

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

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

**Adrian Israel Belcher, Respondent.**

**Agency Case No. 2-241439159**

**OAH No. 2022070652 (Accusation-Primary)**

**OAH No. 2022070655 (Statement of Issues-Secondary)**

**PROPOSED DECISION**

David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on November 17, 2022.

Complainant was represented by Megan Cross, Deputy Attorney General. Respondent Adrian Israel Belcher was present and represented himself.

Oral and documentary evidence was received. The record closed and the matter was submitted for decision on November 17, 2022.

The matters were consolidated by an Order issued on July 22, 2022. Complainant agreed a single Proposed Decision could be issued.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. The California Commission on Teacher Credentialing (Commission) issued to respondent a 30-Day Substitute Teaching Permit on September 27, 2017, which expired on October 1, 2018. The Permit was reissued on October 13, 2018, which expired on November 1, 2019. The Permit was reissued on November 1, 2019, which expired on November 1, 2020. The Commission issued to respondent a Provisional Internship Permit on August 2, 2018, which expired on September 1, 2019. There was no evidence of prior discipline against these credentials.

2. On March 31, 2021, respondent submitted to the Commission an application for a 30-Day Substitute Teaching Permit.

3. Complainant Mary Vixie Sandy, Ed.D., brought the Accusation and Statement of Issues in her official capacity as Executive Director of the Commission.

4. After receiving the Accusation and Statement of Issues, respondent filed a Notice of Defense and requested an administrative hearing.

5. All jurisdictional requirements have been met.

### **Criminal Convictions and Underlying Circumstances**

6. On January 3, 2019, respondent was convicted, on his plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b), driving under the influence of alcohol with a blood alcohol content (BAC) of 0.08 percent or greater, a misdemeanor. (*People v. Belcher*, San Bernardino Superior Court, 2019, case no. MV118012095.) Imposition of sentence was suspended and respondent was placed on

summary probation for three years on terms and conditions, including that he serve four days in county jail (with credit for four days), pay fines and assessments, complete a first offender alcohol education program, not drive a vehicle with a measurable amount of alcohol in his system, and submit to a blood/breath alcohol test upon request of an officer.

7. Respondent filed proof of completion of the alcohol education program on January 28, 2019, and paid the fines and assessments.

8. The underlying circumstances of the criminal conviction relate to respondent's actions at 12:23 a.m. on June 2, 2018, when a Sheriff's Deputy observed the vehicle respondent was driving make a left turn without stopping for a red light, and that the vehicle's taillights were inoperable. When the Deputy noticed the odor of alcohol and asked respondent if he had been drinking, respondent replied he had consumed four beers. Respondent could not successfully perform field sobriety tests. Preliminary alcohol screens yielded results of 0.16 and 0.15 percent BAC. Two later breath tests both yielded results of 0.13 percent BAC.

9. In a letter received by the Commission on September 14, 2021, respondent explained he was out with friends "after a long first year of substituting, and felt the need to relieve some stress, . . . [and] did not use sound judgment and decided to keep drinking" after he left a restaurant, went to a bar, and decided to drive home. "I completely regret that whole night and the decisions I made." (Exhibit 9, p. A104.) "But in all honesty, I still did not learn my lesson as it happened again a few years later." (*Ibid.*)

10. On June 23, 2021, respondent was convicted, on his plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b), driving under the

influence of alcohol with a BAC of 0.08 percent or greater, and Penal Code section 243, subdivision (b), battery on a police officer, both misdemeanors. (*People v. Belcher*, San Bernardino Superior Court, 2021, case no. 20CR07059.) Imposition of sentence was suspended and respondent was placed on summary probation for three years on terms and conditions, including that he serve 30 days in county jail (with credit for two days), pay fines and assessments, complete a second offender 18-month alcohol education program, not drive a vehicle with a measurable amount of alcohol in his system, and submit to a blood/breath alcohol test upon request of an officer.

