

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

**In the Matter of the Accusation and Statement of Issues
Against:**

SAMIA MERZA LUO, Respondent

Agency Case No. 2-58926395

OAH No. 2022080249

PROPOSED DECISION

Matthew S. Block, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on October 24, 2022, by videoconference from Sacramento, California.

Kevin Bell, Deputy Attorney General, represented Mary Vixie Sandy, (complainant), Executive Director of the California Commission on Teacher Credentialing (Commission).

Ann M. Bennett, Attorney at Law, represented Samia Merza Luo (respondent).

Evidence was received, and the record held open until December 2, 2022, to allow the parties to submit written closing arguments. On December 2, 2022, complainant filed her written closing argument, marked as Exhibit 11, and respondent filed her written closing argument, marked as Exhibit K.

On December 2, 2022, Exhibits 11 and K were admitted as argument, the record was closed, and the was matter submitted for decision.

FACTUAL FINDINGS

Jurisdictional Matters

1. On September 4, 2003, the Commission issued respondent a Clear Multiple Subject Teaching Credential. It will expire on October 1, 2023, unless renewed or revoked.

2. On March 22, 2017, the Commission issued respondent an Administrative Services Credential Certificate of Eligibility. On July 2, 2018, the Commission issued respondent a Preliminary Administrative Services Credential. It will expire on August 1, 2023, unless renewed or revoked. On June 19, 2020, the Commission received respondent's application for a Clear Administrative Services Credential (application). The application remains pending, and no Clear Administrative Services Credential has been issued.

3. On February 22, 2022, complainant signed and thereafter filed an Accusation and Statement of Issues against respondent. The Accusation alleges cause to discipline respondent's credentials based on: (1) unprofessional conduct; (2) evident unfitness for service; (3) immoral conduct; (4) acts of moral turpitude; and (5) persistent defiance. The Statement of Issues alleges cause to deny her application based on moral turpitude.

4. Complainant also alleges that a greater degree of adverse action is needed to adequately protect the public, schoolchildren, or the profession, based on

the existence of several aggravating factors. The aggravating factors alleged are that: (1) respondent's misconduct evidences multiple acts of wrongdoing and demonstrates a pattern of misconduct; (2) respondent's misconduct was surrounded by or followed by bad faith, dishonesty, or other violation of the law governing educators; (3) respondent has had prior notice, warnings, or reprimands for similar conduct; and (4) respondent's misconduct significantly harmed a child entrusted to her care or significantly harmed the educational system.

5. Respondent timely filed a Notice of Defense. The matter was set for evidentiary hearing pursuant to Government Code section 11500 et seq.

Complainant's Evidence

6. On June 14, 2018, respondent was hired as the Assistant Principal of Gustine Middle School (Middle School) in the Gustine Unified School District (District). Shortly thereafter, a contentious relationship developed between respondent and Middle School principal Peter Duenas. Mr. Duenas would consistently make derogatory comments about respondent's predecessor, and then point out similarities between the predecessor and respondent. As his behavior worsened, respondent filed a complaint against him with the District.

7. Per District protocol, an independent law firm was retained to investigate the allegations in respondent's complaint, and Mr. Duenas was placed on administrative leave. The investigation determined that each of respondent's allegations against Mr. Duenas was true. However, he was allowed to return as principal of the Middle School. The District offered to transfer respondent to an elementary school within the District, but she refused. On October 5, 2018, the District implemented various measures to address the work environment between respondent

and Mr. Duenas. These measures included assigning a third party to be present at all meetings between respondent and Mr. Duenas, removing Mr. Duenas from respondent's evaluation process, and assigning District Superintendent Dr. Bryan Ballenger as respondent's evaluator.

8. Dr. Ballenger testified at hearing. On November 8, 2018, he met with respondent and informed her that Middle School staff had complained that her behaviors had created a hostile work environment on campus. Respondent was advised that she needed to work on building positive relationships with staff, among other leadership issues. However, no specific details were offered regarding what behaviors were problematic or how they negatively impacted the campus.

