

BEFORE A  
COMMISSION ON PROFESSIONAL COMPETENCE  
PLEASANTON UNIFIED SCHOOL DISTRICT  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JON VRANESH,

A Permanent Certificated Employee,

Respondent.

OAH No. 2014120486

**DECISION**

A Commission on Professional Competence, convened to hear this matter on April 21, 22, 23, 24, 27, 28, 29, and May 6 and 7, 2015, in Oakland, California. Commission members are Andy Evans, Mary Pippitt-Cervantes, and Administrative Law Judge Diane Schneider, State of California Office of Administrative Hearings, who served as the Chair of the Commission.

Complainant Pleasanton Unified School District (District) was represented by Kim Kingsley Bogard and Lindsay K. Moore, Attorneys at Law, Kingsley Bogard LLP.

Respondent Jon Vranesh was represented by H. Paul Kondrick, Attorney at Law.

The record closed and the matter was submitted for decision on May 7, 2015. The following day, the Administrative Law Judge reopened the record for the purpose of receiving into evidence unredacted copies of exhibits. At a telephonic conference on May 8, 2015, the parties stipulated that the following exhibits would be admitted into evidence and upon receipt, would be sealed: Exhibit FF: Confidential Names Statement and unredacted copies of Attachments 24 to 31, referenced in the Amended Statement of Charges, and Exhibit GG: Unredacted copies of Exhibits W-1 to W-12.

The record closed and was re-submitted for decision on May 11, 2015.

## FACTUAL FINDINGS

### *Summary of the Case*

1. The District seeks to dismiss Respondent Jon Vranesh from employment with the District. Cause for dismissal is based upon alleged immoral conduct, dishonesty, evident unfitness for service, and 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 District.

2. Respondent began his tenure as principal of Walnut Grove Elementary School (Walnut Grove) in the fall of 2011. At that time, the teachers supported him and did what they could to help him succeed in his new role.<sup>1</sup> When Respondent assumed his role as principal, Walnut Grove was a happy, extremely productive, and cohesive unit. Beginning in 2012, however, and continuing until the time he was placed on administrative leave in October 2013, Respondent used sexually derogatory and degrading words towards female subordinate employees (such as “bitch” and “cunt”), as well as intimidating statements regarding the future employment of female employees. On repeated occasions he said he was going to “get” several teachers, and expressed a desire to bludgeon one teacher, Kathy Greth, with a “2 by 4.”

Respondent’s conduct had an extremely negative effect upon the work of numerous employees<sup>2</sup> and created a hostile work environment at Walnut Grove. The perception of the teachers who were sexually harassed by Respondent was that Respondent took advantage of his position as principal to bully, humiliate, and isolate teachers who were not in his inner circle. Teachers worried about their standing with Respondent and worked in fear that if Respondent decided that they were out of favor they might lose their jobs at Walnut Grove or suffer other negative consequences. After hearing Respondent express his feelings about wanting to hurt Kathy Greth, teachers also became fearful for their physical safety. As teachers became more distrustful and afraid of Respondent, their work suffered. Teachers also explained that their fear of Respondent kept them from reporting him to the District for about two years, until things had grown unbearable at school. Members of the Walnut Grove staff who testified to Respondent’s alarming behaviors did so with credibility and candor.

In October 2013, after five teachers filed a complaint against Respondent and the District interviewed Respondent, he denied making any such comments. At hearing, Respondent continued to deny each and every allegation against him. In light of the solid,

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<sup>1</sup> Lynne Cronin, in particular, took time to help Respondent improve his communication skills and his relationships within the school community. One of the ways she did so was to offer to organize principal’s coffees and help with parent groups.

<sup>2</sup> As used herein, the reference to Walnut Grove employees refers to female employees subordinate to Respondent.

credible and persuasive evidence establishing that he engaged in sexually harassing members of his staff over a period of about two years, Respondent's denial of any wrongdoing to the District lacked credibility and candor.

3. Days after he was placed on administrative leave from his position of principal, Respondent submitted a list of claims alleging wrongdoing on the part of the District. The District hired veteran investigator Sue Ann Van Dermeyden to independently investigate each of Respondent's claims. Following an exhaustive investigation, Van Dermeyden found no evidence to support any of Respondent's claims. Van Dermeyden's testimony regarding her findings was persuasive. At hearing Respondent again attacked the District, alleging retaliation and discrimination. His claims against the District, however, were unsupported by any credible evidence.

4. On November 11, 2013, Respondent issued a statement to the Pleasanton Weekly in which he claimed that he was placed on administrative leave in retaliation for reporting safety conditions to the District. Respondent's statements were untrue and had the effect of further fracturing the Walnut Grove community.

5. In November 2013, after Respondent had been directed to return all District property in his possession, Respondent destroyed the data on a laptop issued to him by the District. He later returned the laptop to the District without reporting his destruction of the data. At hearing Respondent maintained that he "accidentally" destroyed the hard drive. Respondent's assertion is wholly unbelievable in light of the credible and persuasive evidence establishing otherwise.

6. Respondent also took for his personal use emails belonging to the District and containing confidential pupil information and private personnel and employee information. In so doing, he violated privacy rights of District employees and students, as well various laws and District policies protecting the privacy rights of students.

7. Credibility determinations are at the heart of this case. The claims made by the teachers against Respondent were established by the consistent and persuasive testimony of multiple witnesses; the claim that Respondent destroyed District computer data was established by credible and convincing expert testimony.

And time after time, starting with Respondent's denial to District personnel, to his denial at hearing that he engaged in any wrongdoing, to his claims of retaliation and discrimination against the District that were fully investigated and found to be baseless, to his destroying the data on the District's laptop and claiming it was accidental, Respondent has demonstrated that he lacks credibility and is not to be believed.

Accordingly, as set forth below, the conduct alleged and proven at the hearing establishes ample cause for Respondent's dismissal on all grounds alleged in the Amended Statement of Charges. The evidence presented at hearing was voluminous. The pertinent evidence is summarized below.

### *Procedural Background*

8. Bill Faraghan, Ed.D., is the Assistant Superintendent of Human Resources for the District. In a Statement of Charges dated October 24, 2014, Dr. Faraghan alleged that cause existed for the dismissal of Respondent. Respondent was served with the Statement of Charges on October 27, 2014. On November 18, 2014, the District Board of Trustees (Board) voted to adopt the charges against Respondent, and to suspend him without pay. On November 19, 2014, the District notified Respondent that the Statement of Charges against him had been adopted by the Board, and that he would be dismissed within 30 days unless he filed a written request for hearing. Respondent timely requested a hearing. On December 11, 2014, the Accusation was filed against Respondent. Respondent timely requested a hearing and denied the charges against him. On April 2, 2015, the District filed an Amended Statement of Charges. On April 20, 2015, Respondent filed an Amended Notice of Defense, and this hearing followed.

