also stated that in order to minimize loss of instructional time and distractions, she assigned a student to be a card monitor. Respondent stated the class had accepted the fact that there was a card monitor.

155. On April 25, 2013, Mr. Alfayate memorialized the substance of a conference he held with Respondent on April 24, 2013, regarding Mr. Alfayate's observation of Respondent's classroom on April 17, 2013, during Respondent's oral language and listening comprehension lesson. In the area of planning and designing instruction, Mr. Alfayate noted Respondent failed to demonstrate consistency in her lesson plans to foster student learning and achievement of State Standards. Specifically, Respondent, after stating the objective of the lesson, failed at any time during the lesson to do any modeling, discussion, guided practice, or student activity that involved the objective of the lesson. Additionally, the objective did not align with State Standards. Respondent also failed to use instructional strategies, materials, resources, and technologies appropriately, in that Respondent failed to give the teacher's assistant any plans for his work duties or responsibilities for the day, leaving the teacher's assistant waiting for ten minutes at the back of the class for instructions.

156. In the area of classroom performance, Mr. Alfayate noted Respondent failed to implement classroom procedures and routines that supported student learning, in that Respondent used equity sticks inconsistently to call on students, but also accepted answers called out by students.

157. Mr. Alfayate offered Respondent the following assistance and guidance: (1) rewrite the objective for the lesson to align it with California content standards; (2) limit the number of objectives so they can be reflected during modeling, guided practice, and during the students' independent practice; (3) continue to use equity sticks and refrain from validating answers from students talking out of turn; and (4) prepare plans ahead of time for the teacher's assistant.

158. Mr. Alfayate directed Respondent to (1) adhere to lesson plans teaching standards-based learning objectives; (2) ensure to align learning objectives with the California content standards; (3) utilize classroom management strategies that allow all students to participate in the lessons; and (4) utilize resources effectively by preparing plans ahead of time for the teacher's assistant. Mr. Alfayate stated that if he were to evaluate

Respondent that day, Mr. Alfayate would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Mr. Alfayate advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

(2) *2012-2013 Stull Evaluation*

159. On April 23, 2013, Mr. Alfayate prepared a Stull evaluation of Respondent's performance for the 2012-2013 school year. In the area of support for student learning, Respondent needed improvement in guiding all students to be self-directed and assess their own learning, engaging student in problem-solving, critical-thinking, and other activities, and using a variety of instructional strategies and resources to respond to students' diverse needs, and integrate students' prior knowledge, life experiences, and interests into the instructional program. Mr. Alfayate commented that Respondent failed to use different strategies for students with diverse and different needs.

160. In the area of planning and designing instruction, Respondent required improvement in demonstrating evidence of short-term and long-term plans to foster student learning and achievement of the State Standards, using state subject matter content standards to establish rigorous goals for students, using instructional strategies, materials, resources, and technologies appropriate to the subject matter, and planning instruction to ensure that all groups of students had equal access to the curriculum. The evaluation also noted that Respondent needed to be consistent in her planning, including planning the duties of the teacher's assistant.

161. In the area of classroom performance, Respondent needed improvement in demonstrating knowledge of State Standards and student development, establishing and maintaining standards for student behavior and creating a climate that promoted fairness and respect, planning and implementing classroom procedures and routines that supported student learning, using instructional time effectively, and providing an effective classroom environment. Mr. Alfayate noted that Respondent needed to consistently use strategies to engage all students and monitor for students' understanding during the lessons.

162. In the area of developing as a professional educator, Respondent needed improvement in providing effective supervision of students. Mr. Alfayate commented Respondent needed to regularly walk around the classroom to provide effective supervision for her students, prevent unsafe conditions in the classroom, and be aware of any student leaving the classroom without permission.

163. Respondent's overall evaluation was "below standard performance." Mr. Alfayate included a three-page attachment to Respondent's Stull evaluation, which listed specific deficiencies, recommendations, and assistance to be provided. In the area of specific deficiencies, Mr. Alfayate stated that Respondent: (1) failed to use a consistent classroom

management system that would allow all students to participate in the lesson, leaving many students unengaged; (2) failed to use instructional strategies to respond to students' instructional and/or physical needs; (3) failed to show evidence of planning as parts of the lesson plan were blank or incomplete; (4) failed to establish and maintain standards for student behavior or create a climate that promoted fairness and respect as her behavior management practices were negative or punitive; (5) failed to implement classroom procedures and routines consistently, such as using equity sticks or requiring that students raise their hands before speaking in order to support student learning; (6) failed to use instructional time effectively, due to her failure to have materials ready and to follow her lesson plan or the daily schedule; (7) failed to provide effective supervision of all students in the classroom, as students left her class without her knowledge, students had unsafe objects in their mouths without any redirection from Respondent, or students sat in unsafe manners without any redirection from Respondent; (8) failed to establish or articulate standards-based objectives for student learning; (9) failed to properly or adequately use the resources provided by the teacher's assistant assigned to her class to provide instructional support for students; (10) failed to provide all students with access to the curriculum as some students remained isolated from the rest of the students and did not participate in selected instructional activities; and (11) failed to provide an effective or safe classroom environment, as objects existed on the floor that could cause accidents, and student samples did not have feedback and/or rubrics posted.

164. Mr. Alfayate recommended that Respondent (1) show evidence of planning by having complete lesson plans; (2) follow the daily schedule; (3) be consistent in establishing and maintaining standards for student behavior such as requiring students to raise their hands before speaking; (4) refrain from isolating students from the rest of the classroom for extended periods of time; (5) ensure students have an adequate supply of instructional materials; (6) display current student work with constructive and specific feedback; (7) write and State Standards-based learning objectives at the beginning and end of the lesson, and refer to them when teaching and/or interacting with the students; (8) circulate around the classroom to identify and prevent possible hazards by removing unsafe objects from the floor; (9) prepare instructional materials prior to teaching in order to maximize instructional time; (10) engage all students and regularly monitor for student understanding, and redirect their attention to the task at hand as needed; and (11) plan the duties of the teacher's assistant assigned to the class in order to use his or her time effectively and to maximize the instructional support he or she offers to the students.