9. On December 14, 2018, the District placed respondent on a Performance Improvement Plan (PIP), which outlined the expectations that respondent would facilitate a healthy and safe environment at the Middle School, free from discrimination and harassment. It also stated the expectation that she would consider the moral and legal consequences of all her decisions. According to Dr. Ballenger, respondent failed to comply with the terms and directives of the PIP. However, no specific details were provided as to what the failures were, or what actions the District took to assist respondent in complying with the PIP.

10. Respondent was transferred to Gustine High School as an Assistant Principal on January 14, 2019. On January 29, 2019, the District provided respondent with a revised PIP, and issued her a written warning (warning). The warning detailed instances where respondent allegedly made inappropriate comments or engaged in inappropriate behavior at work, and where she refused to follow administrative directives. Specifically, the written warning stated that on October 31, 2018, while attending a training at the District Office, respondent told District employee Rosa

Mendoza that she was “hot” or “gorgeous.” Ms. Mendoza testified at hearing. She confirmed that the incident took place and said that respondent also asked her personal questions about her romantic life. The interaction made Ms. Mendoza uncomfortable, and she described respondent’s behavior as “creepy.”

11. The warning also described an incident in August 2018, where respondent told Middle School teacher Charlie Alamo that she had a “cute little figure.” This prompted Ms. Alamo, who testified at hearing, to tell respondent that the comment was “borderline sexual harassment.” Ms. Alamo also described an incident where respondent hugged her, despite Ms. Alamo indicating that she did not want to have physical contact with respondent.

12. The warning further indicated that on January 23, 2019, Dr. Ballenger was informed that respondent had been taking pictures of students at the High School with her cell phone. Students were reportedly upset with the practice, and respondent was directed not to discontinue the practice.

13. Lastly, the warning described multiple occasions where respondent failed to follow the directives of Dr. Ballenger and High School Principal Adam Cano. For example, on October 22, 2018, Dr. Ballenger asked respondent to refrain from handing out candy to students. Despite the directive, respondent was allegedly seen handing out candy to students on November 28, 2018. Further, respondent was directed by Mr. Cano not to speak with students who were sent to the office for disciplinary reasons, and not to give them candy on their way back to class. Mr. Cano testified at hearing. He explained that the act of handing out candy to students sent to the office for disciplinary reasons amounted to rewarding bad behavior. Despite the directive, respondent allegedly continued to speak with and give candy to students who were sent to the office.

14. On March 7, 2019, the District issued respondent another written warning, documenting additional instances where respondent made inappropriate or offensive comments to parents, students, and faculty members. One such instance occurred on February 4, 2019, when respondent asked the parents of a student who showed up to school under the influence of alcohol if they had signed him up to attend Alcoholics Anonymous (AA) classes. Another instance occurred at a February 7, 2019 staff meeting, when respondent relayed a story about learning a student was dealing drugs on campus but took no disciplinary action. The warning also included an allegation that respondent had been overheard telling students that "sometimes you have to do things with the opposite gender to get your way."

15. Respondent was also notified on March 7, 2019, that she was being placed on administrative leave until June 30, 2019, which was the end of her contracted work year. The District directed her to surrender all District property in her possession, not access District electronic information, and not attend the Association of California School Administrators (ACSA) Principals' Academy (Academy), which she was scheduled to attend on April 26 and 27, 2019. Respondent attended the ACSA Academy and stayed in a hotel room that had been pre-paid by the District.

16. On March 15, 2019, respondent was served with a Notice of Non-Reelection to her position with the District after the end of the school year. She went to the High School with her husband to clean out her office that same day. Subsequently, the District discovered that various school files from her office were missing, including suspension forms, attendance records, and disciplinary records of multiple students, as well as personnel evaluations of certificated and classified employees.

17. District Human Resources Specialist Marisol Juarez testified at hearing that when she asked respondent about the missing files, respondent told her that she had returned them to Andrea Verdin, who is a secretary at the High School. Ms. Verdin testified at hearing and denied receiving any of the documents from respondent. The documents have never been recovered. After respondent was placed on administrative leave, the District also accessed her District email account, and determined that respondent had forwarded over 500 work-related emails to two of her personal email accounts. Additionally, when respondent surrendered her District laptop, it had been tampered with and was unusable.