9. At hearing the District withdrew allegation A., 1 (g), at page 8 of the accusation, relating to a statement made by Respondent and allegedly overheard by Linda Trombadore.

### *Respondent's credentials, tenure with District, and background to filing of charges*

10. Respondent is a permanent certificated employee of the District. He holds a Level II Special Education Instruction Credential and an Administrative Services Credential.

11. Respondent has held a number of positions with the District. On August 25, 2000, he began working as a resource specialist at Hart Middle School. He transferred to a position as a Special Day Class (SDC) teacher in July 2002. In January 2005 Respondent assumed the position of Vice Principal of Pleasanton Middle School (PMS). In July 2009, he left PMS to assume the position of Vice Principal of Foothill High School.

12. In July 2011, Respondent left Foothill High School to take the position of principal of Walnut Grove, where he stayed until January 29, 2014, when he was transferred to the position of itinerant elementary principal. As principal of Walnut Grove, Respondent supervised a staff of about 40. Thirty-eight of the staff were women.

13. On October 17, 2013, Peggy Carpenter, Association of Pleasanton Teachers (APT) President, reported to Superintendent Parvin Ahmadi that complaints had been made to her that same day against Respondent by APT members. The members claimed that Respondent had used vulgar and threatening words and had created a hostile work environment. This report surprised Superintendent Ahmadi, who had given Respondent a glowing review following his first year as principal at Walnut Grove.

14. Superintendent Ahmadi directed Carpenter to talk to Respondent about the allegations. When Carpenter did so, Respondent denied the charges, stating that the words he was alleged to have said “are career-ending words.”

15. On October 24, 2013, after Carpenter’s meetings with the female staff at Walnut Grove revealed that the complaints were more widespread and extreme than she had initially realized, Carpenter brought a complaint against Respondent on behalf of APT members Lynne Cronin, Heather Johnson, Kathy Mercer, Marissa Swanson and Stacy Homes. Carpenter requested that Superintendent Ahmadi place Respondent on administrative leave until the matter was fully investigated.

16. On October 25, 2013, Respondent was placed on administrative leave pending investigation. Over the next three days, Dr. Faraghan interviewed 25 female Walnut Grove employees. He described the witnesses as “extremely credible” and the charges as “serious.” On October 29, 2013, Dr. Faraghan met with Respondent and his attorney. Respondent denied the charges.

17. One day later, on October 30, 2013, Respondent emailed Dr. Faraghan a list of his complaints against the District. His claims included the following: that the District failed to take action regarding his reports of safety issues and intimidation of Walnut Grove teachers and retaliated against him for reporting such issues, and that the District treated respondent unfairly and placed him on administrative leave without good cause, and defamed and discriminated against him.

Sue Ann Van Dermyden, of Van Dermyden Maddux Law Corporation, conducted an investigation to determine if any of Respondent’s complaints against the District had merit. Following an exhaustive investigation, in June 2014, Van Dermyden determined that Respondent’s complaints against the District lacked merit. Specifically, she found no evidence supporting Respondent’s claims that he had reported safety issues to the District and that the District had failed to take action on such claims. Although there were personnel-related performance and relationship issues with one of the custodians at Walnut Grove, this problem did not rise to the level of a work place safety violation, and was not reported by Respondent to the District as such. When Respondent reported on routine personnel, curriculum and management issues, Van Dermyden found that the District was responsive to Respondent’s reports.

Van Dermyden also found no evidence to support Respondent’s claims that he had complained about or opposed workplace discrimination or harassment and that the District had failed to take action on such complaints. Since no complaints were made, Respondent’s claim that the District retaliated against him for making complaints was also found to lack merit. Van Dermyden observed that the District had a legitimate reason to place Respondent on paid administrative leave during the investigation, and an obligation to do so, in light of the allegations made by the Walnut Grove teachers that Respondent had engaged in sexual harassment and created a hostile work environment. Van Dermyden also dismissed

Respondent's claim that the District defamed Respondent, and that it harassed or discriminated against Respondent based upon his gender.<sup>3</sup>

18. Independent investigator Shon Davidsen investigated the allegations of misconduct against Respondent made by female employees at Walnut Grove. On December 17, 2013, following a review of Davidsen's 86-page investigation report and hearing from the parties, the Board determined that the complaints against Respondent had merit. Specifically, the Board found credible evidence that Respondent made derogatory remarks to female employees, including the use of the terms "bitch" and "cunt," and that he used intimidating statements regarding the future employment of female employees to the effect that certain employees were "out," leading such employees to believe that Respondent desired to terminate their employment at Walnut Grove. Respondent was notified of these findings on December 20, 2013.

19. Respondent returned from paid administrative leave to the position of itinerant principal on January 29, 2014. In a letter dated February 26, 2014, Respondent was notified that he was released from the position of itinerant principal, effective at the end of the 2013/2014 school year. He was also notified that he was eligible for reassignment to a non-administrative position for the 2014/2015 school year. Following his release from this position, the District learned of additional allegations of misconduct against Respondent.

20. Effective June 30, 2014, Respondent was placed on paid administrative leave as a classroom teacher. On November 18, 2014, pursuant to Education Code section 44939, the Board of Trustees of the District voted to suspend Respondent without pay based upon the charges of immoral conduct.<sup>4</sup>

### *PUSD Evidence*

#### MISCONDUCT INVOLVING DISTRICT EMPLOYEES

21. The candid and credible testimony of witnesses Superintendent Ahmadi, Dr. Faraghan, Peggy Carpenter, Heather Johnson, Stacy Homes, Stephen Maher, Linda Bury, Debbie Sweeney, Charles Young, Colleen Kinney, Kelly Hilton, Lisa Highfill, Lynne Cronin, Marissa Swanson, Kathy Mercer, Marla Silversmith, Kathryn (Kat) Peters, Kathy Greth and Jan Steed, and supporting documentary evidence, established the facts set forth in Findings 22 through 41.

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<sup>3</sup> While Respondent found that Deputy Business Superintendent Luz Cazares had used profanity while talking with Respondent about a District employee, Van Dermeyden found that Cazares's use of profanity did not establish a bias against Respondent based upon his gender.

<sup>4</sup> In spite of this directive, according to Dr. Faraghan, Respondent continued to receive pay for a "significant amount of time" thereafter.