165. Mr. Alfayate advised Respondent that he would provide her with the following assistance: (1) Mr. Alfayate to continue encouraging participation in staff development addressing instruction, classroom management, and behavior modification; (2) Mr. Alfayate to continue providing Respondent assistance to address classroom participation, engagement and discussion techniques with students; (3) Mr. Alfayate to continue providing Respondent assistance with lesson planning and instructional goal setting; (4) Mr. Alfayate to continue providing Respondent information about the teaching and learning framework; (5) Mr. Alfayate to continue providing Respondent the support of instructional coaches to help Respondent plan and implement effective instruction; and (6) Mr. Alfayate to continue

providing weekly grade level meetings where peer teachers and instructional coaches could assist Respondent with data analysis, short and long-term planning and development of instructional strategies.

166. Mr. Alfayate recommended that Respondent be evaluated again at the end of the next school year (2013-2014).

(3) *2013 – 2014 School Year*

167. For the 2013-2014 school year, Respondent had fewer students assigned to her class than the class norm of 20. Specifically, Respondent had 16 to 18 students in her class. Mr. Alfayate assigned more high performing students to Respondent's class than the norm.

168. On August 12, 2013, at the beginning of the school year, Respondent attended a staff meeting where she, along with the other teachers, received a grade level daily schedule and a policy handbook.

169. On August 16, 2013, Mr. Alfayate issued to Respondent a Notice of Suspension of Certificated Employee, suspending Respondent without pay for a period of 11 days, and a Notice of Unsatisfactory Service or Acts of Certificated Employee for the period of August 29, 2012 to April 26, 2013, for (1) unsatisfactory performance; and (2) persistent violation of and refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public school by the state board of education or by the governing board of school district employing her. Specifically, Respondent failed to follow the discipline foundation policy, required curriculum of the District, namely its Treasures reading and language arts program, and its enVision math program, and failed to adhere to California state content standards.

170. On September 3, 2013, Mr. Alfayate memorialized the substance of a conference he held with Respondent on August 29, 2013, regarding Mr. Alfayate's observation of Respondent's classroom on August 27, 2013, during Respondent's math lesson. In the area of planning and designing instruction, Mr. Alfayate noted Respondent did not follow a sequence described in the math (enVision) teacher's edition, namely (1) daily spiral review, (2) problem of the day, (3) interactive learning, (4) visual learning bridge, (5) guided practice, (6) independent practice, (7) quick check master, and (8) daily common core review. Instead, Respondent followed a sequence that neither corresponded to that of the teacher's edition, nor included all components. Specifically, Respondent's lesson included the follow sequence: (1) guided practice, (2) independent practice, (3) daily common core review, (4) interactive learning, and (5) quick check, reteach, and practice. Additionally, Respondent failed to follow her lesson plan for math, did not provide students with counters or any other manipulatives, and did not follow the directions given in the enVision math teacher's edition. Respondent also failed to demonstrate an awareness of her students' academic and social/emotional strengths and needs in planning and implementing learning activities. Specifically, Respondent failed to adhere to a student's IEP requiring Respondent

to provide the student with opportunities to practice speech strategies, reminders to stay on topic, and prompts to expand sentences.

171. In the area of classroom environment, Mr. Alfayate noted Respondent failed to adequately monitor the students and address their needs or redirect them. Specifically, Respondent, during her lesson, stood in a way where she did not have an adequate view of all of the students, resulting in Respondent missing raised hands, students talking to their neighbors, and one student standing and dancing for at least two minutes.

172. In the area of delivery of instruction, Mr. Alfayate noted Respondent failed to effectively use a random selection technique in order for students to share their thinking in connection with Respondent's questions. Specifically, Respondent failed to use the equity stick technique correctly, resulting in Respondent calling on a few students more often than other students. Additionally, Respondent failed to group students in a purposeful and productive manner in order to promote productive, cognitive engagement in the learning activity. Specifically, Respondent did not have anything posted or written in her lesson plan indicating which students were designated to work in particular groups for particular tasks. Respondent also failed to monitor closely student learning in order to see if the students were understanding and progressing toward the learning objectives, as Respondent did not redirect the attention of students who were off-task. Also, Respondent failed to provide evidence that she provided students with instructive or specific feedback that would move their learning forward. Specifically, Respondent placed stars or happy faces on assignments of students who had completed the assignment incorrectly, and posted student work representing only one core curricular area, specifically, language arts.

173. Mr. Alfayate offered Respondent the following assistance and guidance: (1) follow the math program (enVision) teacher's edition and lesson plans with fidelity daily; (2) for small groups, group them deliberately according to academic needs based on assessments, plan learning activities that have a standards-based purpose, communicate the standards-based purpose in writing and verbally using student-friendly language, include a visible and accessible written version of necessary information such as specific procedures and the names of students who should be in each small group, and practice procedures, transitions, and activities so that the actual small group rotation will run smoothly with minimal disruption; (3) create, implement, and reinforce a behavior management system designed to help students understand the consequences or rewards for their behavior; (4) actively monitor student behavior and respond to off-task behavior immediately as it can be disruptive to the rest of the students, including positioning herself physically so that she can maintain a constant visual awareness of all of the students at all times, and circulating the entire classroom regularly to notice whether students are complying with Respondent's directions; (5) monitor the students' learning in order to determine if Respondent needs to reteach a concept/skill to the whole class so that all of their needs are addressed; (6) consider reconfiguring the layout of the room to ensure Respondent she can see all students; (7) be mindful of the correct manner in which to use the equity sticks technique; (8) ensure the safety of the classroom environment at all times; (9) provide all of the students with constructive feedback regarding the work that they produce and display current rubric-scored

student work with constructive specific feedback, standard, and an engaging thought-provoking caption; and (10) attend professional development workshops addressing some of Respondent's needs, such as student engagement, the power of presence, and classroom management.