11. Respondent has not commenced the alcohol education program. He testified he does not have the funds needed to start the program.

12. The underlying circumstances of the criminal conviction relate to respondent's actions at 10:01 p.m. on September 23, 2020, when a Sheriff's Deputy observed the vehicle respondent was driving swerve several times, then stop at a stop sign for an unusually long time, and then make a right turn at a red light without coming to a full stop. The Deputy was joined by a California Highway Patrol officer, who observed respondent demonstrating objective signs of intoxication. When the officer noticed the odor of alcohol and asked respondent if he had been drinking, respondent denied drinking. Respondent could not successfully perform field sobriety tests. Preliminary alcohol screens yielded results of 0.154 and 0.158 percent BAC. After agreeing to take a breath test, respondent then refused. A warrant was obtained, and a sample of respondent's blood was taken. There is no evidence of the BAC of the blood sample. Respondent was placed in a patrol car and, when the officer went to secure the seatbelt, respondent spit on the officer's arm.

13. In his letter to the Commission, respondent explained he was in Santa Barbara celebrating a friend's birthday and had too much to drink. He wrote: "This

time, I did learn my lesson as the consequences have been more severe and embarrassing as well.” (Exhibit 9, p. A104.) Respondent had to wear an ankle monitor at home and at work that monitored his alcohol intake. He had to explain the situation to his employer and family. He also was ordered to complete a house arrest program. “So I feel this second time around I have learned my lesson and do not intend on drinking and driving again as I know of the harm I can cause myself or others. I have been doing much better and have been using better judgment when I go out with friends.” (*Ibid.*) In his letter and his testimony at the hearing, respondent did not address spitting on the police officer or the conviction for battery.

## **Committee of Credentials**

14. The Commission’s Committee of Credentials determined probable cause exists to recommend respondent’s credentials be revoked and his application be denied. Although it is alleged this action occurred at a meeting in December 2021, the Findings of the Committee of Credentials is undated and there is no evidence of the meeting. (Exhibit 4.) These Findings state: “The Committee finds that there is a close relationship between the misconduct and Respondent’s ability and/or fitness to perform the duties required for certificated services and thereby supports the disciplinary recommendation” for revocation of respondent’s credentials and denial of his application. (*Id.* at p. A58.) The Findings include a summary of the arrest reports and court outcomes, but do not explain the reasoning behind the conclusion there is a “close relationship between the misconduct and Respondent’s ability and/or fitness” to teach.

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## **Alleged Causes for Discipline and Denial of Application**

15. In the Accusation, complainant alleges respondent's credentials should be disciplined for unprofessional conduct, immoral conduct, evident unfitness for service, and persistent refusal to obey laws and duties of a school district employee, all pursuant to Education Code (Code) section 44421, and acts of moral turpitude and demonstrating an addiction to alcohol, pursuant to Code sections 44421 and 44345, subdivisions (c) and (e). In the Statement of Issues, complainant alleges respondent's application should be denied for demonstrating an addiction to alcohol and for acts of moral turpitude, pursuant to Code section 44345, subdivisions (c) and (e).

## **Respondent's Background, Explanation, and Other Relevant Evidence**

16. Respondent is 29 years old. He started teaching in the 2017-2018 school year and last taught in the 2019-2020 school year. He submitted five letters from teachers, many of whom were his teachers, and for whom he later served as a substitute teacher. These are described in more detail below.

17. From March 2021 to September 2022 respondent worked as a front desk agent at a Holiday Inn hotel. He was laid off and has not worked since. He did not earn much money in this position.

18. Respondent testified credibly he began drinking in his early 20's and was a social drinker. He was influenced and encouraged by some family and friends. He stated it helped him to have fun and "to let loose." After his first criminal conviction, despite completing the alcohol education program, he "did not learn the lessons." He described the second criminal conviction as "a wake-up call." Respondent learned a lot about himself. Respondent stopped drinking in January 2022 but relapsed around his birthday in July 2022. The relapse made him feel guilty, and he realized he did not

enjoy drinking the alcohol. Respondent stated his use of alcohol never affected his actions in any classroom.