22. As described below, while conversing with female Walnut Grove employees subordinate to him, Respondent regularly used the terms “bitch” and “cunt” in reference to other female Walnut Grove employees who were subordinate to him:

a. In a conversation with teacher Lynne Cronin in the spring of 2012, Respondent used the terms “bitch” and “cunt” in reference to Jane Golden, Director of Curriculum and Special Projects. When Cronin objected to the use of these terms and walked away, Respondent later went to her class and reprimanded her for walking away from him.

b. In a conversation with counselor Marissa Swanson in November 2012, Respondent said “I hate that fucking bitch,” in reference to Walnut Grove teacher Kathy Greth.

c. In a conversation with Swanson in spring 2013, Respondent referred to Walnut Grove teacher Christina Clark as a “cunt” and expressed his pleasure that she would not be returning to Walnut Grove the following school year.

d. In the spring of 2013 Walnut Grove teacher Heather Johnson heard Respondent say, in relation to several of her coworkers at Walnut Grove, “Did these bitches think that I don’t know what they’re saying?”

e. In the late spring of 2013, Respondent told Lynne Cronin that Jane Golden was a “bitch” and a “cunt” due to her intervention regarding bathroom breaks for kindergarten teachers.

f. In the Spring of 2013, Respondent told teacher Kathy Mercer that her coworker Pam Smith,<sup>5</sup> was an “outspoken bitch.”

g. In his conversations with female staff, Respondent referred to the following teachers as a “bitch” or a “crazy bitch”: Kathy Greth, Kat Peters, Laura Ditto, Pam Black, Debbie Sweeney, Mame Wisnieski, and Linda Trombadore.

h. Respondent finished Lynne Cronin’s sentence “Women are . . . ,” by stating “Women are bitches . . . .”

23. As described below, while conversing with female District employees subordinate to him, Respondent regularly made statements to the effect that certain other female subordinate employees were “out.” This term was understood by those listening to mean that Respondent disfavored certain employees and desired to terminate their employment:

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<sup>5</sup> Pam Smith is also known as Pam Black.

a. At the end of the 2012/2013 school year, Respondent told teacher Kelly Hilton that teacher Michelle Coldani was “not going to be here much longer.”

b. Respondent stated to Marissa Swanson that he was going to “get” teachers Tara Martin and Kat Peters. It was alleged, but not established, that he made these statements in reference to Laura Ditto.)

c. Respondent made repeated statements to the effect that Kathy Greth, Pam Smith, and Kat Peters were “out.”

24. In the spring of 2012, when Lynne Cronin was attending a Louise D. Hay “I Can Do It” conference, Respondent sent her a text message which stated: “call me when you get done carpet munching.” Cronin understood this comment as an “archaic term for being a lesbian.”<sup>6</sup> Charles Young is a former Walnut Grove principal and currently the Director of Secondary Education at the Palo Alto Unified School District. He recounted that when he saw Cronin at the conference, she relayed to him the substance of Respondent’s text message.

25. Respondent pointed out to Marissa Swanson the size of Pam Martin’s breasts after Martin’s breast augmentation surgery. Respondent did so by using his hands to motion large breasts.

26. Respondent told Lynne Cronin that he purchased a high black chair for District secretary Ann O’Neal so that he didn’t have to see her “fat, hairy ass.”

27. In the spring of 2012, Respondent told Lynne Cronin and Marissa Swanson that he “would like to bludgeon Kathy Greth with a 2 x 4.”

28. In reference to Lynne Cronin’s breasts, Respondent used his hands to shield his eyes and told her to “put those things away.”

29. When Lynne Cronin was on playground duty, Respondent came up from behind her and said “nice stance” in a tone that was perceived by Cronin and other staff members as sexual.

30. On several occasions Respondent directed Lynne Cronin and Marissa Swanson to separately meet with him in his office under the guise of school business. During these meetings Respondent discussed personal matters such as his marriage counseling, his wife’s orgasms, his planned vasectomy, and his bowel elimination schedule.

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<sup>6</sup> The term “carpet munching” is slang for cunnilingus.  
(<http://onlineslangdictionary.com/meaning-definition-of/carpet-muncher>)



31. In the fall of 2013, Lynne Cronin and Kathy Mercer observed Respondent mimic Laura Ditto's gait. (Ditto walked with a limp after she returned from back surgery due to scoliosis.) It was alleged, but not established, that Respondent mocked or mimicked the mannerisms of Peters, Smith or Wisniewski.

32. Several of the employees who testified to the above-described incidents also had positive remarks about Respondent's performance as principal: he was committed to his job as principal, he was a hard worker, and he had a good sense of humor. Their testimony on these points helped establish their fundamental credibility.

#### *ADVERSE IMPACT OF RESPONDENT'S CONDUCT TOWARDS EMPLOYEES*

33. Respondent's conduct had an extremely negative effect upon the work of numerous employees and also created a hostile work environment at Walnut Grove. Teachers who heard Respondent's sexually derogatory and degrading comments and his intimidating statements about the employment of teachers he disliked, lived in fear that they might lose their jobs or be in physical danger if they complained to the District. The lack of trust between Respondent and certain employees, and among employees, was particularly apparent at staff meetings. The staff meetings, once a place where teachers openly shared their ideas, became stressful and unproductive, with some teachers remaining silent for fear of speaking up. Teachers who had assumed leadership roles at the school by virtue of their knowledge and experience were often the ones who were singled out and treated disrespectfully<sup>7</sup> by Respondent at staff meetings.

34. After Respondent was removed, the District provided Walnut Grove teachers with coaches to help them rebuild their community. The teachers responded positively to this opportunity, with 27 out of 30 teachers attending coaching sessions. The process of rebuilding the community was draining and emotional, and involved teachers speaking openly about the fear, discomfort and divisiveness that had become part of the school's fabric under Respondent's leadership. To this day, certain teachers are treated unkindly by those District employees who continue to support Respondent and disbelieve their claims.

35. Jan Steed assumed the position of principal at Walnut Grove in September 2014.<sup>8</sup> Principal Steed described the fractured state of the Walnut Grove community following Respondent's departure: there was significant division in the faculty between those

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<sup>7</sup> Respondent ignored certain teachers, rolled his eyes when they spoke, told them they could not speak and not to put their "hair up." He also locked certain teachers out of the staff meeting if they were a few minutes late.