174. Mr. Alfayate directed Respondent to (1) follow the math program (enVision) teacher's edition and lesson plans with fidelity daily; (2) group students with purpose according to their academic needs and post the names of the students who belong in particular groups; (3) post and review student-friendly visual reminders of procedures and expectations; (4) display current rubric-scored student work with constructive specific feedback, standard, and an engaging thought-provoking caption; (5) develop, implement, and reinforce a behavior management system; and (6) actively monitor student compliance with directions for their academic, behavioral, and physical well-being by circulating the room regularly, and intervene whenever necessary and always maintain visual contact with all of the students. Mr. Alfayate stated that if he were to evaluate Respondent that day, Mr. Alfayate would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Mr. Alfayate advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

175. On September 10, 2013, Respondent submitted a written response to Mr. Alfayate's September 3, 2013 conference memo. In the area of planning and designing instruction, Respondent stated that she attended a training at the Math Institute during the summer of 2011 that it was appropriate to alter the sequence of the enVision math program to meet the needs of her students. In the area of classroom environment, Respondent stated she used equity sticks during her lesson, and noticed her mistake with the equity sticks. In the area of delivery of instruction, Respondent stated she gave her students a writing rubric score, which she posted next to the group of writing samples.

176. On September 16, 2013, Mr. Alfayate memorialized the substance of a conference he held with Respondent on September 13, 2013, regarding Mr. Alfayate's observation of Respondent's classroom on September 9, 2013, during Respondent's language arts lesson. In the area of planning and designing instruction, Mr. Alfayate noted Respondent failed to demonstrate knowledge of the difference between planning tasks and learning objectives, and did not use the Treasures teacher's edition as a reference for appropriate learning objectives. Specifically, Respondent wrote on her board "Objective: Making Muffins and a Friend, page 36," but the objective as listed on page 36 should have been "Learning the meaning of vocabulary words . . ." Respondent had also written as an objective, "Read Len and Gus," however, the Treasure's teacher's edition listed the objective as "Decode words with short e, o, u in connected text . . ."

177. In the area of classroom environment, Mr. Alfayate noted Respondent failed to demonstrate evidence of an effective routine or procedure for students to go to the restroom,

as Respondent failed to reinforce the school's safety policy requiring students to travel in pairs and with a hall pass if they left the classroom. Respondent also failed to express clearly her expectations for behavior as Respondent had not posted indications of classroom rules, consequences, or rewards. Specifically, Respondent implemented a color coded system to address behavior, but failed to post what each color signified. Additionally, Respondent failed to adequately monitor the students and address their needs or redirect them, in that Respondent failed to redirect off-task students.

178. In the area of delivery of instruction, Mr. Alfayate noted Respondent failed to communicate clearly her learning expectations to the students when she instructed the students to retrieve their decodable readers and read "Len and Gus." Additionally, Respondent failed to monitor closely student learning in order to determine whether students were progressing toward the learning objectives. Specifically, after instructing the students to read chorally, Respondent did not redirect the actions of a student standing with his book turned to the wrong page, or of students who did not read chorally as instructed. Respondent also failed to provide students with instructive or specific feedback that would forward their learning, in that Respondent failed to provide meaningful feedback to help reinforce the lesson. Additionally, Respondent provided students with no opportunities to assess their work against the established criteria and monitor their own progress towards achieving the expected outcomes, in that Respondent failed to post a data chart regarding the students' reading comprehension, and a scoring rubric for the math placement tests posted in order for the students to understand the scores they had received.

179. Mr. Alfayate offered Respondent the following guidance and assistance: (1) write and articulate the learning objectives that exist in the teacher's edition in order to focus the students' attention on the key learning goals for each language arts lesson; (2) follow the Treasures teacher's edition reading program with fidelity daily in order to teach the language arts curriculum; (3) create, implement, and reinforce a behavior management system designed to help students understand the consequences or rewards for their behavior; (4) actively monitor student behavior and respond to off-task behavior immediately as it can be disruptive to the rest of the students, including positioning herself physically so that she can maintain constant visual awareness of all of the students at all times, and circulating the entire classroom regularly to notice whether student are complying with her directions; (5) consider using individual behavior contracts for students who exhibit significant disruptive behaviors; (6) communicate clearly her learning expectations to the students verbally and in writing, and then reference those expectations and learning objectives when teaching the lesson; (7) monitor students' learning in order to determine whether reteaching a concept to the whole class becomes necessary, including ensuring students are on the correct page at all times, providing them with scaffolding, and providing them with an explanation if they give an incorrect answer; (8) provide all of the students with constructive feedback regarding the work that they produce and display current rubric-scored student work with constructive specific feedback, standard, and an engaging thought-provoking caption; (9) provide students with opportunities to assess their own work against the established criteria and monitor their own progress towards achieving the expected outcomes by posting an explanation and/or rubric regarding some of the posted information; and (10) attend professional development

workshops addressing some of Respondent's needs, such as student engagement, the power of presence, and classroom management.

180. Mr. Alfayate directed Respondent to (1) follow the Treasures reading/language arts program teacher's edition and lesson plans with fidelity daily; (2) write, articulate, and reference the learning objectives set forth in the Treasures teacher's edition; (3) post and review student-friendly visual reminders of procedures, expectations, and explanations of Respondent's behavior management system; (4) display current rubric-scored student work with constructive specific feedback, standard, and an engaging thought-provoking caption; (5) develop, implement, and reinforce a behavior management system; and (6) actively monitor student compliance with directions for their academic, behavioral, and physical well-being by circulating the room regularly, and intervening whenever necessary and always maintain visual contact with all of the students. Mr. Alfayate stated that if he were to evaluate Respondent that day, Mr. Alfayate would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Mr. Alfayate advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

181. On September 23, 2013, Respondent submitted a written response to Mr. Alfayate regarding his September 16, 2013 conference memo. In the area of planning and preparation, Respondent stated she used the Treasure reading/language arts program to accomplish multiple learning tasks and objectives in a weekly routine lesson that used a short story preceding the weekly main selection to engage students in the unit theme, comprehension skills, and vocabulary development. Respondent stated that the objective in the Treasures teacher's edition for that day was not written in kid-friendly language, so it did not seem as if it was intended for her to write on the board. However, Respondent stated she would write the objective on the board in the future.

182. In the area of classroom environment, Respondent stated her classroom rules were posted in front of the classroom for the students to see, and she used a behavior monitoring chart that was universal, behavior monitoring system used in many classrooms. Respondent also stated most of the students were sitting quietly at their seats throughout the whole lesson, and Respondent had circulated around the room during the lesson. Respondent disagreed that a student stood dancing and jumping for 21 minutes.