19. Respondent began attending meetings of Alcoholics Anonymous (AA) in late August 2022. He averages eight to ten meetings each week, and sometimes attends four meetings a day. He submitted attendance sheets to support this testimony. (Exhibits A, B.) Complainant objected the attendance sheets are hearsay, and the objections were sustained. However, in administrative proceedings, some hearsay evidence can be used to supplement or explain other evidence but may not by itself support a finding of fact. (Gov. Code, § 11513, subd. (d).) This is referred to as administrative hearsay. The attendance sheets confirm respondent's attendance at numerous AA meetings and supplement and explain respondent's testimony.

20. Respondent stated the AA meetings helped him understand his reasons for drinking and helped change his view of alcohol and learn more about himself. He is currently working step four of the 12-step program but has not yet obtained a sponsor. He wants to be careful and selective in obtaining a sponsor, as he has seen some people in the program who have relapsed. Respondent is becoming more aware of his triggers and stays away from certain family and friends as a result. He is committed to abstaining from alcohol, and stated it is "a life-long process," to learn what he can and get help.

21. Respondent submitted five character-reference letters, received as administrative hearsay, and testified about the authors and some of the activities referenced in the letters. Elizabeth Alamo (Alamo) was respondent's teacher in high school. Respondent has worked as a substitute for her class. Alamo wrote favorably of her impressions of respondent, both as a student and as a substitute teacher. (Exhibit C.) Respondent acknowledged he had not informed Alamo of his criminal convictions.

22. Mary Brown (Brown) has taught for 23 years and had respondent as her student. Respondent was hired as a teacher at Brown's school. Brown was proud of respondent's performance, including his reliability and ability to connect with students. (Exhibit D.) Respondent testified he informed Brown of his criminal convictions.

23. McGail Counts (Counts) is the chair of the special education department at a junior high school where respondent taught as a substitute for three years. She writes of his positive attitude in his work with general education students as well as students with disabilities and behavior difficulties. (Exhibit E.) Respondent testified he informed Counts of his criminal convictions.

24. Dianah Edington (Edington) is an administrative assistant at the same junior high school and is aware respondent built good relationships with students, who showed him a high level of respect. She wrote respondent's level of energy motivates others, and he is dedicated to teaching. (Exhibit F.) Respondent testified he informed Edington of his arrests.

25. Erica Moeller (Moeller) is a teacher, AVID coordinator, and athletic director at the same junior high school where respondent worked as a substitute teacher. She writes he learns quickly, is eager to assist others, and has the innate ability to build relationships, foster camaraderie, and to champion the students. (Exhibit G.) Respondent testified he informed Moeller of his criminal convictions.

26. Respondent was respectful of the proceedings and spoke with sincerity. He described his interest in helping others starting when he was a child, and his passion for acquiring the skills to be a better teacher. Respondent regrets the loss of the opportunity to work with students in the classroom. Respondent is grateful he did not injure himself or others while driving drunk and is regretful of those actions. He



believes, as a result of his better understanding of himself and his issues with alcohol, God has revealed respondent's purpose. Respondent is willing to comply with any reasonable requirements to return to teaching, including drug testing.

## **LEGAL CONCLUSIONS**

1. In the part of this proceeding based on the Accusation to impose discipline on respondent's teaching credentials, complainant has the burden to prove its case by clear and convincing evidence to a reasonable certainty. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035.) Therefore, to impose discipline on respondent's credentials, complainant is obligated to adduce evidence that is clear, explicit, and unequivocal—so clear as to leave no substantial doubt and sufficiently strong as to command the unhesitating assent of every reasonable mind. (*In Re Marriage of Weaver* (1990) 224 Cal.App.3d 478.) Clear and convincing evidence has been defined as "[e]vidence of such convincing force that it demonstrates, in contrast to the opposing evidence, a high probability of the truth of the fact[s] for which it is offered as proof." (Cal. Civil Jury Instructions [BAJI] 2.62; accord, *Mattco Forge, Inc. v. Arthur Young & Co.* (1997) 52 Cal.App.4th 820, 847.)

