

**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS AND A  
COMMISSION ON PROFESSIONAL COMPETENCE FOR THE  
SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT  
STATE OF CALIFORNIA**

**In the Matter of the Dismissal of:**

**JEFFREY BRANDOW,**

**A Permanent Certificated Employee,**

**Respondent.**

**OAH No. 2023100051**

**DECISION**

This matter was heard by videoconference on June 3, 4, 6, 7, 10, and 11, 2024, before the Commission on Professional Competence for the San Luis Coastal Unified School District (Commission). The Commission consisted of Christopher Bourke, Matthew Hutsell, and Julie Cabos Owen, Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH), State of California. The San Luis Coastal Unified School District (District) was represented by Daniel M. McElhinney and Aislinn Roberts, Attorneys at Law, with Lozano Smith. Jeffrey Brandow (Respondent) appeared and was represented by David P. Myers and Justin M. Crane, Attorneys at Law with The Myers Law Group, APC.

## **PRE-TRIAL MOTIONS**

Prior to presentation of the evidence, Respondent made several pre-trial motions which were addressed as follows:

Respondent made a "Motion in Limine No. 1 to Exclude Untimely Allegations" (Motion in Limine #1), seeking to exclude all evidence regarding Jane Doe 6 as barred by the four-year statute. Motion in Limine #1 was heard by videoconference on February 1, 2024. For the reasons stated in the February 5, 2024 Ruling on Respondent's Motion in Limine #1, and as summarized in the Legal Conclusions, below, the ALJ granted Respondent's Motion in Limine #1 and excluded all evidence regarding Jane Doe 6.

Respondent made Motion in Limine #2 and Motion in Limine #3 to exclude evidence pertaining to Jane Does 5 and 4, respectively, based on unreasonable delay in providing derogatory information as set forth in Education Code section 44031. Respondent also made Motion in Limine #4 to exclude evidence regarding unprofessional conduct as set forth in Education Code section 44938. Motions in Limine #2, #3, and #4 were heard on June 3, 2024. For the reasons stated on the record and as set forth in the Legal Conclusions, below, the ALJ denied Motions in Limine #2, #3, and #4.

## **AMENDMENT TO STATEMENT OF CHARGES**

During the hearing, the First Amended Statement of Charges was amended by interlineation as follows: at paragraph 93 (Exhibit 1, p. A15, line 10), the date "2021" was changed to "2022."

## **PROTECTIVE ORDER ISSUED**

At the hearing, the Commission was provided with Exhibits 8 and 58 which contain confidential information protected from disclosure to the public. Redaction of the documents to obscure this confidential information was not practicable and would not have provided adequate privacy protection. To prevent the disclosure of confidential information, the ALJ issued a June 11, 2024 Protective Order placing Exhibits 8 and 58 under seal. These exhibits shall remain under seal and shall not be opened, except by order of OAH or by a reviewing court. A reviewing court, parties to this matter, their attorneys, or a government agency decision maker or designee under Government Code section 11517 may review the documents subject to this order provided that such documents are protected from release to the public.

## **PRESENTATION OF EVIDENCE AND BRIEFING**

Testimony and documentary evidence was received. The record was left open for the parties to submit closing and reply briefs. The District submitted its Closing Brief and its Reply, which were marked and lodged as Exhibits 60 and 61, respectively. Respondent submitted his Closing Brief and his Reply, which were marked and lodged as Exhibits BR-1 and BR-2, respectively. The matter was submitted for decision on July 26, 2024.

The Commission on Professional Competence considered the matter in executive session. After due consideration of the entire record herein, the Commission makes the following factual findings, legal conclusions, and order.

## **FACTUAL FINDINGS**

### **Parties and Procedural Background**

1. Respondent has been employed by the District since the 2012-2013 school year.

2. Respondent is a permanent certificated employee of the District. He is currently assigned to teach social studies for grades 9 through 12 at San Luis Obispo High School (SLOHS).

3. The students' age in Respondent's classes range from 14 to 18 years old.

4. Respondent has worked as a classroom teacher, coach, and athletic director (AD) at SLOHS. He also worked as a cooperating teacher during the 2021-2022 school year supervising a student teacher in his classroom.

5. Respondent also works at The Pumpkin Patch SLO, a local business his family owns. Respondent and his wife employed several SLOHS students at the Pumpkin Patch.

6. Respondent has one prior instance of unprofessional conduct in 2019. In January 2019, the District issued Respondent a written Conference Summary following his meeting with then Director of Human Resources, Christin Newlon. The Conference Summary reminded Respondent to refrain from engaging in unprofessional conduct and provided Respondent an excerpt of Board Policy 4119.21, which sets forth employees' Code of Conduct. The Conference Summary also "directed [Respondent] to do the following[:] 1. Behave in a professional manner in all of your interactions with

District personnel. 2. Review and follow all District Board Policies including 4119.21.” (Exhibit 34, p. A373.)

7. On October 17, 2022, the District received an anonymous report alleging Respondent engaged in inappropriate interactions with Jane Doe 1. (The alleged victims are identified herein as numbered Jane Does to protect their privacy.) In October 2022, SLOHS Principal Rollin Dickenson and Assistant Principal Desiree Dellinger met with Jane Doe 1. Over the ensuing weeks, Dickenson also met with several other students, Respondent and his union representative, and Dan Block, District Director of Human Resources since July 2021.