183. In the area of delivery of instruction, Respondent stated the classroom observation occurred right before dismissal, leaving insufficient time to review more pages and identify short vowel sounds. Additionally, Respondent stated she had different times and ways in which she provided students with feedback at school, such as using the words "correct" or "incorrect," but did not believe it was helpful to dwell on their mistakes. Respondent stated that it had never been brought to her attention before that she needed to write a rubric score on student tests.

184. On September 30, 2013, Mr. Alfayate memorialized the substance of a conference he held with Respondent on September 27, 2013, regarding Mr. Alfayate's observation of Respondent's classroom on September 25, 2013, during Respondent's language arts lesson. In the area of planning and designing instruction, Mr. Alfayate noted Respondent failed to follow a sequence of learning that was aligned to her posted daily classroom schedule, as Respondent spent an inordinate amount of time on a learning activity which should have lasted a fraction of that time. Specifically, a 15 minute lesson took Respondent more than 50 minutes to teach, leaving her only six minutes to teach the next lesson before excusing her students to lunch. Additionally, Respondent failed to demonstrate an awareness of best practices regarding how students learn, as Respondent did not provide them with accurate or appropriate models of skills that students are expected to learn and use. Specifically, when speaking to students, Respondent repeatedly (more than 10 times) said "gonna" instead of "going to," "gotta" instead of "got to" or "have to," and "wanna" instead of "want to."

185. In the area of classroom environment, Mr. Alfayate noted Respondent failed to create an environment that projected respect and a supportive learning environment. Specifically, Respondent focused on negative student behavior when she asked, in a negative tone, students to point to the students who did not have their hands raised. Additionally, Respondent made a negative statement about a group of students, namely, "Wow! I didn't wanna (sic) give Group 1 a point at first, but now I have to." Respondent also failed to provide students with a clean and safe physical classroom environment, in that there were items on the floor, such as counters, a bandage, an eraser, a packet of plastic eating utensils, all of which posed a slip and fall hazard. Additionally, Respondent failed to adequately monitor student behavior and redirect their misbehavior, such as intervening in a timely manner when a student played with a feather for eight minutes, a student played with two pencils for at least five minutes, a student threw a counter at another student, and that another student spent 17 minutes in the restroom adjacent to the class without Respondent checking on him.

186. In the area of delivery of instruction, Mr. Alfayate noted Respondent failed to clearly and consistently express her expectations for student behavior concerning how they should speak to Respondent in class. Specifically, at times, Respondent permitted students to speak out of turn without raising their hands and awaiting permission to speak, and then validated their noncompliance by engaging in conversation with them, instead of redirecting their behavior. Additionally, Respondent failed to provide a clear delivery of instruction or adapt the content explanations to meet the needs of all students, in that Respondent failed to provide visuals, to make the information more comprehensible. Moreover, Respondent failed to closely monitor the student learning in order to determine whether the students were progressing toward the learning objectives. Specifically, most of the students whom Respondent asked, at the close of her lesson, to identify the five vocabulary words, could not accurately respond.

187. Mr. Alfayate offered Respondent the following assistance and guidance: (1) follow the daily classroom schedule, the lesson plan, and the Treasures reading/language arts

teacher's edition with fidelity daily in order to teach the students all of the components of the language arts curriculum; (2) use best practices by using Standard English when speaking to students; (3) interact with all of the students so that Respondent could provide them with a positive and respectful experience while in her class, including verbalizing, emphasizing, and praising positive and compliant behavior; (4) provide students with a clean and safe physical classroom environment by ensuring the students clean up after themselves; (5) create, implement, and reinforce a behavior management system designed to help students understand the consequences or rewards for their behavior; (6) actively monitor student behavior and respond to off-task behavior immediately as it can be disruptive to the rest of the students, including positioning herself physically so that she can maintain constant visual awareness of all of the students at all times, and circulating the entire classroom regularly to notice whether students are complying with her directions, communicate clearly her learning expectations to the students verbally and in writing, and then reference those expectations and learning objectives when teaching the lesson; (7) monitor students' learning in order to determine whether reteaching a concept to the whole class becomes necessary, including ensuring students are on the correct page at all times, providing them with scaffolding, and providing them with an explanation if they give an incorrect answer; (8) attend professional development workshops addressing some of Respondent's needs, such as student engagement, the power of presence, and classroom management.

188. Mr. Alfayate directed Respondent to (1) follow the Treasures reading/language arts program teacher's edition and lesson plans with fidelity daily; (2) provide the students with a model of Standard English verbally and in writing at all times; (3) attend professional development workshops addressing some of Respondent's needs, such as student engagement, the power of presence, and classroom management system; (4) provide students with a clean and safe physical classroom environment, including removing all items from the floor which could be slip and fall hazards; and (5) actively monitor student compliance with directions for their academic, behavioral, and physical well-being by circulating the room regularly, and intervene whenever necessary and always maintain visual contact with all of the students. Mr. Alfayate stated that if he were to evaluate Respondent that day, Mr. Alfayate would give her an overall below standard performance evaluation, which could result in discipline, such as a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District. Mr. Alfayate advised that if Respondent failed to make an immediate and sustained improvement in her performance, it could lead to an overall below standard performance evaluation, a Notice of Unsatisfactory Service, Notice of Suspension, and dismissal from the District.

189. On October 7, 2013, Respondent submitted to Mr. Alfayate a response to his conference memo of September 30, 2013 concerning his September 25, 2013 observation. Respondent stated that, in the area of planning and preparation, she wanted to thoroughly teach the lesson and cover all aspects of the learning activity, but picture day was held on September 25, 2013, which disrupted their daily classroom schedule. Additionally, Respondent stated she would speak Standard English to the students at all times, and would correct students who used non-Standard English.

190. In the area of classroom environment, Respondent stated that she had just moved into the classroom a week prior, which was covered in layers of dust and cob webs, and she had been working hard to get the classroom clean and safe for her class. Respondent stated the janitors did not sweep the classroom, thus small items may have remained on the floor underneath the desks of the students, but not in a walkway that could result in a slip and fall. Additionally, Respondent stated she did not redirect the student who was playing with a feather, because she wanted to give him an opportunity to take personal responsibility and put the feather away on his own. Also, Respondent did not go and check on the student who had remained in the restroom for an extended period of time, because she did not want to embarrass the student. In the area of delivery of instruction, Respondent stated she would not validate students' responses if it was not their turn to speak.