18. On May 10, 2019, respondent attended an investigative interview at the District office. During the interview, she admitted that she forwarded District emails to her personal email account, that she attended the ACSA Academy despite Mr. Ballenger's directive not to do so, and that she stayed overnight at the Academy in a hotel room that the District paid for. However, she denied removing anything from her office other than her personal belongings and denied taking pictures of students with her cell phone.

Respondent's Evidence

19. Respondent introduced documentary evidence and testified at hearing. She has worked in public education for over 20 years. During her entire career, she has never suffered any disciplinary action, and except for her tenure with the District, has always received positive job evaluations. She presently works as a principal and superintendent for another school district, but she was hesitant to provide details for fear that Dr. Ballenger would somehow retaliate against her.

20. Shortly after being hired at the Middle School in 2018, Principal Peter Duenas began making derogatory comments about respondent's predecessor and noting similarities between the predecessor and respondent. His behavior worsened over the summer, which prompted her to file her complaint with the District on September 3, 2018. Respondent described Mr. Duenas as "bipolar," and like "Jekyll and Hyde." He would discuss his desire to kill respondent's predecessor, who he referred to as "the other one," and then tell respondent that she was "just like her." He also repeatedly accused respondent of turning the faculty against him and wanting to take his job.

21. Respondent testified that while the investigation into Mr. Duenas' conduct was ongoing, Dr. Ballenger would routinely check in with her. On one occasion, while meeting with her in her office, he began stroking her arms and holding her hands. While doing so he said "let me make you feel better," and "I can make all of this go away." When she rejected his advances, he apologized for invading her personal space and hurriedly walked out of the office. Respondent was "disgusted" with Dr. Ballenger after the encounter. However, she never reported it, given the turmoil she had already endured with Mr. Duenas. Additionally, Dr. Ballenger would be the person to report it to, and respondent felt it would have been futile. Dr. Ballenger denies that the encounter in respondent's office occurred.

22. Respondent admitted complimenting the appearance of Ms. Mendoza and other District employees at the October 31, 2018 training. It was Halloween, and everyone was wearing elaborate superhero costumes. She recalls saying that everyone looked "so cute" or "beautiful." She denied making any overtly sexual comments and did not intend her compliment to be understood that way.

23. When respondent was transferred to the High School, Mr. Cano told her not to have any contact with students at the High School. She was relegated to the office, which she did not consider to be meaningful work, and referred to herself as a “glorified yard duty.” She never took pictures of students with her cell phone. However, she did access various students’ school photographs, which she combined into a chart with the students’ names. She did so to show that she was proactive in learning all the students’ names.

24. After respondent was notified of her non-reelection, she and her husband removed her personal items from her office, but they did not remove any District property. She admits forwarding District emails to her personal email accounts to work at home. However, she was unaware that there was a District policy against doing so. She also admits attending the ACSA Academy despite Mr. Cano’s directive. She felt justified in doing so because she is a professional member of ACSA, and the event was not held during school hours. However, she acknowledges that she should have paid for her own room and re-registered herself for the training.

25. Respondent has endured a great deal of stress as a result of her employment with the District. At times, she has considered taking her own life, and described calling a suicide prevention hotline that she has previously provided to students in crisis.

26. Raul Lozano testified at hearing on respondent’s behalf. He worked for Madeira Unified School District for 34 years as both a teacher and administrator. He was respondent’s mentor when she was a new administrator and described her as knowledgeable and a self-starter. Tawnya Coffey also testified at hearing on respondent’s behalf. She has worked in public education for over 25 years and worked with respondent at the District. She described it as a “horrible environment,” and said

that the hostility was cultivated from “the top down,” She described working at the District after Dr. Ballenger was hired as “mentally taxing.” She also described respondent as dedicated to ensuring what is best for children.