<sup>8</sup> This was following a brief stint by Stephen Maher as interim principal. While in this position, Maher also observed the fractured state of the staff. He noted that the media coverage, and in particular, vicious and accusatory statements regarding the staff made in "blogs" were particularly stressful to staff.

who supported Respondent and did not believe the allegations against him, and those who had been extremely impacted by his behaviors; there was a marked lack of trust by and among staff to the point that “people were afraid to talk.” Principal Steed was also told that front office employees (Ann O’Neal, Mary Snell, and Shelly Elkins) were disclosing confidential information regarding Walnut Grove staff. O’Neal, Snell and Elkins no longer work at the Walnut Grove site.

36. Principal Steed named 14 teachers – about one-third of her staff – who she described as “struggling emotionally” as a result of Respondent’s misconduct. Such teachers had concerns as to whether they could trust their new principal to maintain their confidences and treat them fairly (without generating concerns that they could lose their jobs). In response, Principal Steed took steps to increase the trust of the teachers by modifying the environment to make it more transparent: she changed offices to one with windows; she leaves her office door open; and instead of calling teachers to her office, she meets with them in their classrooms. Principal Steed observed that the morale at the school is continuing to improve.

37. Principal Steed also explained that certain teachers feared for their physical safety, following incidents between October and December 2014, where four teachers who had reported Respondent’s misconduct had their cars vandalized<sup>9</sup> on Walnut Grove property and at their residences. As a result security cameras were installed around the perimeter of the school, and for several months, security guards were hired to patrol school grounds.

38. On November 11, 2013, shortly after Respondent was placed on administrative leave, he left the following statement in a voicemail to the Pleasanton Weekly:

I put the Pleasanton Unified School District on notice months ago regarding situations that negatively affected staff safety, working conditions, and a conducive environment for instruction and student learning. Rather than taking effective action to eliminate those issues, they placed me on administrative leave.

Respondent’s statement was published by the Pleasanton Weekly on November 11, 2013. His statement obtained media attention and community support. Respondent also provided a statement to former Walnut Grove PTA Treasurer Erin Lyons which was circulated within the community by email.

39. Respondent’s statements to the press and the community were misleading and inaccurate in that Respondent had not been placed on leave because he complained to the District about issues impacting staff safety and working conditions. Respondent’s attempts to garner media and community support set in motion a maelstrom of activity that further

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<sup>9</sup> Windows were broken and tires were punctured with screws and nails, thereby placing the safety of certain Walnut Grove teachers and their families at great peril.

fractured the Walnut Grove community. There was immense public acrimony surrounding the District's removal of Respondent from his position of principal. Superintendent Ahmadi estimated that the Pleasanton Weekly posted 40 articles about Respondent's case. There was also a blog regarding Respondent's case, which contained accusatory statements towards staff.

40. Most of the teachers who testified did so with palpable emotion as they recounted the devastating impact of Respondent's conduct on their school environment and their ability to work. As a result of Respondent's removal from the school in conjunction with the support he garnered in the community, many of the parents in the community lost trust in the teaching staff and did not believe their claims against Respondent. Numerous teachers testified to the stress caused by being portrayed in extremely negative terms by the media, and the concomitant loss of their professional reputation in the community they love so much.

41. In December 2013 or January 2014, in response to a public records request, the District released and posted online about 900 pages of documents in connection with Respondent's case. The release of this information greatly upset members of the Walnut Grove staff whose personal information was publicly identified. The District subsequently removed some or all of such documents from the Internet.

#### MISCONDUCT INVOLVING DISTRICT PROPERTY

42. Christopher Hobbs is the Director of Technology Services for the District. As such, he is familiar with the District's policies regarding the use of the District's computers and network systems. Brian Da Costa is employed by Kiva Analysis (Kiva) and is an expert in forensic data recovery. The credible and candid testimony of Hobbs and Da Costa, and supporting documentary evidence established the facts set forth in Findings 43 through 50.

#### *DESTRUCTION OF DATA ON DISTRICT'S LAPTOP*

43. When Respondent was employed as principal at Walnut Grove, the District issued to him a Macintosh laptop which contained a Hitachi 2.5-inch laptop hard drive.

44. On November 18, 2013, at 12:35 p.m., Dr. Faraghan sent Respondent an email directing him to return all District property in his possession. Approximately 18 hours after Faraghan issued this directive Respondent engaged in a complex and intentional course of action that successfully destroyed all of the data stored on the District's laptop. In mid-December 2013, Respondent returned the laptop to the District without reporting that he had erased the District's data.

45. When Christopher Hobbs received Respondent's laptop he discovered that the hard drive was operating but there was no data on the disc. He then sent the hard drive to DriveSavers to recover the data, but DriveSavers was unable to do so. The hard drive was then sent to Kivu.

46. Brian Da Costa performed a forensic analysis of the hard drive on respondent's laptop. Da Costa attempted to recover data that had been stored on the hard drive and ascertain when it had been deleted. Da Costa was unable to recover any data from the hard drive. His examination of the hard drive revealed that it had been wiped or encrypted with random data, thus scrambling the contents of the hard drive. Da Costa's examination further revealed that the hard drive had been re-partitioned on November 19, 2013 at 6:31 a.m. Da Costa opined that the hard drive had been mounted as an external secondary drive on another computer, which enabled the full erasure of the system drive. Although this is not a simple process and certainly not one that could occur accidentally, one could learn how to do it from instructions on the Internet. Da Costa also explained that deleting documents from a computer could be quickly and easily achieved without erasing the entire hard drive. In light of Da Costa's persuasive testimony, respondent's assertion that his destruction of the data on his laptop was an accident is found to be dishonest.

Respondent's destruction of the data contained on the hard drive of his laptop violated the District's technology policy, which prohibits employees from willfully causing damage to the District's electronic services, including any equipment used by the District to transport data.

*REMOVAL OF DISTRICT EMAILS CONTAINING PUPIL RECORDS AND PERSONAL  
EMPLOYEE INFORMATION FOR PERSONAL USE*

48. In April and May in 2014, several months after Respondent received notice that he would be released from his position of itinerant principal, he printed out a series of emails from his District email account that were sent to him in his official capacity as Walnut Grove principal. He later disclosed these emails in the discovery process in the instant case. Respondent did not have permission to make use of the emails he received in his capacity as principal, and as such, his conduct violated the District's technology policy.

49. As described below, some of the emails printed out and disclosed by Respondent constitute "pupil records" and "educational records" as defined by the California Education Code and the Family Educational Records Privacy Act (FERPA),<sup>10</sup> respectively:

a. An email sent by Respondent to a large number of District staff, dated October 26, 2012, identified 22 District students by name<sup>11</sup> who were in need of tutoring in grammar and spelling.

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<sup>10</sup> The Education Code incorporates FERPA by reference. FERPA is found at 20 U.S.C § 1232g.