191. On October 17, 2013, Mr. Alfayate issued to Respondent a Notice of Suspension of Certificated Employee, suspending Respondent without pay for a period of 15 days, and a Notice of Unsatisfactory Service or Acts of Certificated Employee for the period of August 27, 2012 to September 30, 2013, for (1) unsatisfactory performance; and (2) persistent violation of and refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public school by the state board of education or by the governing board of school district employing her. Specifically, Respondent failed to follow the discipline foundation policy, required curriculum of the District, namely its Treasures reading and language arts program, and its enVision math program, and failed to adhere to California state content standards.

192. At hearing, Mr. Alfayate, who had been employed with the District for 24 years, served as an elementary school teacher for 16 years, taught second grade for 10 years, served as an assistant principal and a principal, and now serves as a field director in District's Office of Staff Relations, opined, based on his experience and observations, that Respondent was not an effective teacher and should not be allowed to teach.

193. On December 5, 2013, Dr. Chiae Byun-Kitayama, who is an instructional director with District's Educational Service Center East, sent Respondent a letter scheduling a meeting for December 10, 2013 to discuss her possible dismissal from the District. Dr. Kitayama, who observed Respondent's class with Mr. Ariyasu and Mr. Alfayate approximately 10 times between July 2012 and April 2014, noted students were not on task, not in their seats, and often did not know what they were supposed to be doing. Dr. Kitayama also noted Respondent would write an objective on the board, but her instruction would not match the objective. Dr. Kitayama, as well as Ms. Ariyasu and Mr. Alfayate, all of whom testified at hearing, failed to see any appreciable improvement in Respondent's ability to teach effectively over the years. Dr. Kitayama stated in her letter to Respondent that in addition to her meeting with her, Dr. Kitayama would review conference memos and observations notes from September 2009 through September 30, 2013, Respondent's responses to those memos, Stull evaluations, Notices of Unsatisfactory Service of Certificated Employee and Notices of Suspension of Certificated Employee. Dr. Kitayama explained that thereafter, she would make a report to the superintendent who would decide

whether a written recommendation for dismissal would be submitted to the board of education.

194. On December 10, 2013, Respondent, along with her union representative, met with Dr. Kitayama and Dr. Kristen Murphy (Employee Performance Accountability Field Director). During the meeting, Respondent stated she understood the charges against her, namely (1) unsatisfactory performance; and (2) persistent violation of and refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public school by the state board of education or by the governing board of school district employing her. However, she disagreed with the charges and believed the conference memos were a compilation of petty things. Respondent stated she felt blindsided by the proposed dismissal, and felt she had done a wonderful job with her students. Subsequent to the meeting, Respondent provided additional documents to Ms. Kitayama for her to consider.

195. On January 13, 2014, Ms. Kitayama sent Respondent a letter stating that, based on the information available to her, including the additional documents provided by Respondent, she concluded that the proposed disciplinary action should be forwarded to the board of education for disposition, and that she would be recommending that the District move forward with Respondent's dismissal.

C. Respondent's Testimony

196. Respondent testified at hearing. Respondent lived in Los Angeles as a child and went to private school. Respondent attended the University of Southern California as an undergraduate and majored in film production. Respondent discovered she required a profession with more stability, so she returned to college and earned her teaching credential.

197. Respondent mostly testified in a general, global fashion, and did not address with much specificity the 100 allegations set forth in the Accusation. However, one recurring theme throughout Respondent's testimony was her belief that Ms. Ariyasu's "assistance and guidance" set forth in her conference memos did not truly provide assistance and guidance on how to improve her teaching. On the contrary, Respondent believed she had been doing already most of the activities suggested by Ms. Ariyasu. While Respondent admitted that she made some mistakes in the presence of the principals, she believed that Ms. Ariyasu arbitrarily subjected her to criticism, and did not seem to notice how she improved her manner of teaching.

D. Character Testimony

198. Cynthia Maldonado-Garcia and Christina Vega, who are teachers at Tenth Street, provided character testimony. Ms. Maldonado-Garcia and Ms. Vega described Respondent as a hardworking teacher who came to work early and remained at school long after the school day. Additionally, Respondent often volunteered to type the grade level lesson plans created through weekly collaborations of second grade teachers.

199. Caroline Kwong-Der, who served as Respondent's colleague and union representative, described Respondent as honest, dependable, responsible, pleasant, and someone who appeared to be in a good mood at all times, and helped others when needed. Ms. Kwong-Der accompanied Respondent to some of her conference meetings with Ms. Ariyasu and Mr. Alfayate, and assisted Respondent with some of her written responses. Ms. Kwong-Der believed Ms. Ariyasu and Mr. Alfayate found fault in some of Respondent's actions that they would not have found in other teachers, including Ms. Kwong-Der.

E. *Credibility Findings*⁹

200. The Commission found credible the testimony of Ms. Ariyasu, Mr. Alfayate, and Ms. Guzman, as they observed Respondent independently over a period of time, and reached similar conclusions concerning Respondent's performance. Their perspectives were corroborated by the testimony of Dr. Kitayama, who not only observed Respondent on approximately 10 occasions, but met with Respondent, reviewed documents submitted by her, and still concluded that Respondent should be dismissed from District. All four of these witnesses testified in a clear, concise, unequivocal manner, and supported their perspectives with descriptive facts. The Commission afforded great weight to the testimony of Ms. Ariyasu, Mr. Alfayate, Ms. Guzman, and Dr. Kitayama.

201. The testimony of Respondent was afforded less weight, as her testimony was disjointed, difficult to follow, and did not fully address the allegations set forth in the Accusation. Additionally, Respondent was slow in answering questions, and appeared to have great difficulty recalling facts. Consequently, the Commission gave more weight to the written memos penned by Respondent in response to Ms. Ariyasu and Mr. Alfayate's conference memos than to her testimony itself, as they better explained Respondent's perspective. However, the Commission did not find that Respondent's responsive memos discredited either the testimony of, or the conference memos penned by, Ms. Ariyasu or Mr. Alfayate, nor did the Commission consider them weightier than the testimony of Ms. Guzman or Dr. Kitayama.