2. In the part of this proceeding based on the Statement of Issues to deny respondent's application for a credential, the burden of proof is on respondent to establish by a preponderance of the evidence he is entitled to the credential that he seeks. (See *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 evidence that has more convincing force than that opposed to it.' [Citations omitted.] . . . The sole focus of the legal definition of 'preponderance' in the phrase 'preponderance of the evidence' is on the *quality* of the evidence. The *quantity* of

evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325; italics in original.) Preponderance of the evidence means that "the evidence on one side outweighs, preponderates over, is more than, the evidence on the other side." (*Id.* at p. 325.)

3. Pursuant to the 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." Under Code section 44440, subdivision (c), the Commission has the authority to institute a disciplinary proceeding against a credential holder, suspend or revoke the credential, or issue a public reproof or private admonition against the credential holder. Regulation 80300, subdivision (t), provides that a suspension may be stayed "on condition of probation," indicating that adverse action may also take the form of placing a credential on probation subject to terms.

4. Code section 44421 authorizes the Commission to take adverse action against an individual's teaching credential for immoral conduct, unprofessional conduct, for "persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system," for any cause that would warrant denial of an application, or for evidence unfitness for service. In this matter, all five grounds are alleged.

5. Under Code section 44345, the Commission may deny an application if the applicant is "addicted to the use of intoxicating beverages to excess" (subd. (c)) or has committed acts involving moral turpitude (subd. (e)).

6. Language similar to some of these grounds is found in Code sections authorizing a school district to terminate the employment of a teacher. For example, a teacher may be terminated for unprofessional conduct or for immoral conduct, under Code section 44932, subdivision (a)(1). Cases under this Code section have discussed and defined these bases for a teacher's termination of employment and are instructive here to help define the bases for discipline or denial of a teaching credential.

7. There is broad discretion in determining what constitutes unfitness to teach, in determining what constitutes immoral conduct, and in deciding whether the teacher should be sanctioned. (*California Teachers Ass'n v. State of California* (1999) 20 Cal.4th 327.) The proven conduct should be looked at in the aggregate. It is not necessary to determine if each and every act demonstrates unfitness; it is proper to examine the totality of the offensive conduct. "When the camel's back is broken we need not weigh each straw in its load to see which one could have done the deed." (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1457.)

8. "Immoral conduct," pursuant to Code section 44932, subdivision (a)(1), has been defined to mean conduct that is 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. It is sometimes used as indicating a high degree of unfairness. (*Board of Ed. of the San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811 (*Weiland*)). Immoral conduct can be construed according to common usage. "The term 'immoral' has been defined generally as that which is hostile to the welfare of the general public and contrary to good morals. Immorality has not been confined to sexual matters, but 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." (*Palo Verde Unified School District of Riverside v. Hensey* (1970) 9 Cal.App.3d 967, 972 (*Hensey*).)

9. The factual scenarios in *Weiland*, *Hensey*, and other cases are helpful in understanding the types of actions that can constitute "immoral conduct" and "evident unfitness for service" as bases to dismiss a teacher. By inference, these cases help in interpreting similar language regarding grounds to discipline teaching credentials. In *Weiland*, a teacher of an evening class was aware that when the number of students in a class was down to 15 for three successive evenings, the class would be automatically dropped and the teacher would lose her position. The teacher testified she falsified records by adding the names of three persons who were absent. Although the teacher argued that other teachers did the same and she did so "to expose the situation," nevertheless her conduct was not justified and the evidence established "that the purpose of the falsification was to secure appellant's continued employment. The evidence was clearly sufficient to support the findings" of immoral conduct. (*Weiland*, *supra*, 179 Cal.App.2d at 811.)