8. Dickenson and Block testified about their involvement in the early stages of the District’s investigation. Their testimony was straightforward, and they presented as credible witnesses.

9. During Dickenson’s October 2022 meeting with Jane Doe 1, she reported her text messages and verbal communications with Respondent. However, as set forth more fully below, she did not reveal the full extent of the texts between them. During Dickenson’s meetings, Jane Doe 1 and other students reported some, but not all, of the comments Respondent made in his classroom about how females were dressed. The District also determined Respondent had received at least one text message from Jane Doe 3.

10. Dickenson and Block recalled that, during Respondent’s interview with the District, he confirmed there were text messages between Jane Doe 1 and himself, but he insisted the texts were Pumpkin Patch work-related and not inappropriate. The District asked Respondent to turn over all texts between Jane Doe 1 and himself, but Respondent said he could not because he routinely deletes all texts.

11. After the October 2022 meeting, Jane Doe 1 and her family refused to cooperate with the District's investigation. They did not provide a reason for their reticence.

12. After numerous unsuccessful attempts to obtain Jane Doe 1's participation in the investigation, the District decided to conclude its investigation.

13. On December 29, 2022, pursuant to Education Code section 44938, the District issued Respondent a 45-day Notice alleging unprofessional conduct by sending and receipt of inappropriate texts with Jane Doe 1 and another unidentified female student (allegedly Jane Doe 3, but later proven to be another student).

14. After the 45-day notice was issued, the District discovered additional information. In about February or early March 2023, Jane Doe 1's family informed Block that their attorney was trying to contact him. In early March 2023, Block and District counsel, Dan McElhinney, met with Jane Doe 1, her attorney, and her parents. At that meeting, Jane Doe 1 provided a much more detailed account of the text messages between Respondent and herself, their interactions at The Pumpkin Patch, and Respondent's directing her to delete the text messages. At that meeting, the District first viewed a video recording of students reading one of the October 2022 text strings between Jane Doe 1 and Respondent. Neither Jane Doe 1 nor any other person had provided this information to the District during its October 2022 investigatory meetings.

15. After the March 2023 meeting, the District declined to seek another meeting with Respondent to discuss Jane Doe 1's additional information. The District doubted Respondent would be forthcoming with any further information because he previously denied wrongdoing and said he deleted all text messages.

16. After the March 2023 meeting, the District placed Respondent on paid administrative leave effective March 9, 2023.

17. After March 9, 2023, the District continued to discover additional allegations of misconduct against Respondent regarding his interactions with female SLOHS volunteers (Jane Does 4 and 5). The information was gleaned through news articles reported in the local press, and District counsel were tasked with following up on any new information.

18. On August 15, 2023, in his official capacity as Director of Human Resources for the District, Block filed the Statement of Charges (SOC) against Respondent. On August 17, 2023, the District served Respondent with a Notice of Intent to Dismiss (dated August 16, 2023) and the SOC. On March 4, 2024, in his official capacity, Block filed the First Amended Notice of Intent to Dismiss and Statement of Charges (ASOC), and these documents were thereafter served on Respondent.

19. Block testified credibly about the policies enacted by the District's Governing Board (Board) and the steps the District took prior to and after the issuance of the 45-day notice, the SOC, and the ASOC. Block signed the SOC on information and belief in his official capacity in consultation with the team investigating Respondent's alleged misconduct. The failure of the District to prove some of the alleged charges does not diminish Block's credibility in relating the procedural events and authenticating the policies of the Board. Additionally, while Block stated his opinions about Respondent violating Board policies, Block's opinions are not binding on the Commission which must independently determine whether Respondent violated policies based on the proven facts at hearing.

## **Board Policies and Training**

20. On July 12, 2012, Respondent signed a document entitled “New Employee Orientation/Mandated Notifications” which contained the following acknowledgement:

By signing below I acknowledge that I have received a copy of the following [District] documents and understand that they outline my privileges, obligations, and responsibilities as an employee of the District.

I further understand that I am accountable for the contents of the [District] documents and that it is my responsibility to familiarize myself with all information in these documents. I agree to comply with all responsibilities of employment.

(Exhibit 42, p. A451.)

21. Several District documents were listed in the “New Employee Orientation/Mandated Notifications,” including “Sexual Harassment Policy.” (Exhibit 42, p. A451.) Consequently, Respondent acknowledged receipt of the Sexual Harassment Policy and his responsibility to familiarize himself with that policy.

22. District employees are routinely notified of Board policies including those set forth below.

23. Board Policy BP4119.21 (Certificated) (adopted: April 15, 2003; Revised: July 19, 2018) provides, in pertinent part:

Code of Conduct



The Board of Education expects district employees to maintain the highest ethical standards, behave professionally, to follow district policies and regulations, and to abide by state and federal laws and exercise good judgment when interacting with students and other members of the school community. Employee shall engage in conduct that enhances the integrity of the district, advances the goals of the district's educational programs, and contributes to a positive school climate. [¶] . . . [¶]

#### Inappropriate Conduct

Inappropriate employee conduct includes, but is not limited to: [¶] . . . [¶]

2. Engaging in harassing or discriminatory behavior towards students, parents/guardians, staff, or community members, or failing or refusing to intervene when an act of discrimination, harassment, intimidation, or bullying against a student is observed.