Analysis

27. Complainant seeks to discipline respondent’s credentials based on: (1) unprofessional conduct; (2) evident unfitness for service; (3) immoral conduct; (4) acts of moral turpitude; and (5) persistent defiance. The Accusation does not specify which of the factual allegations pertain to each cause for discipline, but incorporates the factual allegations by reference, in their entirety, as to each cause for discipline.

28. Complainant alleges that respondent’s behaviors at the Middle School created a hostile work environment, which prompted complaints from the faculty. However, there was no evidence presented at hearing regarding which of respondent’s behaviors were problematic or how they negatively impacted the campus. The only evidence presented of a hostile work environment was the hostility created by Mr. Duenas. Complainant also alleged that respondent failed to comply with the directives of the PIP and the revised PIP. However, Dr. Ballenger was unable to articulate how respondent failed to do so, or what actions the District took to assist her in complying with the directives. Given that these allegations were not proven, they cannot support any of the alleged five causes for discipline.

29. Complainant alleges that respondent took photographs of students on her cell phone. There was no direct evidence presented at hearing in support of that allegation. Respondent admitted accessing students’ school photos to learn their names, but it is not alleged that doing so violated any District policy. Complainant alleges that respondent stole confidential school files when she cleaned out her office,

and tampered with her laptop, rendering it unusable. There was evidence presented at hearing that files were missing after respondent cleaned out her office, and that there were problems with her laptop. However, there was no evidence presented that she was responsible for the theft, and no evidence that respondent intentionally tampered with her laptop. Given that these allegations were not proven, they do not support any of the five causes for discipline.

30. Complainant alleges that respondent engaged in inappropriate behavior toward several District employees. Respondent admits complimenting the appearance of Ms. Mendoza and other District employees while they were dressed in Halloween costumes. She credibly testified that there was no sexual intent in doing so. Similarly, Complainant presented evidence that respondent complimented Ms. Alamo's figure. Ms. Alamo had every right to be personally offended by respondent's compliment. However, complimenting a colleague's appearance, while perhaps unadvisable, is insufficient to prove any of the five allegations.

31. Complainant alleges that respondent attended the ACSA Academy despite being told not to. Respondent admits doing so. Defying the directive of her supervisor may fairly be characterized as unprofessional. Respondent admitted at hearing that if she had to do it over again, she would have re-registered herself independent from the school registration and paid for her own hotel room. Respondent's motive to attend the Academy was for the purpose of professional development. Even if attending under the circumstances here constituted unprofessional conduct, as discussed below, it is insufficient to justify the discipline of respondent's credentials.

32. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, the California Supreme Court concluded that a teaching credential cannot be disciplined for immoral

conduct, unprofessional conduct, or conduct involving moral turpitude “unless that conduct indicates that the [educator] is unfit to teach.” (*Id.* at p. 229.) The Court outlined factors to consider when determining whether an educator’s conduct demonstrates unfitness to teach, which have been codified in California Code of Regulations, title 5, section 80302, subdivision (a). The factors are:

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

LIKELIHOOD OF ADVERSE EFFECTS ON STUDENTS OR FELLOW TEACHERS

33. There is no evidence that respondent’s conduct adversely affected students. The allegation that she created a hostile work environment at the Middle School was not proven at hearing.

PROXIMITY OR REMOTENESS IN TIME

34. The conduct at issue here occurred almost four years ago. It is more remote than proximate in time.

TYPES OF CREDENTIALS HELD AND SOUGHT

35. Respondent holds a Clear Multiple Subject Teaching Credential and a Preliminary Administrative Services Credential. She is seeking a Clear Administrative Services Credential.

EXTENUATING OR AGGRAVATING CIRCUMSTANCES

36. Neither the Education Code nor the applicable regulations specify what constitutes "extenuating circumstances." However, California Code of Regulations, title 5, section 80300, subdivision (m), defines "mitigating factor" as "an event or circumstance which demonstrates that the public, school children, and the profession would be adequately protected by a more lenient degree of adverse action or no adverse action whatsoever." Respondent presented mitigating evidence of the harassment she endured from Mr. Duenas at the Middle School, as well as evidence of a lengthy and successful career as an educator and administrator.