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⁹ In this matter, the Commission evaluated the credibility of the witnesses pursuant to the factors set forth in Evidence Code section 780: the demeanor and manner of the witness while testifying, the character of the testimony, the capacity to perceive at the time the events occurred, the character of the witness for honesty, the existence of bias or other motive, other statements of the witness which are consistent or inconsistent with the testimony, the existence or absence of any fact to which the witness testified, and the attitude of the witness toward the proceeding in which the testimony has been given. The manner and demeanor of a witness while testifying are the two most important factors a trier of fact considers when judging credibility. The mannerisms, tone of voice, eye contact, facial expressions and body language are all considered, but are difficult to describe in such a way that the reader truly understands what causes the trier of fact to believe or disbelieve a witness.

LEGAL CONCLUSIONS

1. Absent a statute to the contrary, the burden of proof in disciplinary administrative proceedings rests upon the party making the charges. (*Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 99, 113; Evid. Code, § 115.) The “burden of proof” means the obligation of a party, if he or she is to prevail on a particular fact, to establish by evidence a requisite degree of belief or conviction concerning such fact. (*Redevelopment Agency v. Norm's Slauson* (1985) 173 Cal.App.3d 1121, 1128.) The burden of proof in this proceeding is thus on District to prove the charging allegations.

2. The standard of proof in this proceeding is a preponderance of the evidence. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1039-1040; Evid. Code, § 115.) “The phrase ‘preponderance of evidence’ is usually defined in terms of probability of truth, e.g., ‘such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth.’ (BAJI (8th ed.), No. 2.60.)” (1 Witkin, Evidence, Burden of Proof and Presumptions § 35 (4th ed. 2000).)

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

4. Under section 44944, subdivision (b), the dismissal hearing must be conducted by a three-member Commission on Professional Competence. Two members of the Commission must be non-district teachers, one chosen by the respondent and one by the district, and the third member of the Commission must be an administrative law judge from the Office of Administrative Hearings.

5. When a school board recommends dismissal for cause, the Commission may only vote for or against it. Likewise, when suspension is recommended, the Commission may only vote for or against suspension. The Commission may not dispose of a charge of dismissal by imposing probation or an alternative sanction. (§ 44944, subd. (c)(1)(3).)

6. Section 44932 provides in part:

(a) No permanent employee shall be dismissed except for one or more of the following causes:

(1) Immoral or unprofessional conduct.

[¶] . . . [¶]

(4) Unsatisfactory performance.

(5) Evident unfitness for service.

[¶] . . . [¶]

(7) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing him or her.

7. Unprofessional conduct as used in § 44932, subd. (a)(1), may be defined as conduct that violates the rules or ethical code of a profession or is unbecoming a member of a profession in good standing. (*Board of Ed. v. Swan* (1953) 41 Cal.2d 546, 553, overruled in part, on another ground, in *Bekiaris v. Board of Ed.* (1972) 6 Cal.3d 575, 588, fn. 7.)

8. The term “unsatisfactory performance” is not specifically defined in the Education Code or case law. Inasmuch as there is separate cause for dismissal for unprofessional conduct in subdivision (a) of section 44932, and we are not to presume the Legislature intended to enact completely duplicative statutes (*In re Maes* (2010) 185 Cal.App.4th 1094, 1110), unsatisfactory performance must mean something different from unprofessional conduct. In fact, section 44938, subdivision (c), specifies that “unsatisfactory performance” does not include any other cause for dismissal specified in section 44932. While unprofessional conduct can be determined by analyzing a teacher’s conduct relative to the broader educational community, unsatisfactory performance must be analyzed with an eye toward the teacher’s performance as evaluated by his or her employing school district. Section 44938 supports this proposition. Section 44938 requires a charge of unsatisfactory performance to be preceded by a written notice of unsatisfactory performance, and refers to section 44660 et seq., which in turn establishes guidelines for how school districts should evaluate and assess the performance of their certificated employees. Thus, cause for discipline may be established if a certificated employee performs unsatisfactorily to his employing school district. However, the purpose of the statute giving tenure to teachers is to insure an efficient permanent staff of teachers whose members are not dependent on caprice for their positions as long as they conduct themselves properly and perform their duties efficiently and well. (*Bakersfield Elementary Teachers Ass’n v. Bakersfield City School Dist.* (2006) 145 Cal.App.4th 1260, 1293, fn 20, citing 56 Cal.Jur.3d (2003) Schools, § 411, p. 757.) Therefore, a reasonable limitation is that an employing school district cannot be arbitrary or capricious in making decisions regarding whether a certificated employee has performed unsatisfactorily.

9. “Evident unfitness for service” means clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies. (*Woodland Joint Unified School District v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) “‘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.” (*Id.*)

10. Even where immoral conduct or evident unfitness for service are established, it must also be established that such immoral conduct or evident unfitness renders the

Respondent unfit to teach. (*Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 229-230 (*Morrison*); *Fontana Unified School District v. Burman* (1988) 45 Cal.3d 208 (*Fontana*); *Woodland, supra*, 4 Cal.App.4th at 1444-1445.) In *Morrison*, the California Supreme Court set forth guidelines (eight factors) to aid in determining whether the conduct in question indicates such unfitness:

- (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 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 reoccurrence 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 teacher involved or other teachers.
- (8) The publicity or notoriety given to the conduct.

11. Not all “*Morrison* factors” need be present for the *Morrison* test to be satisfied. (*Governing Board of ABC School District v. Haar* (1994) 28 Cal.App.4th 369.) Moreover, the *Morrison* analysis need not be conducted on each individual fact established, but rather can be applied to the accumulated facts established collectively. (*Woodland Joint Unified School District v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1457.)

12. “Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing her,” which concerns Education Code, section 44932, subdivision (a)(7), requires a “showing of intentional and continual refusal to cooperate.” (*San Dieguito Union High School District v. Commission on Professional Competence* (1985) 174 Cal.App.3d 1176, 1196.)

13. Section 44932, subdivision (b) provides that a district may suspend a permanent employee without pay for a specific period of time if it follows the same procedures as for dismissal of a permanent employee.