(cf. 0410 - Nondiscrimination in District Programs and Activities) (cf. 4119.11/4219.11/4319.11 - Sexual Harassment) (cf. 5131.2 - Bullying) (cf. 5145.3 - Nondiscrimination/Harassment) (cf. 5145.7 - Sexual Harassment) [¶] . . . [¶]

6. Using profane, obscene, or abusive language against students, parents/guardians, staff, or community members.

[¶] . . . [¶]

9. Being dishonest with students, parents/guardians, staff, or members of the public, including, but not limited to, falsifying information in employment records or other school records.

(Exhibit 39.)

24. Board Policy BP4119.24/4219.24/4319.24 (adopted: October 20, 2020) provides, in pertinent part:

#### Maintaining Appropriate Adult-Student Interactions

The Governing Board desires to provide a positive school environment that protects the safety and well-being of district students. The Board expects all adults with whom students may interact at school or in school-related activities, including employees, independent contractors, and volunteers, to maintain the highest professional and ethical standards in their interactions with students both within and outside the educational setting. Such adults shall not engage in unlawful or inappropriate interactions with students and shall avoid boundary-blurring behaviors that undermine trust in the adult-student relationship and lead to the appearance of impropriety. (cf.

4119.21/4219.21/4319.21 - Professional Standards)

Employees are prohibited from entering into or attempting to form a romantic or sexual relationship with any student or engaging in sexual harassment of a student, including sexual advances, flirtations, requests for sexual favors, inappropriate comments about a student's body or appearance, or other verbal, visual, or physical conduct of a sexual nature. (cf. 5145.7 - Sexual Harassment)

Adults shall not intrude on a student's physical or emotional boundaries unless necessary in an emergency or to serve a legitimate purpose related to instruction, counseling, student health, or student or staff safety. [11] . . [11]

#### Inappropriate Conduct

Employees shall remain vigilant of their position of authority and not abuse it when relating with students. Examples of employee conduct that can undermine professional adult-student interactions or create the appearance of impropriety include, but are not limited to:

1. Initiating inappropriate physical contact
2. Being alone with a student outside of the view of others
3. Visiting a student's home or inviting a student to visit the employee's home without parent/guardian consent
4. Maintaining personal contact with a student that has no legitimate educational purpose, by phone, letter, electronic

communications, or other means, without including the student's parent/guardian or the principal When communicating electronically with students, employees shall use district equipment or technological resources when available. Employees shall not communicate with students through any medium that is designed to eliminate records of the communications. The Superintendent or designee may monitor employee usage of district technology at any time without advance notice or consent. (cf. 4040 - Employee Use of Technology)

(Exhibit 38.)

25. Board Policy BP 4030 (adopted: April 15, 2003; Revised: August 21, 2012, September 6, 2016, August 21, 2018, July 18, 2019, August 3, 2021, September 20, 2022, November 15, 2022, and May 2, 2023) provides, in pertinent part:

#### Nondiscrimination in Employment

The Governing Board is determined to provide a safe and positive environment where all district employees, are assured of full and equal employment access and opportunities, protection from harassment and intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. This policy shall apply to employees including interns, volunteers, job applicants and persons who contracted with the district to provide services, as applicable.

No district employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom an employee comes in contact in the course of employment. No district employee or job applicant shall be discriminated against or harassed on the basis of actual or perceived race, color, national origin, protective hairstyle, ancestry, religious creed, age, immigration status, marital status, pregnancy, reproductive health decision-making, physical or mental disability, medical condition, military and veteran status, gender, sex, sexual orientation, genetic information, gender expression, gender identity or association with a person or group with one or more of these actual or perceived characteristics (cf. 1312.3 - Uniform Complaint Procedures) [¶] . . . [¶]

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices including the following: [¶]  
. . . [¶]

3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities, or that has the purpose or effect of unreasonably interfering with the individual's work performance, or creating an intimidating, hostile, or offensive work environment (cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(Exhibit 40.)

26. Leslie O'Connor, former SLOHS principal (2011-2021) and current Secondary Director of Learning and Achievement (since 2021), testified credibly regarding the training provided to certificated staff. He confirmed that, when he was principal, teachers at SLOHS were required to complete sexual harassment prevention training each school year. He also confirmed that, in Fall 2022, all coaches, including Respondent, attended a Safe Sports Policy training session. The Safe Sports Policy training includes discussions of Board policies (e.g., the Board policy regarding appropriate student communications) and addresses expectations of how staff should conduct themselves with student athletes and communicate with families.

27. Respondent testified at the administrative hearing in an evasive and equivocal manner. He had to be admonished several times to focus on answering the questions asked. His responses to questions were vague, rambling, and incomplete, and his testimony in general appeared to be an attempt at misdirection. Respondent sought to paint himself in the most favorable light and to place blame on others. Additionally, many of Respondent's assertions were contradicted by the evidence (e.g., he insisted he did not use emojis, but his text messages contained numerous emojis). Consequently, the entirety of Respondent's testimony lacked credibility, and the Commission did not rely on Respondent's testimony unless corroborated by other credible evidence.

28. Specifically, regarding District policies and training, Respondent testified that he did not have any training on sexual harassment and that he is not familiar with Board policies. However, Respondent knew or should have known what proper behaviors were expected of him through his 2012 orientation materials which included a sexual harassment prevention handout, through annual sexual harassment training,

through distribution of Board policies, and eventually through the Safe Sports Policy training that included such information. Consequently, Respondent's assertion that he was unaware he should not engage in sexual harassment and other misconduct was not credible.