37. California Code of Regulations, title 5, section 80300, subdivision (b), lists aggravating factors, the presence of which indicate a greater degree of discipline is necessary to protect students and the teaching profession. These factors include, in pertinent part: (1) a prior record of adverse action; (2) the misconduct in question involved multiple wrongful acts or a pattern of misconduct; (3) the misconduct was surrounded by or followed by bad faith, dishonesty, or other violations of the laws

governing educators; and (4) the misconduct significantly harmed a child or the education system.

38. Respondent has no prior disciplinary record with the Commission. There are multiple instances of misconduct alleged in the Accusation and Statement of Issues. However, they vary in substance, such that it cannot be said that respondent engaged in a pattern of misconduct. More importantly, most were not proven at hearing. There is a degree of insubordination present, in that respondent willfully ignored the directive not to attend the ACSA Principal's Academy. To her credit, she freely admitted doing so, and acknowledges that she should have re-registered and paid for her own room. There was no evidence presented that any child or the education system was harmed by respondent's behavior.

PRAISEWORTHINESS OR BLAMEWORTHINESS OF MOTIVES RESULTING IN THE MISCONDUCT

39. Respondent's motives for attending the ACSA Academy despite Mr. Ballenger's directive not to do so appears to have been motivated by a desire for professional development. Her comments on the appearance of her colleagues do not appear to have been motivated by any inappropriate romantic interest in them.

LIKELIHOOD OF RECURRENCE

40. Respondent is now employed by another school district. There was no evidence presented that she is likely or unlikely to engage in future misconduct.

ADVERSE IMPACT OR CHILLING EFFECT

41. There is no evidence that discipline would adversely impact or chill respondent or any other teacher in the free exercise of their constitutional rights.

PUBLICITY OR NOTORIETY OF MISCONDUCT

42. No evidence was presented that the conduct at issue was either publicized or notorious.

Conclusion

43. Complainant bears the burden of proving by clear and convincing evidence that respondent engaged in immoral conduct, unprofessional conduct, or conduct involving moral turpitude which indicates that she is unfit to teach. When all the evidence is considered in light of the *Morrison* factors, complainant has not met her burden.

44. Respondent bears the burden of proving by a preponderance of the evidence that she is entitled to the credential for which she has applied. When all the evidence pertaining to her credentials and work experience is considered, she has met her burden.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant bears the burden of proving the allegations in the Accusation by clear and convincing evidence to a reasonable certainty. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Brooks* (2008) 169 Cal.App.4th 176, 190.)

2. Concerning the Statement of Issues, respondent has the burden of proving by a preponderance of the evidence that she is entitled to the credential she seeks. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205; *Coffin v. Alcoholic Beverage Control Appeals Bd.* (2006) 139 Cal.App.4th 471, 476.)

Applicable Law

3. Pursuant to the Education Code, commencing with section 44000, and California Code of Regulations, title 5, commencing with section 80000, the Commission is responsible for credentialing teachers in public schools in California, including issuing credentials and taking adverse action against applicants and credential holders.

4. Education Code section 44345 provides in part:

The Commission may deny any application for the issuance of a credential or for the renewal of a credential made by an applicant who falls under any of the following categories:

[§] ... [§]

(e) Has committed any act involving moral turpitude.

[§] ... [§]

Any denial pursuant to subdivisions (a) to (e), inclusive, shall be based upon reasons related to the applicant's fitness to teach or fitness to perform other duties for which that applicant is certificated, or competence to perform the duties which the credential would authorize the applicant to perform.

5. Moral turpitude has been described as “any crime or misconduct committed without excuse, or ‘any dishonest or immoral’ act not necessarily a crime.” (*Clerici v. Department of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1017.)

6. Education Code section 44440 provides:

(a) No applicant who is under review by the commission shall be allowed to withdraw his or her application for a credential without the written consent of the commission. The commission shall retain its authority over those applicants to proceed with the denial of the credential upon any ground provided by law, or to enter an order denying the credential on any ground provided by law.