<sup>11</sup> In this decision, the students are not identified by name to maintain their confidentiality.

b. An email dated April 16, 2013, between Respondent and Kathy Mercer, discussed the special education needs of a student.

c. An email dated May 10, 2013, between Respondent and Lynne Cronin, discussed the behavioral problems of a student.

d. Multiple emails in August and September 2013, between Respondent and Lynne Cronin, detailing a student's social skills issues.

e. An email dated October 23, 2013, forwarded to Respondent by District employee Anna Walker, detailing special education needs of four students.

f. An email dated February 3, 2014, between Respondent and District employee Shannon Britton, detailing special education needs of two students.

g. An email dated February 10, 2014, between Respondent and District employee Shannon Falk, detailing special education needs of two students.

50. As described below some of the emails taken by Respondent contained private medical information and personnel records of District employees:

a. An email dated September 29, 2013, from a District employee<sup>12</sup> to Respondent, in which she complains about an autoimmune reaction, causing a rash to spread across her body.

b. An email dated December 10, 2013, from a District employee to others, including Respondent, discussing her pregnancy and chronic allergies.

c. Nine emails, sent between December 2012 and December 2013, related to disciplinary actions taken against a District employee.

#### RESPONDENT'S FITNESS TO TEACH SPECIAL EDUCATION

51. Special education students are among the most vulnerable students in the District. The job of teaching special education includes having daily interactions with parents, which can sometimes be emotionally charged, and working collaboratively with teachers. For these reasons, Superintendent Ahmadi emphasized that special education teachers must demonstrate a temperament for respecting teachers and such students, as well as maintaining confidentiality for the benefit of the students and their families. In Superintendent Ahmadi's opinion, Respondent lacks the temperament to teach, and especially, to teach special education students.

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<sup>12</sup> In this decision, the District employees are not identified by name to protect their privacy.

52. Superintendent Ahmadi opined that Respondent is unfit to teach because his behavior evidences a lack of respect for adults and students and District property. Superintendent Ahmadi expressed particular concern regarding Respondent's behaviors that reflect dishonesty: Respondent sexually harassed female staff at Walnut Grove; yet, when asked about it by Dr. Faraghan he denied doing so, and falsely claimed that the District placed him on administrative leave in order to retaliate against him. Additionally, Respondent engaged in deceptive conduct by destroying the data on his laptop and failing to disclose this to the District. Superintendent Ahmadi also expressed concerns regarding Respondent's ongoing violations of the Education Code and Board policies.

53. In Dr. Faraghan's view, Respondent is unfit to teach because of his use of "violent and offensive words" and his sexual harassment of Walnut Grove teachers. Educators need to be held to a higher ethical standard of conduct than was demonstrated by Respondent. Dr. Faraghan described Respondent's conduct as "reprehensible."

#### *Applicable Board Policies and Statutes*

54. General Professional Standards: Pursuant to Board Policy 4119.21 (a), the Board expects employees "to maintain the highest ethical standards, exhibit professional behavior, follow district policies and regulations, and abide by state and federal laws."

55. Sexual Harassment: Education Code section 220 prohibits discrimination based upon gender, including sexual harassment. Education Code section 212.5 defines the term sexual harassment:

Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

(a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

(b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

(c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

(d) Submission to, or rejection of, the conduct by the individual is used as a basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.



Pursuant to Board Policy 4031, “[s]exual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature, made by someone from or in the work or educational setting.” This policy makes it clear that sexual harassment is a “major offense” which could result in dismissal of the “offending employee.”

Board Administrative Regulation 4031 provides that sexual harassment “may occur as a pattern of degrading sexual speech or action ranging from verbal or physical annoyances or distractions to deliberate intimidations or frank threats of sexual demands.” This regulation further provides that forms of sexual harassment include: verbal harassment (“[d]erogatory comments, jokes, or slurs; graphic verbal commentaries about an individual’s body/dress; sexually degrading words used to describe an individual”); physical harassment (“[u]nnecessary or offensive touching, or impeding or blocking movement”), visual harassment (“[d]erogatory or offensive . . . gestures . . .”), and sexual favors (“[u]nwelcoming . . . verbal or physical conduct of a sexual nature . . . which reasonably interferes with an individual’s classroom or work performance or creates an offensive classroom or work environment”).

Board Administrative Regulation 4031 directs employees who believe they are being sexually harassed to immediately notify their principal or the Assistant Superintendent, Human Resources. This regulation further provides that once a sexual harassment complaint has been received, the Assistant Superintendent will appoint an investigator to conduct a “complete and thorough investigation immediately.”

Pursuant to Government Code section 12950.1, subdivision (a), the District provided sexual harassment training to all supervisory employees once every two years, including Respondent. Respondent attended sexual harassment training provided by the District in 2006, 2007, 2009, 2012 and 2013. The training included the federal and state definition of sexual harassment, types of sexual harassment, Board policies and regulations regarding sexual harassment, remedies available to victims of sexual harassment, and practical instruction regarding how to prevent sexual harassment.

56. Technology: Board Policy 4040 governs the use of technology, and mandates that employees use the school’s technology “primarily for purposes related to their employment.” This policy also prohibits employees from willfully causing damage to the District’s electronic services. Employees are further placed on notice that inappropriate use of technology could result in disciplinary and/or legal action.<sup>13</sup>

57. Pupil Records: Education Code section 49061 defines pupil records as:

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<sup>13</sup> Penal Code section 502 makes it a crime for an individual to, among other things, access and use computer data, or make copies of documents obtained from a computer, without permission; or to damage or delete any data that exists in a computer system. (Pen. Code, § 502, subs. (c)(2) & (4).)

[A]ny item of information directly related to an identifiable pupil, other than directory information, that is maintained by a school district or required to be maintained by an employee in the performance of his or her duties whether recorded by handwriting, print, tapes, film, microfilm, or other means.

Education Code section 49076, subdivision (a), forbids the release of pupil records unless authorized by the child's parents, a judicial order, under carefully circumscribed circumstances set forth in section 49076, or pursuant to title 34, Code of Federal Regulations part 99.31. FERPA defines educational records as records that are directly related to a student and are "maintained by an educational agency or institution or by a party acting for the agency or institution." (20 U.S.C. § 1232g (a)(4)(A).) FERPA prohibits the disclosure of education records without parental consent, except under carefully circumscribed circumstances. (20 U.S.C. § 1232g (b)(1).)

