

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

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

SHAMAWN LEE WRIGHT, Respondent

Case No. 1-796939011

OAH No. 2020030351

PROPOSED DECISION

Timothy J. Aspinwall, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on May 26, 2020, in Sacramento, California.

Joshua B. Eisenberg, Deputy Attorney General, represented complainant Mary Vixie Sandy, Ed.D. (complainant), Executive Director of the California Commission on Teacher Credentialing (Commission).

Shamawn Lee Wright (respondent) appeared on his own behalf.

Evidence was received and the record closed on May 29, 2020.¹

FACTUAL FINDINGS

Background and Jurisdictional Matters

1. On August 4, 2016, the Commission issued respondent a Certificate of Clearance. The Certificate of Clearance was in full force and effect at all times relevant to the charges in the Accusation/Statement of Issues, and will expire on September 1, 2021.

2. On August 17, 2016, the Commission issued respondent a 30-Day Substitute Teaching Permit waiver. The Permit waiver was in full force and effect at all times relevant to the Accusation/Statement of Issues, and had an expiration date of August 17, 2017.²

3. On December 7, 2017, respondent submitted an Application for Credential Authorizing Public School Service, seeking a Provisional Internship Permit (PIP). On November 13, 2018, the Commission rejected respondent's application,

¹ The record was held open until May 29, 2020, for respondent to submit documentary evidence. Respondent did not submit additional documents.

² Pursuant to Education Code section 44440, subdivision (b), the expiration or revocation of a credential shall not deprive the Commission of its authority to institute or continue disciplinary action.

because he had falsified scores for the California Basic Educational Skills Test (CBEST) and the California Subject Examinations for Teachers (CSET).

4. On December 7, 2018, respondent submitted an Application for Credential Authorizing Public School Service, seeking a PIP.³ The Commission denied respondent's 2018 application based on his falsification of his CBEST and CSET scores.

5. On January 21, 2020, complainant, acting in her official capacity, signed and thereafter filed the Accusation/Statement of Issues.⁴ Complainant seeks to deny

³ The Accusation/Statement of Issues incorrectly states at paragraph 4 that respondent submitted the PIP application on November 7, 2018.

⁴ The Accusation/Statement of Issues was amended by interlineation at hearing, without objection. More specifically, paragraph 3, at pages 1 and 2, was amended to state:

On or about August 17, 2016, the Commission issued a 30-day substitute Teaching Permit (Permit) waiver to respondent. The Permit waiver was in full force and effect at all times relevant to the charges brought herein and had an expiration date of August 17, 2017.

Additionally, paragraph 20, at page 6, was amended to include an additional sentence, as follows:

Respondent's December 7, 2018 Provisional Internship Permit application was reviewed at the March 13 through 15, 2019 Commission meeting, where the Commission

respondent's 2018 application for a PIP, and revoke all credentials, certificates, and authorizations issued to respondent, based on allegations that he falsified CBEST and CSET scores.

6. Respondent timely filed a Notice of Defense. This hearing followed.

Complainant's Evidence

7. Respondent submitted to the Commission an electronically falsified score for the September 2017 CBEST, in conjunction with his 2017 PIP application. Specifically, respondent falsified the score report to indicate that he scored 42 on the writing test, when his actual score was 29.

8. Respondent submitted to National University electronically falsified scores for the April 2018 CSET. Specifically, respondent falsified the scores to indicate that he passed the Social Science I, II, and III Subtests. In fact, respondent failed the Social Science I Subtest in April 2018, and there is no record that he took the Social Science II or III Subtests in April 2018.

Respondent's Evidence

9. Respondent submitted false CBEST and CSET scores, because he was afraid that he would lose his position as a long-term substitute teacher at a high school if he could not timely submit passing scores. Respondent very much wanted to continue teaching at the high school where he was also serving as a track and field

recommended denial of respondent's application in light of respondent's falsification of CBEST and CSET scores.

coach and the head freshman football coach. Respondent readily admitted that his actions were wrong and dishonest.

10. After his misconduct came to light, respondent engaged in substantial self-reflection. He also underwent counseling to help process childhood traumas that have affected him as an adult. Based on his self-reflection and counseling, respondent feels committed to honesty, and testified that he will not engage in dishonest misconduct again.

11. Respondent passed the CBEST in October 2018, and submitted his passing score with his 2018 PIP application. Respondent wants very much to work as a teacher. He has a particular bond with students from disadvantaged backgrounds, because he also had significant disadvantages as he grew up. Through hard work he was able to overcome his disadvantages, and wants to serve as a positive role model for students who are experiencing difficulties.

12. Respondent is currently working toward a master's degree in higher education at the University of San Francisco. He is also working as a football coach at another high school.

Discussion

13. 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). Those 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 upon 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

14. Respondent's falsification of test results demonstrated poor judgment and dishonesty, which provides a negative example for students. In addition, respondent sought to continue teaching with falsified test results, thus potentially compromising the quality of education he provided to students. The potential for adverse effects on students was significant.

PROXIMITY OR REMOTENESS IN TIME

15. Respondent's falsification of his CBEST and CSET scores occurred in 2017 and 2018, respectively. Respondent's misconduct is more proximate than remote in time.