## **Respondent's Misconduct**

29. The ASOC alleges that Respondent engaged in misconduct with Jane Does 1, 2, 3, 4, 5, and 7. The alleged misconduct will be addressed below in chronological order of occurrence, rather than in the order discovered by the District (as set forth in the ASOC).

### **RESPONDENT'S MISCONDUCT WITH JANE DOE 5**

30. The facts regarding Jane Doe 5 were established by the credible testimony of Jane Doe 5 and Marci Beddall.

31. Jane Doe 5 testified in a forthright manner. She responded to questions with straightforward answers and admitted when she did not know an answer. Her testimony was corroborated by other evidence, and she presented as a credible witness.

32. Beddall served as the SLOHS Assistant AD when Respondent was AD. During the 2020-2021 school year, Beddall was appointed SLOHS AD, a position which she currently holds.

33. Beddall testified at the administrative hearing in a straightforward manner. She presented as a credible witness.

34. Beddall recalled interacting with Respondent and seeing him interact with other women, both on and off the SLOHS campus. She characterized Respondent as flirtatious.

35. During the 2019-2020 school year, while Respondent was AD, he directly supervised Jane Doe 5 who served as the walk-on coach for the SLOHS cheer and stunt teams. Jane Doe 5 was the married mother of SLOHS students.

36. On numerous occasions during the 2019-2020 school year, Respondent sent Jane Doe 5 text messages asking her to go out for drinks with him, sometimes with a group and sometimes alone. Once he sent her a picture of just his legs and a beer, with a text that stated, "Great day for a beer. You should come over." (Testimony of Jane Doe 5.) Jane Doe 5 declined Respondent's invitations because she did not think spouses should have outside relationships with the opposite gender. Jane Doe 5 described Respondent as "very flirty," and she felt that Respondent "just liked the chase and was maybe trying to have an affair."

37. On one occasion, at about 11:00 p.m., Respondent texted Jane Doe 5 while she was at home and Respondent was at a bar. Respondent asked Jane Doe 5 to pick him up from the bar. Respondent informed Jane Doe 5 that he had been out drinking with friends for his birthday, and his friends left him at the bar. Jane Doe 5 told Respondent to call his wife or order an Uber pick-up, but Respondent said he did not have an Uber account. Jane Doe 5 demanded Respondent stop communicating with her in such ways. She told him she would tell her husband and would go to the District to complain.

38. Respondent apologized, and he stopped texting her.



39. Respondent's testimony about his interactions with Jane Doe 5 was vague. He recalled he "sometimes said [let's] grab beer with other coaches," but when Jane Doe 5 said, "my husband does not like it," he apologized profusely and never reached out to her again about anything non-work related. Respondent did not rebut Jane Doe's credible testimony that he texted her at 11:00 p.m. and asked her to pick him up from a bar.

40. The ASOC, paragraphs 65 through 70, alleges Respondent made negative statements about Jane Doe 5 to incoming AD Beddall, and his comments resulted in Jane Doe 5's removal from her coaching position. The allegations in paragraphs 65 through 70 of the ASOC were not proven by a preponderance of the evidence. Rather, Beddall credibly testified that Jane Doe 5 was removed as a coach because the District wanted on-site (not walk-on) coaches and sought to employ a coach who had more stunt experience than Jane Doe 5, since stunt had become a CIF sport. Beddall also noted complaints by parents and students, and Jane Doe 5 acknowledged she was "a tough coach." Beddall's testimony was corroborated by the credible testimony of former SLOHS Principal Leslie O'Connor. Additionally, Jane Doe 5 admitted she had another employment opportunity at the time her SLOHS coaching contract was discontinued in 2021.

41. The ASOC, paragraph 71, alleges, "Jane Doe 5 experienced significant negative impacts as a result of Respondent's behavior including fear of other people finding out about his behavior." This allegation was not proven by the preponderance of the evidence. The evidence established no such negative impacts to Jane Doe 5.

42. Jane Doe 5's oral complaint about Respondent's inappropriate texting during the 2019-2020 school year was unknown to the District until Spring of 2021, when Jane Doe 5 had a meeting with Beddall about discontinuing her coaching

contract. Jane Doe 5 never provided the District with copies of Respondent's texts. In the Spring of 2021, Beddall forwarded Jane Doe 5's complaint about Respondent's inappropriate texts to the District's Human Resources department. However, the complaint was not placed in Respondent's personnel file, and Respondent was not questioned about it. Jane Doe 5's complaint was not investigated by the District until after the 45-day notice had been issued in December 2022, and after news articles appeared in the local press describing unnamed coaches' complaints about Respondent. Jane Doe 5 was contacted by the local press after the articles appeared, and she was later contacted by District counsel. Thereafter, the District filed the original SOC in August 2023.

#### **RESPONDENT'S MISCONDUCT WITH JANE DOE 4**

43. The facts regarding Jane Doe 4 were established by the credible testimony of Jane Doe 4 and Beddall.

44. Jane Doe 4 testified in a very straightforward manner. She had no personal agenda against Respondent, and she provided candid responses to questions. Her recollection of events was corroborated by other evidence, and she presented as a credible witness.