10. In *Hensey*, dismissal was justified for a junior college teacher who used vulgar language and engaged in questionable acts in his classes. It was not necessarily each individual act or comment but, rather, the totality. The teacher tore out a loudspeaker in his classroom. He referred to the school's bell system as sounding like a worn-out phonograph in a whorehouse. He warned Mexican American students of super-syphilis. He stated the district superintendent spent too much time licking up the school board and simulated licking the classroom wall with his tongue. Although he explained he meant "face licking," the expression "means in common parlance

licking an entirely different portion of the anatomy” and was obviously so intended. (*Hensey, supra*, 9 Cal.App.3d at 974, 975.) The teacher also referred to the school walls looking as though someone had peed on them and then smeared them with baby crap. The court stated: “while it could be assumed that both male and female students of that age were familiar with the words used, a classroom, even on a junior college level, is not the time or the place for the use of such language.” (*Ibid.*) The different actions and statements were described as creating a dangerous situation (loudspeaker), bearing on his fitness to teach (whorehouse), humiliating and embarrassing to the Mexican American students and showing a lack of restraint and a tendency to vulgarity and bad taste (super-syphilis). The conduct was disruptive, an impairment of the teaching process, and not an example of the responsible dissent which should be fostered in the classroom (licking). “All of the incidents taken in the aggregate serve as a substantial basis for the trial court’s determination that the charges of ‘immoral conduct’ and ‘evident unfitness for service’ were true and constituted cause for dismissal.” (*Ibid.*)

11. Under Code section 44421, it was not immoral conduct or unfitness for service for a college English teacher to use for illustrative purposes a poem containing obscenities, slang references to male and female sexual organs and to sexual activity, and profane references to Jehovah and Christ, and a brochure containing photographs of entwined nude couples suggesting sexual intercourse. (*Board of Trustees v. Metzger* (1972) 8 Cal.3d 206)

12. “Unprofessional conduct,” as used in Code section 44932, subdivision (a)(l), may be defined as conduct which violates the rules or ethical code of a profession or is such conduct that is unbecoming of a member of a profession in good standing. (*Board of Educ. of City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 553)

(*Swan*).) "A teacher . . . in the public school system is regarded by the public and pupils in the light of an exemplar, whose words and actions are likely to be followed by the children coming under her care and protection." (*Swan, supra*, 41 Cal.2d at p. 552; citations omitted.) In *Goldsmith v. Board of Ed. of Sacramento High School Dist.* (1924) 66 Cal.App. 157, 168, the Court noted: "[T]he teacher is entrusted with the custody of children and their high preparation for useful life. His habits, his speech, his good name, his cleanliness, the wisdom and propriety of his unofficial utterances, his associations, all are involved. His ability to inspire children and to govern them, his power as a teacher, and the character for which he stands, are of major concern in a teacher's selection and retention. . . ."

13. *Broney v. California Commission on Teacher Credentialing* (2010) 184 Cal.App.4th 462 (*Broney*) is particularly instructive. The teacher had three criminal convictions for driving under the influence (DUI) in 1987, 1997, and 2002. She applied for her teaching credential after the 1997 conviction. The Commission was aware of her (then) two DUI convictions and granted the credential. Her third conviction in 2002 included her plea to driving with a 0.25 percent BAC, more than three times the legal limit. She was ordered to wear an ankle bracelet, which she wore in the classroom. The Commission determined Broney committed unprofessional conduct and her conduct indicated she was unfit to teach, and suspended her credentials for 60 days, stayed, and placed her credential on probation for three years. As noted in more detail below, the court examined the various factors identified in caselaw and a regulation to determine if the discipline was justified.