TYPES OF CREDENTIALS HELD AND SOUGHT

16. Respondent holds a Certificate of Clearance and an expired 30-Day Substitute Teaching Permit waiver. He applied for a Provisional Internship Permit. The credentials that respondent holds and seeks require teaching competence. One of the

thresholds for ensuring teaching competence is a passing score on the required tests. Respondent attempted to circumvent this important measure by falsifying his test scores.

EXTENUATING OR AGGRAVATING CIRCUMSTANCES

17. 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 did not present mitigating evidence.

18. 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, that (1) the misconduct in question involved multiple wrongful acts; and (2) the misconduct significantly harmed the educational system. Respondent’s misconduct involved multiple wrongful acts in that he falsified the scores for two separate examinations in 2017 and 2018. Respondent’s misconduct compromised the integrity of the educational system, which includes specific requirements for persons who aspire to the teaching profession. On balance, the aggravating circumstances outweigh the extenuating or mitigating circumstances.

PRAISEWORTHINESS OR BLAMEWORTHINESS OF MOTIVES RESULTING IN THE MISCONDUCT

19. Respondent’s motives in falsifying his test scores were to preserve his job and continue teaching disadvantaged students. His motive to continue teaching

disadvantaged students is praiseworthy, as it displays a desire to improve society by helping students. Respondent's motive to preserve his job was self-serving and blameworthy, especially given that he was willing to act dishonestly in pursuit of his self-interest. Based on these facts, respondent's blameworthy motives outweigh his praiseworthy motives.

LIKELIHOOD OF RECURRENCE

20. Respondent is unlikely to repeat his misconduct of falsifying his exam scores, if for no other reason than that he achieved a passing score on the CBEST. Additionally, respondent engaged in substantial self-reflection and counseling following the disclosure of his misconduct, and testified that he is committed to honesty. However, respondent did not present any letters of support or witness testimony to corroborate his claim that he has learned from the experience and is now committed to honesty. For this reason, respondent did not present sufficient evidence to demonstrate that he is unlikely to engage in future dishonest conduct.

EXTENT TO WHICH DISCIPLINARY ACTION MAY INFLICT AN ADVERSE IMPACT OR CHILLING EFFECT ON CONSTITUTIONAL RIGHTS OF PERSONS INVOLVED OR OTHER TEACHERS

21. 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

22. No evidence was presented that respondent's conduct was either publicized or notorious.

Summary

23. For the reasons stated above, and considering all the *Morrison* factors, complainant established by clear and convincing evidence that cause exists to discipline respondent. Based on the evidence as a whole, it would not be consistent with the public interest to allow respondent to retain his existing credentials or to grant him new credentials at this time. In the event that respondent wishes to re-apply, he should present a more complete set of rehabilitation evidence.

LEGAL CONCLUSIONS

1. Complainant has 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. In response to the Statement of Issues, respondent has the burden of proving by a preponderance of the evidence that he is entitled to the credential he 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.) Preponderance of the evidence means "more likely than not." (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1388.)

3. Pursuant to the Education Code, commencing with section 44000, and California Code of Regulations, title 5, commencing with section 80000 (Regulation), the Commission is responsible for credentialing teachers in public schools in California,

including issuing credentials and taking adverse action against applicants and credential holders. "Adverse action" is defined in Regulation 80300, subdivision (a), as "a denial, a private admonition, public reproof, suspension or a revocation of one or more credentials."

4. 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.

5. 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.) "Unprofessional conduct" includes "that which violates the rules of ethical code of a profession or such conduct which is unbecoming a member of a profession in good standing." (*Board of Education of the City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 553; quoting, 66 Corpus Juris, p. 55.) 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.)

6. "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 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 Denial

7. An application for a credential may be denied if the applicant "has committed any act involving moral turpitude" (Ed. Code, § 44345, subd. (e)), or "attempted to practice any material deception or fraud in his or her application" (Ed. Code, § 44345, subd. (g)). Complainant established by clear and convincing evidence that respondent committed acts of moral turpitude and attempted a material deception or fraud when he falsified and submitted CBEST and CSET scores. Cause therefore exists to deny respondent's application pursuant to Education Code section 44345, subdivisions (e) and (g).

Causes for Discipline

8. The Commission may discipline a credential for unprofessional and immoral conduct, and for any cause that warrants the denial of an application. (Ed.

Code, § 44421.) Complainant established by clear and convincing evidence that respondent committed acts of unprofessional and immoral conduct when he falsified and submitted CBEST and CSET scores, and that such conduct involved moral turpitude. Cause therefore exists to discipline respondent's credentials pursuant to Education Code section 44421.


9. The Commission may discipline a credential for evident unfitness for service. (Ed. Code, § 44421.) As set forth in Legal Conclusion 6, "evident unfitness for service" connotes a fixed character trait. The evidence did not establish that respondent's misconduct is attributable to a fixed character trait. For this reason, cause does not exist to discipline respondent based on "evident unfitness for service."

ORDER

Respondent Shamawn Lee Wright's application for a Provisional Internship Permit is DENIED.

Respondent Shamawn Lee Wright's Certificate of Clearance and his expired 30-Day Substitute Teaching Permit waiver are REVOKED.

DATE: June 22, 2020

DocuSigned by:

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TIMOTHY J. ASPINWALL

Administrative Law Judge

Office of Administrative Hearings