#### FINDINGS REGARDING RESPONDENT'S PERSISTENT VIOLATION OF SCHOOL LAWS AND DISTRICT POLICIES AND REGULATIONS

58. Sexual harassment: Respondent's use of sexually derogatory and degrading words towards employees had a negative effect upon the work of numerous female subordinate employees and created an intimidating, hostile and offensive work environment at Walnut Grove.<sup>14</sup> As such, Respondent's conduct violated the prohibitions against "sexual harassment," contained in Education Code section 220 and Board policy 4031.<sup>15</sup> (Factual Findings 21-31, 33-40.)

59. Destruction of computer hard drive and misuse of District email: Respondent's destruction of the hard drive in the laptop issued to him by the District, and his personal use of email sent to him in his capacity as principal, violated the District technology policies. (Factual Findings 42-46.)

60. Removal and use of pupil and educational records: Respondent's removal of District emails containing pupil records for his personal use and without the consent of the pupils' parents constitutes an unlawful "release" of student records, in violation of California Education Code section 49076, subdivision (a), as well as 20 U.S.C. § 1232g. (Factual Findings 48-49.)

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<sup>14</sup> Governmental tort claims filed in connection with Respondent's conduct and presented to the District by three female employees were settled. It is noted the claims were also made against the District for invasion of privacy based upon the District's online posting of documents related to Respondent's case following a public records request.

<sup>15</sup> The negative impact of Respondent's conduct on the individual District employees as well as the work environment at Walnut Grove is set forth in Factual Findings 47 to 56.

61. Privacy Rights: The California Constitution guarantees all individuals the right to privacy. (Cal. Const., art. I, § 1.) Respondent's removal of emails containing personal medical information and personnel records of District employees for his personal use violated the privacy rights of such employees. (Factual Findings 48-50.)

62. Overall course of conduct: Respondent's course of conduct from the spring of 2012 through the winter of 2014, consisting of violating school policies and regulations regarding sexual harassment, taking pupil records for his personal use, and destroying data contained on the District's laptop and failing to report it to the District, as set forth above, constitutes a persistent and ongoing violation of and refusal to obey the school laws of the state and reasonable regulations prescribed for the governance of the public schools by the the District.

### *Respondent's Evidence*

63. Witnesses Odie Douglas, Terry Conde, Greg Giglio, Anna Walker, Erin Lyons, Ann O'Neal, Mary Snell, and supporting documentary evidence, established the facts set forth in Findings 63 through 67. With the exception of O'Neal and Snell, the testimony of the witnesses was credible and candid.

64. Dr. Odie Douglas is the District's Assistant Superintendent for Educational Services. Dr. Douglas supervised Respondent's work from 2012 until 2014, when Respondent was released from the position of itinerant principal. Dr. Douglas was not aware of the allegations against Respondent when he evaluated him in 2012-2013, and he has no personal knowledge regarding the charges against Respondent. Prior to the filing of the Amended Statement of Charges, Respondent's District personnel file did not contain any record of disciplinary notices. Dr. Douglas described Respondent as a "good principal" who followed District rules and policies, and appeared "passionate about education." While Dr. Douglas agrees that the District's standards of professional conduct preclude the use of profanity, he never heard Respondent use profanity, and he had no reason to believe that Respondent was engaged in inappropriate or dishonest conduct.

65. Terry Conde, Greg Giglio and Anna Walker are colleagues of Respondent and worked with him at the District. (Giglio also considers himself a close friend of Respondent's.) Each of Respondent's colleagues expressed confidence in Respondent's skills and abilities as an educator. None of these colleagues witnessed Respondent act in a way that was inappropriate. They do not have concerns about Respondent working as a special education teacher.

66. O'Neal was Respondent's secretary at Walnut Grove, where she worked for 16 years before transferring to another school in the District. O'Neal denied disclosing any confidential matters she learned about from Respondent or anyone else. O'Neal observed that school year 2012/2013 was "a rough year" on the teachers. She attributed their "burn out" to matters such as changes to the common core curriculum as well as changes in the budget and to the substitute system. She described Respondent as an engaged and aware

principal who never made derogatory or vulgar comments about Walnut Grove staff. In contrast, she described Walnut Grove teachers as “needy,” possessing a “diva attitude,” and “not working well with others.” O’Neal used to socialize with Cronin, but that changed after she read Davidsen’s investigation report. O’Neal appeared to have a negative view of Walnut Grove teachers, and appeared particularly biased against Cronin, who she said “lies for the attention” and “uses lots of colorful language in the workplace.” O’Neal did not believe that Respondent made the negative comments about O’Neal’s physique to Cronin. O’Neal’s testimony is found not to be credible and is therefore given no weight.

67. Snell formerly worked at Walnut Grove as a health services clerk and as a substitute for O’Neal. Snell denied disclosing any confidential matters she learned about from Respondent or anyone else. Snell shared O’Neal’s admiration for Respondent, describing him as a “rule follower,” and an “excellent administrator” who was “everything the students needed and deserved.” Snell never saw Respondent act inappropriately towards any Walnut Grove staff. Like O’Neal, Snell described Walnut Grove teachers as having a sense of “entitlement” and acting as if “some of the rules and policies don’t apply to them.” Like O’Neal, she appeared particularly biased against Cronin, describing her as “not truthful.” She also testified that Cronin referred her to a “whore,” but upon further questioning, she admitted that Cronin used this term when Snell was wearing a costume. Snell’s testimony is found not to be credible and is therefore given no weight.

*RESPONDENT’S DEFENSE: MISCONDUCT INVOLVING DISTRICT EMPLOYEES*

68. From the outset of the allegations, continuing through the hearing, Respondent has emphatically denied each and every allegation against him. Specifically, he denies ever using the terms “bitch” and “cunt” in reference to certain female staff at Walnut Grove. While Respondent admits using profanity, he testified that he used phrases such as “what a bitch” to refer to things or events, but never in reference to employees.

69. Although Respondent also denied saying that certain teachers were “out,” he did admit to using this term in reference to parents taking their children “out” of the after school program if they were dissatisfied with it. Respondent emphasized that he has the utmost respect for the teachers on his staff and does not dislike any of them.

70. Respondent also denied that he told teachers that they could not speak at staff meetings. He explained because he cannot hide every emotion of his, if an employee showed disrespect towards another employee at a meeting, he might roll his eyes. Respondent testified that he attempted to provide the employees a “safe harbor” where they could come and vent their feelings, including yelling and swearing. His motto as a Principal was “family first,” which Respondent explained means take care of yourself and your family so you can be there for the students.

71. In 2012 to 2013 Respondent observed that his staff was noticeably quiet, which he attributed to their feeling overwhelmed by their workload, including increased expectations regarding their use of technology.