14. Section 44939 provides in part:

Upon the filing of written charges, duly signed and verified by the person filing them with the governing board of a school district, or upon a written statement of charges formulated by the governing board, charging a permanent employee of the district with immoral conduct, . . . with willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing school district, . . . the governing board may, if it deems such action necessary, immediately suspend the employee from his duties and give notice to him of his suspension, and that 30 days after service of the notice, he will be dismissed, unless he demands a hearing.

15. Section 44944, subdivision (a)(5), provides that no testimony shall be given or evidence introduced relating to matters that occurred more than four years prior to the date of the filing of the notice. As such, in the instant matter, the statute of limitations began running on April 25, 2010, based on Factual Finding 1.

16. The District's Employee Code of Ethics provides in part:

- A. We are committed to being the best school district and personnel we can be, educating our students to their maximum potential.
Everything we do has an impact on the classroom.
 1. **Set the example.** We are committed to providing the best example we can, striving to demonstrate excellence, integrity and responsibility in our work. (Emphasis in original.)

[¶] . . . [¶]

5. **Keep policies, procedures and rules.** Our rules, policies and procedures are the foundation of trust and how our District conducts everyday business. They define our expectations and evaluation criteria. We are committed to following our Code of Ethics, laws, and District rules, regulations, bulletins, policies and procedures, recommending changes required to make them better, and will not tolerate improper conduct. (Emphasis in original.)

17. Here, District established, by a preponderance of the evidence, that Respondent demonstrated unprofessional conduct (§ 44932, subd. (a)(1)), unsatisfactory performance (§ 44932, subd. (a)(4)), evident unfitness for service (§ 44932, subd. (a)(5)), persistent violation of or refusal to obey reasonable regulations (§ 44932, subd. (a) (7)), and willful refusal to perform regular assignments without reasonable cause (§ 44939). As such,

as set forth in more detail below, cause exists to dismiss Respondent from her position as a permanent certificated employee of District.

Unsatisfactory Performance

18. As set forth in Legal Conclusion 8, unsatisfactory performance must be analyzed with an eye toward the teacher's performance as evaluated by Respondent's employing school district. The evidence showed District issued Notices of Unsatisfactory Service and suspended Respondent on three occasions. Specifically, Respondent was suspended on December 13, 2012, August 16, 2013, and October 17, 2013, for five, eleven, and fifteen days, respectively, for her failure to perform her duties satisfactorily, despite numerous warnings, directives, and substantial assistance and guidance. Specifically, from September 19, 2012 through September 30, 2013, Respondent received 12 conference memos outlining her repeated failures to write objectives, follow lesson plans, follow the teacher's edition, teach effective directed lessons and differentiate instruction, demonstrate classroom management, teach core subjects with fidelity, monitor and address student behavior, post current work product, use Standard English, and many other deficiencies. These failures, established by the credible testimony of Ms. Ariyasu, Mr. Alfayate, and Ms. Guzman, all of whom observed Respondent's poor work performance over the years, remained uncorrected, despite intensive and extended interventions provided by the administration, multiple core coaches, and PAR professionals.

19. Additionally, Respondent received multiple below standard Stull evaluations, thereby rendering her ineligible for continued participation in the PAR program to address the deficiencies set forth in the May 2012 and April 2013 evaluations. Specifically, Respondent received two consecutive school years' worth of PAR assistance (2011-2012 and 2012-2013), because she had received below standard Stull evaluations for the 2009-2010 and 2010-2011 school year.

20. Despite the Notices of Unsatisfactory Services, suspensions, multiple below standard Stull evaluations, and the guidance and assistance, directives, and coaching resources provided by Ms. Ariyasu and Mr. Alfayate, Respondent continued to demonstrate an apparent inability or unwillingness to perform as required. Given these factors, District demonstrated by a preponderance of the evidence that Respondent performed unsatisfactorily for multiple consecutive years, in violation of Education Code § 44932, subd. (a)(4).

Persistent Violation of or Refusal to Obey School Laws / Willful Refusal to Perform Regular Assignments

21. As set forth in Legal Conclusion 12, cases interpreting whether a teacher has persistently violated or refused to obey school laws require a showing of intentional and continual refusal to cooperate. Here, the evidence showed that Respondent failed to follow multiple directives, and failed to show marked improvement after the issuance of below standard Stull evaluations, multiple notices of unsatisfactory performance, and multiple suspensions. Additionally, Respondent failed to adhere to the District's Employee Code of

Ethics, requiring its employees to provide “the best example . . . striving to demonstrate excellence, integrity and responsibility.” Specifically, Respondent, despite numerous directives to do otherwise, used non-Standard English, such as “gonna,” “wanna,” and “gotta,” and continually performed in a substandard fashion. Respondent also failed to adhere to the District’s Employee Code of Ethics, requiring employees to “keep policies, procedures and rules.” Specifically, Respondent failed to comply with directives, follow teacher’s edition instructions to ensure the proper and complete delivery of lessons to her students, and failed to follow pacing plans.

22. Additionally, Respondent failed to establish and implement a behavior system as required by District’s “Discipline Foundation Policy Resource Manual.” Specifically, Respondent failed to utilize “proactive strategies for defining, teaching, and supporting appropriate student behaviors,” including, among other things, monitoring and correcting behavioral errors, and imposing consistent consequences. The evidence showed that Ms. Ariyasu and Mr. Alfayate observed Respondent’s class on a number of occasions where students were off-task, out of their seats, roaming the classroom, talking, shouting, making noise, leaving the classroom without permission, and other inappropriate behaviors, often without Respondent addressing or redirecting the inappropriate behavior. Although Ms. Ariyasu and Mr. Alfayate directed Respondent repeatedly to adopt and implement an effective behavior support system for her students, including requiring misbehaving students to turn over their own behavior cards instead of Respondent assigning the duty to another student, Respondent failed, or was otherwise unable, to comply.

23. These same factors also demonstrated Respondent’s refusal to perform regular assignments, particularly her failure to comply with multiple directives issued by Ms. Ariyasu and Mr. Alfayate. Given the above, District has demonstrated by a preponderance of the evidence that Respondent persistently violated or refused to obey school laws, and willfully refused to perform regular assignments, in violation of Education Code §§ 44932, subd. (a)(7), and 44939.