45. Jane Doe 4 graduated from SLOHS in 2016. During the 2019-2020 school year when she was approximately 21 years old, Jane Doe 4 served as a volunteer assistant athletic trainer at SLOHS.

46. During the 2019-2020 school year, Respondent asked Jane Doe 4 if she had a boyfriend, and when she said "no," he asked whether she was sexually active. He repeatedly texted her between 8:00 p.m. and 2:00 a.m., asking her to meet up for drinks after work hours or asking her to pick him up from a bar to give him a ride

home. Jane Doe 4 did not go out with Respondent alone. A couple times, Respondent suggested they meet off campus after work hours for a drink to discuss a possible paid contract for Jane Doe 4. Such meetings never took place. Jane Doe 4 felt Respondent's comments and conversations were "a little inappropriate [given] the power dynamic," with her "being a volunteer and him being AD."

47. The ASOC, paragraph 60 alleges, in part, "Respondent told Jane Doe 4 that if she would go out with him, he could make sure she was able to be paid by SLOHS." This allegation was not proven by a preponderance of the evidence.

48. Jane Doe 4 did not file any complaint against Respondent because she felt it would lessen her opportunity to work at SLOHS in the future.

49. Jane Doe 4 discontinued her volunteer position at the end of the 2019-2020 school year.

50. In early March 2021, Jane Doe 4 requested a meeting with Beddall to discuss a possible paid position as an assistant athletic trainer. She and Beddall met on March 5, 2021. During that meeting, Beddall told Jane Doe 4 that no paid position was available for her. Beddall brought up the issue of Respondent's text messages, and Jane Doe 4 was surprised Beddall was aware of Respondent's texts prior to their March 5, 2021 meeting. Jane Doe 4 confirmed Respondent's inappropriate behavior and texts with her during the 2019-2020 school year.

51. In emails from March 5 through 8, 2021, Beddall and then SLOHS Principal O'Connor sought to have a joint meeting with Jane Doe 4 to discuss Respondent's inappropriate behavior and texts. On March 6, 2021, Jane Doe 4 sent an email to O'Connor and Beddall stating, "I appreciate the effort to reach out and meet with me. Unless this is an employment opportunity, I respectfully decline meeting on

Monday morning.” (Exhibit J.) In emails through March 8, 2021, Jane Doe 4 continued to decline meeting with them.

52. The specific circumstances of Respondent’s inappropriate conduct with Jane Doe 4 during the 2019-2020 school year were unknown to the District until March 5, 2021, when Jane Doe 4 confirmed the texting and inappropriate conduct during her meeting with Beddall. Jane Doe 4 never provided the District with copies of Respondent’s texts. In March 2021, Beddall created a Google document about Respondent’s inappropriate conduct which she shared with then Principal O’Connor and forwarded to the District’s Human Resources Department. However, no documentation of Respondent’s inappropriate behavior with Jane Doe 4 was placed in Respondent’s personnel file, and Respondent was not questioned about his conduct. The District did not follow up on the Google document and did not investigate Respondent’s inappropriate behavior with Jane Doe 4 until after issuance of the 45-day notice in December 2022, and after news articles appeared in the local press reporting facts similar to Respondent’s conduct with Jane Doe 4. Jane Doe 4 did not initiate contact with the press. She was contacted by local press after the articles appeared. She was later contacted by District counsel around June 2023. Thereafter, the District filed the original SOC in August 2023. The Google document was later forwarded to District counsel.

### **RESPONDENT’S MISCONDUCT WITH JANE DOE 7**

53. The facts regarding Jane Doe 7 were established by the credible testimony of Jane Doe 7 and her daughter, Jane Doe 2, and by corroborating evidence.

54. Jane Doe 7 testified at the hearing. Her testimony was direct and candid. She presented as a credible witness.

55. Jane Doe 2 is a graduate of SLOHS. During the 2021-2022 school year, she was a junior in Respondent's class.

56. In about December 2021, Respondent asked Jane Doe 2 to come to his desk where he had Jane Doe 7's Instagram account displayed. (The evidence did not establish the device on which Respondent had the account displayed.) Jane Doe 7 posts Instagram pictures of her travels and herself wearing bikinis. Jane Doe 2 yelled, "That's my mom's Instagram!" Respondent replied, "Shhh!" Respondent asked Jane Doe 2 to give him Jane Doe 7's phone number. He said he wanted to meet Jane Doe 7 to talk about bartending at the hotel where Jane Doe 7 worked as a bartender. Jane Doe 2 provided Jane Doe 7's phone number to Respondent.

57. On December 10, 2021, Respondent texted Jane Doe 7, "[T]his is Jeff Brandow, [Jane Doe 2's] teacher. Hoping to stop by for a drink and say hello at some point this weekend." (Exhibit 10, p. A312.) Jane Doe 7 told him to come by and informed him she worked until 10:00 p.m.

58. On December 10, 2021, Respondent went to Jane Doe 7's place of employment and had a conversation with her. After she finished work, they began having a sexual relationship.