72. Respondent admits to releasing a statement to the Pleasanton Weekly on November 11, 2013. He asserts that he released the statement because he was concerned about safety. Respondent also contends, contrary to the evidence, that at the time he released the statement he had not been told why he was placed on administrative leave.

73. Erin Lyons worked closely with Respondent in her role as Walnut Grove PTA treasurer. She contacted Respondent after he was placed on administrative leave, and sent out an email that began with the introduction, “[Respondent] has sent me a statement he’d like me to pass on . . . .” The statement was the same as the one Respondent had provided to the Pleasanton Weekly. Lyons’s email asks that his statement be shared with others so that “accurate information can be shared . . . .” Respondent denies sending a copy of his statement to Lyons and asking her to circulate it.

74. Respondent testified that he loves Walnut Grove and does not harbor any “hard feelings” towards the school or the District.

75. Respondent believes that his case is about “politics,” and that the interests of Walnut Grove staff and students have not been taken into account. He testified that he has seen other complaints against female principals in the District and “nothing was done.”

76. In the wake of the allegations against him, respondent experienced anxiety and depression, for which he currently receives treatment.

77. At hearing, Respondent asserted similar claims against the District as he asserted in late October 2013: that the District filed charges against him, in part, in retaliation for the complaints he made regarding a Walnut Grove janitor’s work performance, and the resulting lack of cleanliness in certain classrooms, and that the District is engaged in gender discrimination. He also believes that the negative school atmosphere at Walnut Grove at the time shortly before and including his removal stems from stresses experienced by teachers due to curriculum changes and safety issues experienced by Walnut Grove teachers, rather than any conduct on his part.

Respondent’s contentions are at odds with Van Dermeyden’s persuasive investigation findings and were wholly unsupported by any credible evidence at hearing.

#### RESPONDENT’S DEFENSE: MISCONDUCT INVOLVING DISTRICT PROPERTY

78. Respondent acknowledges that he printed out the emails referenced in Factual Findings 48-50 because he “wanted a record of what he did at the District.” He thought that because he was a District employee at the time he printed the emails, that he was not doing anything wrong. For this reason, Respondent denies that he wrongfully removed the emails. As principal he received between 50 and 80 emails each day. It was not clear from his testimony why he chose to print out only a small selection of emails from the total number he received during his tenure at Walnut Grove.



79. Respondent also denies that he purposely destroyed the hard drive of the laptop. He testified that his intention was only to delete his personal information, such as his communications with his attorney, from the laptop. He further testified that in the process of deleting certain information from the laptop, he must have wiped the laptop's operating system. Respondent's testimony on the point strains the bounds of credulity.

80. Respondent does not believe that any of his actions amount to a violation of District technology policies.

#### *Unfitness for service*

81. Before a decision can be made as to whether there is cause to dismiss Respondent, it must first be determined whether Respondent's conduct demonstrates that he is unfit to teach under the criteria set forth by the California Supreme Court in *Morrison v. State Board of Education* (1970) 1 Cal.3d 214. Those criteria are: (1) the likelihood that the conduct may have adversely affected students or fellow teachers; (2) the degree of such adversity anticipated; (3) the proximity or remoteness in time of the incident; (4) the type of teaching certificate held by the teacher; (5) the extenuating or aggravating circumstances, if any, of the conduct in question; (6) the praiseworthiness or blameworthiness of the motives resulting in the conduct; (7) the likelihood of recurrence of the questioned conduct; and (8) the extent to which disciplinary action may have an adverse or chilling effect upon the constitutional rights of the teacher involved or other teachers. Not all of the *Morrison* factors must be considered, only the most pertinent ones. (*West Valley-Mission Community College District v. Conception* (1993) 16 Cal.App.4th 1766, 1777.) And the *Morrison* factors may be applied to all the charges in the aggregate. (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1456-1457.)

82. An application of the most pertinent *Morrison* factors to Respondent's conduct demonstrates that Respondent is unfit to teach. Respondent engaged in serious misconduct involving District employees and District property, which had a severely adverse impact on the District, and particularly, the Walnut Grove staff. First, during 2012 through October 2013, Respondent engaged in a pattern of using language that was vulgar and sexually degrading, and at times threatening and intimidating, towards female subordinate employees. Respondent's sexual harassment of staff members had the effect of creating a hostile work environment at Walnut Grove and negatively impacted the work of the employees. This conduct amounts to a serious and protracted abuse of his authority, which reasonably caused the impacted employees to believe that their jobs or physical safety were at risk.

Second, with respect to District property, Respondent purposefully destroyed the data on the District's laptop. Additionally, Respondent took, for his personal use, emails belonging to the District that contained pupil records and private medical and personnel information. In so doing, Respondent placed his personal needs over the privacy rights of students, many of whom were special education students; and he also violated the privacy rights of District employees. These actions reflect a lack of integrity on the part of



Respondent. These actions also had an adverse impact on the District in that it lost the data on the laptop, and the District was placed in a position where one of its employees had broken a time-honored prohibition against disclosure of pupil information.

As to the factor of “proximity,” respondent’s misconduct is not remote in time in that it continued up to (and after<sup>16</sup>) the time that he was placed on administrative leave as principal at Walnut Grove.

The totality of Respondent’s conduct had a serious adverse impact on Walnut Grove staff, as well as the community of families served by Walnut Grove. The morale and cohesiveness of a once high functioning school was broken as a result of his conduct.

Instead of taking responsibility for his misconduct, after he was placed on administrative leave, Respondent released a statement to the Pleasanton Weekly in which he asserted that the District removed him from his position as principal in retaliation for his reporting safety violations at Walnut Grove. In so doing, he misled the community as to the real reason for his removal and created further fractures in the community. To this day, teachers who once enjoyed the respect and support from the parent community continue to struggle with the harm to their professional reputations. About one-third of the staff struggled emotionally as a result of Respondent’s behaviors. After Respondent’s removal from his position garnered media attention, a handful of employees were the targets of vandalism, placing them in physical peril and causing the District to hire security guards and install a fence and security cameras at the school. It has taken time and careful remedial efforts on the part of the current principal to slowly restore the trust among staff and between staff and the principal. This process is ongoing.

Insofar as Respondent continues to believe that he was wronged by the District, and denies responsibility for his actions, there is no evidence to suggest that Respondent has learned from his mistakes or that his behavior will improve in the future.

There is nothing praiseworthy about the motives resulting in Respondent’s misconduct. There are no extenuating or mitigating circumstances. In aggravation of his misconduct, however, it is noted that Respondent’s testimony at hearing lacked credibility and candor. Respondent’s failure to accept responsibility for his misconduct is reflected in his steadfast and unpersuasive denial of each and every allegation against him.