(b) The suspension or expiration of any credential, its surrender without the written consent of the commission, or a revocation pursuant to Section 44423 does not deprive the commission of its authority to do any of the following:

(1) Institute or continue a disciplinary proceeding against the credential holder upon any ground provided by law.

(2) Enter an order suspending or revoking the credential.

(3) Issue a public reproof or private admonition to the credential holder.

7. Education Code section 44421 provides in part:

The Commission on Teacher Credentialing shall privately admonish, publicly reprove, revoke or suspend for immoral

or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

8. California Code of Regulations, title 5, section 803000, states in part:

[¶] ... [¶]

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

- (1) a prior record of adverse action including the nature and extent of that record;
- (2) that the misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct;
- (3) that the misconduct was surrounded by or followed by bad faith, dishonesty or other violations of the laws governing educators;
- (4) that the misconduct significantly harmed a child entrusted to the care of a credential holder or applicant, significantly harmed the public or the educational system;

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

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

9. As set forth in Factual Finding 32, California Code of Regulations, title 5, section 80302, subdivision (a), sets forth the factors to consider “to determine the relationship between the alleged misconduct and the applicant’s or holder’s fitness, competence, or ability to effectively perform the duties authorized by the credential.”

10. The California Supreme Court has recognized that the terms “immoral conduct” and unprofessional conduct” substantially overlap one another and conduct that constitutes one often includes the other. (*Morrison v. State Bd. of Ed., supra*, 1 Cal.3d 214, 221, fn. 9.) Additionally, in *San Diego Unified School District v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, the court explained:

Moreover, the definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, upon whom are imposed “responsibilities and limitations on freedom of action which do not exist in regard to other callings.” [Citation.]

(*Id.*, at p. 1466.)

11. Immoral conduct is sometimes considered as synonymous with “dishonesty” or a high degree of unfairness. (*Board of Education of the San Francisco Unified School District v. Weiland* (1960) 179 Cal.App.3d 808, 811.) The court explained

in *Palo Verde Unified School District of Riverside v. Hensey* (1970) 9 Cal.App.3d 967, 972:

The term "immoral" has been defined as that which is hostile to the welfare of the general public and contrary to good morals. Immorality includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable members of the community, and as an inconsiderate attitude toward good order and the public welfare.

12. "Evident unfitness for service" means a teacher is clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies. (*Woodland v. Joint Unified School District v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) "Unlike 'unprofessional conduct,' 'evident unfitness for service' connotes a fixed character trait, presumably not remediable merely on receipt of notice that one's conduct fails to meet the expectations of the employing school district." (*Id.*)

Causes for Discipline

13. Based on the Factual Findings and Legal Conclusions as a whole, complainant established by clear and convincing evidence that respondent committed an act of unprofessional conduct by attending the ACSA Academy despite being instructed not to. However, this act of unprofessional conduct is insufficient to discipline her credentials because it did not demonstrate that she is unfit to teach.

14. Based on the Factual Findings and Legal Conclusions as a whole, complainant did not establish by clear and convincing evidence that respondent committed acts demonstrating evident unfitness for service.

15. Based on the Factual Findings and Legal Conclusions as a whole, complainant did not establish by clear and convincing evidence that respondent committed acts of moral turpitude.

16. Based on the Factual Findings and Legal Conclusions as a whole, complainant did not establish by clear and convincing evidence that respondent persistently defied the laws regulating the duties of persons serving in the public school system.

17. Based on the Factual Findings and Legal Conclusions as a whole, cause does not exist to discipline respondent's credentials pursuant to Education Code section 44421.

Cause for Denial

18. Based on the Factual Findings and Legal Conclusions as a whole, complainant did not establish that respondent committed acts of moral turpitude. Cause does not exist to deny respondent's application for a Clear Administrative Services Credential pursuant to Education Code section 44345, subdivision (e).

ORDER

1. The Accusation is dismissed. Respondent's credentials are not subject to any administrative discipline.

2. The Statement of Issues is dismissed. Respondent's application for a Clear Administrative Services Credential is granted.

DATE: January 3, 2023

Matthew Block

MATTHEW S. BLOCK

Administrative Law Judge

Office of Administrative Hearings