Evident Unfitness for Service / Unprofessional Conduct

24. As set forth in Legal Conclusions 9 and 7, evident unfitness for service and unprofessional conduct address whether a teacher is unfit or unsuitable for teaching, by reason of inadequacies, and whether a teacher’s conduct is unbecoming of a member of a profession in good standing, respectively. Here, the evidence demonstrated that Respondent failed to adhere to and/or carry out specific teaching duties, in direct violation of numerous warnings or directives issued by Ms. Ariyasu and Mr. Alfayate. Specifically, Respondent failed repeatedly to follow lesson and pacing plans, teach effective directed lessons, and follow the teacher’s edition in Treasures (reading/language arts program) and enVision (math program), resulting in an overall failure to teach those core subjects with fidelity. Additionally, the evidence showed that Respondent’s repeated failure to demonstrate effective classroom management, monitor and address student behavior, coupled with her repeated instances of unpreparedness, often resulted in a noisy, disorganized classroom, as well as an on-going loss of instructional time for her students. Also, Respondent failed to

maintain a safe environment for her students, such as maintain walkways free of backpacks, trash, or other debris, and adequately supervise her students, all of which happened repeatedly and consistently, despite numerous directives from Ms. Ariyasu and Mr. Alfayate to remediate these deficiencies. Respondent's failure to comply with the sheer number of directives, most of them recurring, issued to her from September 19, 2012 through September 30, 2013, totaling 93, and correct her teaching inadequacies, represented a sustained inability to meet the expectations of the District, thereby demonstrating her unfitness for service.

25. Similarly, to the extent that Respondent's failure to comply with repeated directives related to a continual unwillingness to adhere to specific orders issued by those in authority over her, specifically those requiring easily executed tasks, such as using equity sticks properly or requiring misbehaving students to turn over their own behavior cards, reasonably demonstrated a level of defiance, constituting conduct unbecoming of a member of a profession in good standing (i.e., unprofessional conduct).

Morrison Factors

26. As set forth in Legal Conclusion 10, after establishing evident unfitness, or unprofessional or immoral conduct, it must be established whether such evident unfitness or conduct renders Respondent unfit to teach, pursuant to the *Morrison* factors:

a. The likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity anticipated. This factor has maximum application, and weighs in favor of adverse action. As set forth in detail above, Respondent failed to follow numerous directives issued by Ms. Ariyasu and Mr. Alfayate, and correct a number of teaching deficiencies, despite an inordinate amount of assistance and guidance, including interactive instruction, modeling, and consulting provided by core coaches and PAR professionals. Consequently, Respondent's students experienced a constant loss of instructional time, the delivery of ineffective directed lessons, instruction that lacked fidelity concerning the reading/language arts and math programs, a noisy, disorganized, and poorly managed classroom, and a number of other unacceptable practices, all obstructing their ability to access the curriculum.

b. The proximity or remoteness in time of the conduct. This factor has moderate application, and weighs in favor of adverse action, in that the events in question are not remote, as they occurred fewer than two years ago.

c. The type of credential held or applied for by the person involved. This factor has minimal application, in that the type of credential held by Respondent did not serve as a relevant factor either explaining, defending, or excusing her failures to carry out her duties as a teacher.

d. The extenuating or aggravating circumstances surrounding the conduct. This factor has maximum application, and weighs in favor of adverse action. The evidence

showed that Respondent was given extensive, intensive, and repeated assistance and guidance, including at least a dozen conferences with Ms. Ariyasu and/or Mr. Alfayate between September 19, 2012 through September 30, 2013, extensive coaching by core coaches and PAR professionals, and attended professional development sessions, but failed to make a marked and sustained improvement in her performance as a teacher. In addition to the assistance and guidance, Respondent received multiple Notices of Unsatisfactory Service and suffered three suspensions, but none of those actions resulted in Respondent correcting her deficiencies.

e. The praiseworthiness or blameworthiness of the motives resulting in the conduct. While Respondent's performance was not praiseworthy, the "motives" underlying her conduct remain unclear. Therefore, this factor has minimal application.

f. The likelihood of the recurrence of the questioned conduct. This factor has maximum application and weighs in favor of adverse action. The evidence clearly established that Respondent was unsuccessful in remediating her deficiencies, despite substantial intervention. As such, if Respondent is permitted to return to the classroom, the likelihood is great that she would continue to perform with evident unfitness.

g. 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. The parties raised no constitutional issues in this matter.

h. The publicity or notoriety given to the conduct. This factor has no application in this matter, as the record includes no evidence of publicity or notoriety stemming from Respondent's conduct.

27. In light of the above, the *Morrison* factors, on balance, indicate that Respondent is unfit to teach, as the number of factors with maximum application outweighs the number of factors with less. Specifically, District has met its burden of demonstrating that Respondent's retention in the profession poses a significant danger of harm to its students, school employees, or others who might be affected by her actions as a teacher.

Conclusion

28. Based on the foregoing, the Commission has determined, by unanimous vote, that cause exists to dismiss Respondent from her employment with the District as a permanent certificated employee, for her unsatisfactory performance, persistent violation of or refusal to obey reasonable regulations, willful refusal to perform regular assignments without reasonable cause, evident unfitness for service, and unprofessional conduct.

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ORDER

The Accusation against Respondent Glory Rangel is sustained and shall be dismissed as an employee of the Los Angeles Unified School District forthwith.

DATED: June 26 2015



CARLA L. GARRETT

Administrative Law Judge
Office of Administrative Hearings
Commission on Professional Competence

DATED: June __, 2015

DEANNA CLARK

Commission Member
Commission on Professional Competence

DATED: June 24, 2015



MITZI OKAMOTO

Commission Member
Commission on Professional Competence

CONFIDENTIAL

The Annual Financial Report of the Board of Education of the City of Los Angeles
Department of the Los Angeles Unified School District, California

June 2013

CAPITAL EXPENSES

Capital Expenditures by Type

CHARTER SCHOOL EXPENSES

Charter School Capital Expenditures

June 2013

GENERAL EXPENSES

General Expenditures by Type

GENERAL EXPENSES BY SOURCE

General Expenditures by Source and Type

June 2015

MATERIALS AND EQUIPMENT

Materials and Equipment by Type

OTHER EXPENSES

Other Expenditures by Type