14. Respondent here was convicted twice of DUI, circumstances that support the conclusion these were acts of moral turpitude. In *People v. Forster* (1994), 29 Cal.App.4th 1746, the court concluded continuing to drive while intoxicated despite

the knowledge of the serious risks it imposes upon other drivers is indicative of a "conscious indifference or 'I don't care attitude' concerning the ultimate consequences" of the activity (*People v. Ochoa* (1993) 6 Cal. 4th 1199, 1208) from which one can certainly infer a "depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man. (*People v. Mansfield* (1988) 200 Cal.App.3d 82, 87)." (*People v. Forster, supra*, 29 Cal.App.4th at p. 1757.) Of note, respondent committed his second DUI while on probation for his first DUI. Battery on a police officer is also a crime of moral turpitude. (*People v. Lindsay* (1989) 209 Cal.App.3d 849.)

15. By virtue of his criminal convictions, respondent has committed acts of moral turpitude. Such acts also constitute immoral conduct and unprofessional conduct.

16. Complainant did not establish any particular law "regulating the duties of persons serving in the public school system" which respondent either persistently defied or refused to obey, as stated in Code section 44421. No cause for suspension or revocation has been established for this alleged violation.

17. Complainant did not offer any evidence respondent was addicted to alcohol except for two instances of DUI, the first in June 2018 when respondent admitted drinking four beers and his highest BAC was 0.16 percent, twice the legal limit, and the second in September 2020 when his highest BAC was 0.158 percent, close to twice the legal limit. Addiction to alcohol is a recognized medical diagnosis. These two incidents of DUI are insufficient to establish respondent is addicted to alcohol.

18. Before the Commission may take action against a credential, it is required to establish respondent's conduct is related to his fitness to teach. (*Morrison v. State Board of Education* (1969) 1 Cal.3d 214 (*Morrison*)). Evident unfitness for service is both a separate basis to impose discipline on a teaching credential, and also must be established before immoral conduct, unprofessional conduct, or an act of moral turpitude can be found as a basis for discipline. In *Morrison*, the California Supreme Court examined a teacher's non-criminal consensual homosexual relationship, with no connection to his position as a teacher, and concluded there was an insufficient nexus between the misconduct and his teaching credential. Therefore, the teacher's credential could not be disciplined. Some of the factors used in this determination, known as the *Morrison* factors, are now included in Regulation 80302 relating to investigations by the Committee. Only the pertinent factors need to be analyzed. (*West Valley-Mission Community College Dist. v. Concepcion* (1993) 16 Cal.App.4th 1776.)

19. The eight *Morrison* factors are applied here as follows:

(a) The likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity anticipated. Complainant argued respondent wore his court-ordered ankle bracelet in the classroom, a factor found in *Broney* to support adverse effects on students or the educational community. Here, respondent wore the ankle bracelet during his work at a hotel. Further, the only evidence teachers and members of the educational community were aware of respondent's criminal convictions came from respondent's having told them. These persons nevertheless wrote letters of support for respondent. There was insufficient evidence of any adverse effect of respondent's criminal conduct on students, teachers, or the educational community.



(b) The proximity or remoteness in time of the conduct. Respondent's DUI in 2018 resulted in a criminal conviction in 2019. His DUI and battery on a police officer in 2020 resulted in criminal convictions in 2021. These are quite recent.

(c) The type of credential held or applied for by the person involved. Respondent used his credentials, and the one for which he applied, to teach in elementary school and junior high school. As noted in *Broney*, involving a fifth-grade teacher, children of that age are impressionable, and her multiple alcohol-related convictions were a serious concern. The same is true for respondent.

(d) The extenuating or aggravating circumstances surrounding the conduct. In *Broney*, the court found an aggravating factor was her 0.25 percent BAC in her 2002 DUI. Respondent's BAC's were not quite as high. However, his battery on a police officer is of concern, as was his several denials of drinking when arrested in 2020 and his failure to begin the 18-month alcohol education program. Extenuation is found in that respondent accepted responsibility, expressed remorse for his actions, and has begun to seek support by recently attending multiple AA meetings.