59. During the 2021-2022 school year, the bell schedule for SLOHS on Mondays was as follows: Period 1 - 9:30 a.m. to 10:24 a.m.; Period 2 - 10:31 a.m. to 11:25 a.m.; Period 3 - 11:32 a.m. to 12:33 p.m.; Period 4 - 1:15 p.m. to 2:09 p.m.; and Period 5 - 2:16 p.m. to 3:10 p.m. The bell schedule for SLOHS on Tuesdays through Fridays was as follows: Period 1 - 8:00 a.m. to 9:10 a.m.; Period 2 - 9:24 a.m. to 10:34 a.m.; Period 3 - 10:41 a.m. to 12:01 p.m.; Period 4 - 12:43 p.m. to 1:53 p.m.; and Period 5 - 2:00 p.m. to 3:10 p.m.

60. During the second trimester (November through March) of the 2021-2022 school year, Respondent's teaching assignment was U.S. History and Geography during Periods 1, 3, 4, and 5. Respondent's preparation period was Period 2 (Mondays 10:31 a.m. to 11:25 a.m.; Tuesdays-Fridays 9:24 a.m. to 10:34 a.m.) During Periods 1, 3, 4, and 5, Respondent was required to be in his classroom.

61. During Periods 3 and 5 of the second trimester of the 2021-2022 school year, Respondent also had a student teacher in his classroom working toward obtaining a credential. Respondent was the cooperating teacher, and he was expected to supervise the student teacher and provide feedback. Although a student teacher is gradually given more teaching responsibilities, SLOHS Principal Dickenson and former SLOHS Principal O'Connor credibly testified that the cooperating teacher is expected to remain in the classroom working with and supervising the student teacher during class time.

62. According to the Collective Bargaining Agreement (CBA) between the District and certificated staff, secondary teachers are expected to be on site for "7 hrs. and 40 min., including half-hour lunch." (Exhibit 32, p. A365.) Dickenson, O'Connor, and Block all credibly testified that SLOHS teachers are on paid status during their preparation periods and are expected to use their preparation periods for class preparation. The CBA also provides:

#### Secondary Preparation Period

Each regular, full-time middle and high school classroom teacher shall be afforded preparation periods equivalent to a class, consistent in length with the master schedule cycle of classes for the site. Preparation periods shall be used for

professional, job related work including preparation for classes, preparation of teaching materials, and conferences with administrators, staff, counselors, students, and parents. During the scheduled preparation period, unit members shall not normally be expected to perform pupil supervision or classroom teaching duties. However, they may be required to do so in emergencies, or where another unit member is absent and no substitute is readily available to cover the assignment or when needed to cover for a teacher who is engaged in assigned athletic or other extra-curricular activities[.]

(Exhibit 32, p. A368.)

63. Teachers occasionally left the SLOHS campus during their preparation periods for various reasons, including getting supplies for class or getting coffee. They also occasionally left for banking, veterinarian appointments, and other personal appointments. However, O'Connor credibly testified that teachers were expected to inform the assistant principal or someone in the District's main office when they left campus in order to ensure the District could account for all staff during an emergency.

64. From December 2021 through April 2022, Respondent left the SLOHS campus regularly during work hours to meet Jane Doe 7 at her apartment to have sex. He did not inform anyone at the main office about his absences from campus.

65. On December 11, 2021, Respondent and Jane Doe 7 began texting on a near daily basis to coordinate when they would meet each other during Respondent's workday. The text messages indicated Respondent was leaving campus during his

Period 2 preparation period and during Period 3 class time when he should have been supervising his student teacher. Examples of text messages Respondent sent to Jane Doe 7 are set forth below. (Respondent and Jane Doe 7 exchanged thousands of text messages during the months of their sexual relationship. However, only a few exemplars were provided as evidence at hearing.)

66. On December 13, 2021, Respondent texted Jane Doe 7 at 2:49 p.m., "I literally work 2-3 hours a day. Lots of free time/time off." (Exhibit 11.) At 2:54 p.m., in response to Jane Doe 7's invitation to come by between 6:00-11:00 p.m., Respondent texted, "Well I really really wanna fuck you senseless, so I'll try. Free everyday rest of week for sure." (*Ibid.*) At 3:03 p.m., Respondent texted, "50/50 on tonight. I'm for sure free rest of week/during the day." (*Ibid.*) At 3:17 p.m., Respondent texted, "I have a 2-3 hour window everyday from like 9-noon when I can be free and everyday after 2. I only teach 8-9:10 and 12:30-2 p.m." (Exhibit 11.)

67. On Thursday, December 16, 2021, at 9:05 a.m., Jane Doe 7 texted Respondent, "Wanna get naked at 1030???" (Exhibit 12.) Respondent stated he was covering another teacher's class, but informed her, "I think I can be free like 11ish. . . I'll try and bail on work. Should be fine." (*Ibid.*) The 11:00 arrival time fell during Respondent's Period 3 class time.

68. The night of December 20, 2021, Respondent and Jane Doe 7 arranged to meet on Tuesday, December 21, 2021, at 10:00 a.m. On December 21, 2021, at 9:52 a.m., Respondent texted Jane Doe 7, "Waiting for my student teacher. He had a doctor's appointment and should be here soon. I'll head over when he gets here." (Exhibit 13.) At 10:06 a.m., Respondent texted Jane Doe 7, "Headed that way in 10 min." (*Ibid.*) Respondent visited Jane Doe 7 at the end of his Period 2 prep and



through a part of his Period 3 class time. At 11:59 a.m., Respondent texted, "Great to [see you] as always. I'm ready for a nap now. [two emojis]." (*Ibid.*)

69. On January 10, 2022, Respondent and Jane Doe 7 arranged to meet between 9:00 a.m. and 12:15 on Tuesday, January 11, 2022. Respondent texted, "I'll be over 9-9:30. Free till 12:15, can come back later as wel[l]. . . . Well I gotta work 8-9:10 am, I have first period with your daughter. So I can come over before or after." (Exhibit 14.) When Jane Doe 7 asked whether Respondent would return to work after they met on Tuesday, Respondent texted, "I work 2 hours a day, think I can manage." (*Ibid.*) Respondent's proposed arrival and departure times fell during his Period 2 preparation period through the end of his Period 3 class time.