Disciplinary action against Respondent would have no adverse or chilling effect on his constitutional rights. Failing to impose discipline could, however, chill the rights of the female teachers who were courageous enough to step forward and report Respondent’s sexual harassment, despite the fact that their professional reputations greatly suffered for speaking up.

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<sup>16</sup> Respondent committed the acts of misconduct relating to District property after he was placed on administrative leave from his position of Walnut Grove principal.

Respondent's misconduct raises serious concerns as to whether he can be trusted to return to the classroom as a teacher in any capacity, and particularly in the capacity of a special education teacher. Respondent's misconduct evidences a lack of honesty and a disregard for the rights of his staff and students, as well as the interests and policies of the District and the laws of the state. Insofar as special education students are among the most vulnerable students in the District, they are especially in need of teachers who can be trusted to act with integrity, treat them respectfully, and maintain confidentiality, as required by Board policies and statutes.

For these reasons it is determined that Respondent is not fit to return to the classroom as a special education teacher.

83. In spite of Respondent's misconduct, he has positive qualities as an educator, as evidenced by positive performance reviews as well as the testimony of various teachers. These factors, however, do not mitigate the serious nature and extent of Respondent's misconduct, and his inability or unwillingness to acknowledge his misconduct.

## LEGAL CONCLUSIONS

1. Education Code section 44932 provides that permanent employees, including teachers, may not be dismissed from employment unless one or more of the causes listed in its subdivisions are proven. The causes alleged in this matter are: immoral conduct, dishonesty, evident unfitness for service, and persistent violation of the school laws of the state. The standard of proof applied in this proceeding is preponderance of the evidence. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1039-1040.) As set forth below, dismissal is appropriate in the instant case on each of the grounds alleged. Each ground provides a separate and independent basis for dismissal.

2. Immoral conduct is conduct that is "hostile to the welfare of the general public and contrary to good morals" and "includes conduct . . . showing moral indifference to the opinions of respectable members of the community, and [conduct showing an] inconsiderate attitude toward good order and the public welfare." (*Board of Education v. Weiland* (1960) 197 Cal.App.2d 808, 811, citing *Orloff v. Los Angeles Turf Club* (1951) 36 Cal.2d 734, 740.) Based upon the matters set forth in Factual Findings 2, 21-31, and 33-40, it was established that Respondent committed acts constituting immoral conduct pursuant to Education Code section 44932, subdivision (a)(1), based upon his sexual harassment of female subordinate teachers at his school. Respondent's use of the words "bitch" and "cunt" and "carpet munching," as well as his use of violent language and intimidating statements, evidenced a profound indifference towards the rights of female subordinate employees and created a hostile and intimidating work environment at Walnut Grove.

3. In the context of employee discipline, California courts have concluded that the term "dishonesty" connotes a "disposition to deceive," an "absence of integrity; a disposition to cheat, deceive, or defraud." (*Gee v. State Personnel Board* (1970)

5 Cal.App.3d 713, 718-719, quoting from *Midway School Dist. v. Griffith* (1946) 29 Cal.2d 13, 18 and *Hogg v. Real Estate Commissioner* (1942) 54 Cal.App.2d 712, 717.) Based upon the matters set forth in Factual Findings 2, 5, 7, 42, 44-46, it was established that Respondent committed acts of dishonesty pursuant to Education Code section 44932, subdivision (a)(4), by reason of his denial to the District that he had engaged in any misconduct towards female subordinate employees; by his destruction of the data on the District's laptop and then returning the laptop to the District without mentioning his it; and his taking and using District emails for his personal use.

4. As interpreted by the Court of Appeal in *Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, the term evident unfitness for service as used in Education Code section 44932 "connotes a fixed character trait, presumably not remedial merely on receipt of notice that one's conduct fails to meet the expectations of the employing school district." (*Woodland, supra*, at p. 1444.) In other words, conduct constituting evident unfitness for service must demonstrate that the "unfitness for service be attributable to a defect in temperament – a requirement not necessary for a finding of 'unprofessional conduct.'" (*Woodland, supra*, at p. 1445.)

It was established that Respondent demonstrated evident unfitness for service pursuant to Education Code section 44932, subdivision (a)(6). Respondent lacks the temperament to teach special education students because his conduct evidences a profound indifference to the rights of a protected class (women subordinate employees) at Walnut Grove over a protracted period of time; dishonesty; a disregard for the privacy rights of his students and staff; a disregard of District rules and policies; and an unwillingness to admit any wrongdoing on his part. (Factual Findings 2, 4-7, 21-31, 42-50, 58-62.) These factors suggest a fixed character trait that is not remediable.

5. It was established that Respondent committed acts demonstrating a persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the governance of the public schools by the State Board of Education or by the governing board of the District employing him pursuant to Education Code section 44932, subdivision (a)(8), by reason of, among other things, his violations of the District's policies and school laws regarding sexual harassment, pupil records, and technology policies. (Factual Findings 58-62.) Such violations were repeated and occurred over a protracted period of time. (See *Governing Board of the Oakdale Union School Dist. v. Seaman* (1972) 28 Cal.App.3d 77, 82.)

6. All factual findings and legal conclusions have been considered in reaching the determination that Respondent is unfit to teach under the *Morrison* factors. Respondent engaged in serious and multiple acts of sexual harassment over a protracted period of time, thereby transforming Walnut Grove from a cohesive and high functioning community to a hostile and divisive work environment. Respondent also purposefully destroyed data on the District's laptop, yet he maintains that he did so accidentally; and, he took District emails containing pupil information and private personnel and employee information for his personal use. And in spite of this misconduct, Respondent flatly denies any wrongdoing and

instead claims that the District has treated him unfairly. There is no other conclusion but that dismissal of Respondent from his position as a certificated teacher with the District is warranted.

### ORDER

Respondent Jon Vranesh is dismissed from his position as a certificated employee of Pleasanton Unified School District due to immoral conduct, dishonesty, evident unfitness for service, and a persistent violation of and 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, pursuant to Legal Conclusions 1 to 6, jointly and individually.

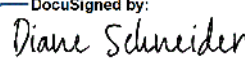
DATED: \_\_\_\_\_

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ANDY EVANS  
Commission Member

DATED: \_\_\_\_\_

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MARY PIPPITT-CERVANTES  
Commission Member

DATED: August 18, 2015  
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DIANE SCHNEIDER  
Chair, Commission on Professional Competence  
Administrative Law Judge