(e) The praiseworthiness or blameworthiness of the motives resulting in the conduct. There is no perceived praiseworthiness in the criminal acts established by the evidence.

(f) The likelihood of the recurrence of the questioned conduct. Recurrence is likely, given respondent completed the first alcohol education program, did not attempt sobriety until January 2022, and relapsed in July 2022. He has not started the court-ordered 18-month alcohol education program and does not yet have a sponsor in AA. While it is hoped the conduct will not recur, respondent needs a

longer track record of sobriety and a well-established network of support to give reasonable assurances of continued success in his rehabilitation.

(g) The extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the person involved, or other certified persons. Respondent did not offer any evidence to establish any constitutional right of his that will be impacted adversely by this matter.

(h) The publicity or notoriety given to the conduct. There was no evidence of publicity or notoriety related to the criminal convictions.

20. Here, there is sufficient evidence of a connection or nexus between respondent's criminal acts and his ability to teach. Complainant established by clear and convincing evidence respondent's misconduct has a direct nexus to his credential and the profession of teaching. Adverse action against respondent's credential therefore is warranted, as well as denial of his application.

21. There is cause to suspend or revoke respondent's teaching credentials for violating Code section 44421, for unprofessional conduct, immoral conduct, or evidence unfitness for service, and under Code sections 44421 and 44345 for acts of moral turpitude, as set forth in Factual Findings 1 through 26 and Legal Conclusions 1 through 20.

22. There is insufficient evidence of any cause to suspend or revoke respondent's teaching credentials for violating Code section 44421, for persistent defiance of, and refusal to obey, the laws, regulations, and duties of a person serving the public school system, as set forth in Factual Findings 1 through 26 and Legal Conclusion 16.

23. There is insufficient evidence of any cause to suspend or revoke respondent's teaching credentials for violating Code sections 44421 and 44345, subdivision (c), for demonstrating an addiction to the use of alcohol to excess, as set forth in Factual Findings 1 through 26 and Legal Conclusion 17.

24. Rehabilitation requires a consideration of those offenses from which one has allegedly been rehabilitated. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041.) Rehabilitation is a state of mind, and the law looks with favor upon rewarding with the opportunity to serve one who has achieved reformation and regeneration. (*Id.* at p. 1058.) The absence of a prior disciplinary record is a mitigating factor. (*Chefsky v. State Bar* (1984) 36 Cal.3d 116, 132, fn. 10.) Remorse and cooperation are mitigating factors. (*In re Demergian* (1989) 48 Cal.3d 284, 296.) While a candid admission of misconduct and full acknowledgment of wrongdoing may be a necessary step in the rehabilitation process, it is only a first step. A truer indication of rehabilitation is presented if an individual demonstrates by sustained conduct over an extended period of time that he is once again fit to practice. (*In re Trebilcock* (1981) 30 Cal.3d 312.)

25. As applied here, respondent accepted responsibility for his actions and expressed remorse. He has begun to undertake actions to support his rehabilitation. Attendance at AA meetings and sobriety are positive steps for which respondent is commended. However, respondent has not begun the court-ordered 18-month second offender alcohol program. The court-ordered probation will continue until at least June 2024. Respondent attempted sobriety in January 2022 only to relapse in July 2022. Respondent has not yet chosen an AA sponsor and did not testify to any support network to assist him in maintaining sobriety and recovery. While establishing a positive attitude, respondent does not yet have a sufficient record of positive action to allow him to maintain his credentials or acquire a new credential.

## ORDER

1. The 30-Day Substitute Teaching Permits previously issued to respondent Adrian Israel Belcher are revoked.

2. The application of respondent Adrian Israel Belcher for a 30-Day Substitute Teaching Permit submitted on March 31, 2021, is denied.

DATE: 12/08/2022

*David Rosenman*

DAVID B. ROSENMAN

Administrative Law Judge

Office of Administrative Hearing