70. On January 11, 2022, at 4:12 p.m., Respondent texted Jane Doe 7, "You will see me 9:30-noon tomorrow and again after 2 pm." (Exhibit 15.) However, at 5:36 p.m., Respondent texted Jane Doe 7, "My student teacher has Covid. That's why fuck! I will have to cover the classes. GOD DAMN IT." (Exhibit 16.) Respondent assured Jane Doe 7 he would see her on Wednesday, January 12, 2022, stating, "I'll be free 9:15-10:30, lunch and at 3:30, I'm gonna see u." (*Ibid.*) Respondent's proposed free time between 9:15 to 10:30 a.m. fell during his Period 2 preparation time.

71. On January 17, 2022, Respondent texted Jane Doe 7 to arrange to meet the next day (Tuesday, January 18) stating, I should be free 9:30-12:30, and again around 2:30. Student teacher . . . hasn't texted me [back] though." (Exhibit 17.) Respondent's proposed arrival and departure times fell during his Period 2 preparation time through the end of his Period 3 class time.

72. On Friday, February 4, 2022, in response to a text from Jane Doe 7, Respondent texted, "Sorry have been actually teaching. . . . Me leaving work isn't

actually ok. I'm doing it to prioritize you." (Exhibit 18.) At 9:59 a.m., Respondent texted, "Be there in 5 min." (*Ibid.*) Respondent visited Jane Doe 7 during his Period 2 preparation time through his Period 3 class time. At 12:23 p.m., Respondent texted Jane Doe 7, "Fun morning. I smell like you." (*Ibid.*)

73. On Wednesday, February 9, 2022, at 9:37 a.m., Respondent texted Jane Doe 7, "I'll be by in a bit." (Exhibit 19.)

74. On Thursday, February 10, 2022, at 7:47 a.m., Respondent texted Jane Doe 7, "I am free 9:15-Noon." (Exhibit 20.) He later confirmed he could visit her at 9:45 a.m. (*Ibid.*) Respondent's proposed arrival and departure times fell during his Period 2 preparation time through the end of his Period 3 class time.

75. On Friday, February 11, 2022, Respondent texted Jane Doe 7, "I have work till 10:25. I have to cover my friend[']s 2nd period class. [emoji]. . . . I am free 10:30-12ish." (Exhibit 21.) He later texted, "I'll be by 10:30ish." (*Ibid.*) Respondent visited Jane Doe 7 that morning and left before 1:10 p.m. Respondent's arrival and departure times fell at the end of his Period 2 preparation time through the end of his Period 3 class time.

76. During the second trimester of the 2021-2022 school year, O'Connor became concerned when he observed Respondent leaving the SLOHS campus repeatedly during the workday. The SLOHS campus can be accessed by a road running alongside the District offices where O'Connor worked. Consequently, O'Connor noticed Respondent driving off campus at varying hours and on more occasions than other teachers. O'Connor reported his concerns to the SLOHS administration, including Dickenson and Assistant Principals Dellinger and Julie Mamo.

77. On February 18, 2022, Mamo met with Respondent at SLOHS. During the meeting, Mamo notified Respondent he had been seen on several occasions leaving the campus during the workday. Respondent admitted leaving campus but did not tell her the actual reason for his absences.

78. In a February 18, 2022 email to Dickenson, not copied to Respondent, Mamo wrote:

I met with [Respondent] on Friday, Feb. 18, 2022. We discussed his schedule regarding his student teacher:

Periods 1 and 4 - Jeff Teaches

Periods 3 and 5 - Co Teaches

He understands that he must remain on campus Periods 1 - 5. If essential to leave, he may leave campus during his 2nd period Prep.

(Exhibit 28.)

79. Paragraph 96 of the ASOC alleges, "Respondent . . . told Ms. Mamo he was leaving campus to take his son to extracurricular activities. Ms. Mamo reminded Respondent that he needs to be on campus teaching his classes and with the student teacher. Respondent responded that he understood this directive and the District's policies." Mamo did not testify at the hearing to confirm what was specifically said during her meeting with Respondent on February 18, 2022. Consequently, the allegations in paragraph 96, set forth above, were not established by a preponderance of the evidence.

80. After meeting with Mamo on February 18, 2022, Respondent understood he could leave campus during his preparation period for essential reasons, but he would have to stay on campus for his other class periods.

81. After February 18, 2022, Respondent continued to leave the SLOHS campus during work hours to meet Jane Doe 7.

82. During the third trimester (March through June) of the 2021-2022 school year, Respondent's schedule changed. Respondent's teaching assignment was U.S. History and Geography during Periods 1, 2, 3, and 4. His preparation period was Period 5. Additionally, he no longer had a student teacher in his classroom. During Periods 1, 2, 3, and 4, Respondent was required to be in his classroom.

83. During the third trimester, Respondent continued to leave the SLOHS campus during his Period 5 preparation period to see Jane Doe 7.

84. On Monday, March 28, 2022, Respondent texted Jane Doe 7 to inform her that he would be at her apartment around "2:20-2:30." (Exhibit 24.) This arrival time frame was during Respondent's Period 5 preparation time.

85. On Thursday, April 28, 2022, Respondent texted Jane Doe 7, "I'll come over 1:30-1:50ish. Whenever I can get away." (Exhibit 22.) This arrival time frame was during the end of Respondent's Period 4 class through the beginning of Respondent's Period 5 preparation time.

86. At the hearing, Respondent admitted he left the SLOHS campus during the workday, three to four times per week, to have sex with Jane Doe 7 at her apartment. Respondent insisted he was never told he could not leave campus during his preparation period. He claimed that the standard practice is that "teacher prep

time [was] to be used how teachers saw fit.” He did not credibly explain how regularly leaving campus during work hours to engage in a sexual relationship with a student’s mother was an appropriate, “professional, job related” way to use his preparation time. Respondent begrudgingly admitted he also left campus during his Period 3 class time. However, he insisted the Period 3 student teacher held an emergency substitute teaching credential and could teach the class independently. Respondent did not credibly explain why he never reported to the District either his absences or the “substitute” teaching during class time for which Respondent was being paid. Respondent refused to admit that regularly leaving campus during his preparation and class times to engage in a sexual relationship with Jane Doe 7 was improper, despite his texts to Jane Doe indicating his awareness of the impropriety of his conduct (e.g., “Me leaving work isn’t actually ok.”).

87. Paragraphs 98 and 99 of the ASOC allege that, as a result of Respondent’s relationship with Jane Doe 7, he gave Jane Doe 2 an “A” in his class despite her transcript showing lower grades in her other classes that trimester. The allegations in paragraphs 98 and 99 were not proven by a preponderance of the evidence.

## **RESPONDENT’S MISCONDUCT WITH JANE DOE 2**

88. The facts regarding Jane Doe 2 were established by the testimony of Jane Doe 2 and another former female SLOHS student, P.S., and by corroborating evidence. (The student’s initials are used to protect her privacy.)

89. Jane Doe 2 testified in a generally credible manner except where specifically noted. She admitted that, when she was initially interviewed by the District in Fall 2022, she felt bad for Respondent and did not want to ruin his life, so she lied

and denied Respondent ever made inappropriate comments about female student's bodies in his classroom. However, she confirmed that her testimony under oath at the hearing was truthful.

90. P.S. testified in a straightforward and solemn manner. She presented as a credible witness.

91. Jane Doe 2 is a graduate of SLOHS. She was 17 years old in June 2022, and she turned 18 before her graduation in 2023.

92. In June 2022, Respondent and Jane Doe 2's mother, Jane Doe 7, had been involved in a sexual relationship for several months. Jane Doe 2 agreed to babysit for Respondent on June 11, 2022. On June 10, 2022, Respondent texted Jane Doe 2, and he informed her she could "swim/layout in the backyard" while babysitting. Respondent also texted Jane Doe 2, "[smiley emoji] have a good night. Don't get too drunk. [two laughing emojis]. Thanks for babysitting." (Exhibit 7, p. A247.)

93. On June 11, 2022, after 12:45 p.m., Jane Doe 2 went to Respondent's home to babysit his children and other children who were staying at his house. P.S. helped Jane Doe 2 babysit that day.

94. Respondent, his wife, and two other adults left to go wine tasting.

95. On June 11, 2022, at 1:05 p.m., Respondent texted Jane Doe 2, "How bad are your hickeys??? Damn." (Exhibit 7, p. A246.) Later that afternoon, Respondent texted Jane Doe 2, "Go in the pool/hot tub. Kids are fine. They don't need you to hold their hands. . . . Thanks girl. Appreciate you. Your hickeys are still terrible. [laughing emoji]." (*Ibid.*)

96. Paragraph 52 of the ASOC alleges that “Jane Doe 2 did not respond to [Respondent’s] attempts to get her to talk about hickeys she had on her neck” because “Respondent’s behavior made Jane Doe 2 uncomfortable.” Jane Doe 2 testified Respondent’s comments made her uncomfortable because that was the first time she had hickeys, and she was embarrassed. However, P.S. testified that Jane Doe 2 often joked with her friends about her hickeys. The dates of their conversations were not established by the evidence. The preponderance of the evidence did not establish the allegations in paragraph 52.

97. On June 11, 2022, P.S. left Respondent’s home for another appointment before the adults returned. Later that evening, Respondent and one other adult returned home from wine tasting.

98. As Respondent and Jane Doe 2 were standing in Respondent’s home talking, Respondent asked Jane Doe 2 if she was wearing a bathing suit under her clothing. Jane Doe 2 began to feel uncomfortable. Respondent asked Jane Doe 2 why she did not go into the pool.

99. Respondent then asked Jane Doe 2 when she turned 18. Jane Doe 2 thought it was a strange question since Respondent had recently celebrated her 17th birthday with her. She felt uncomfortable. However, the context and tone of Respondent’s question were not established by the preponderance of the evidence.

100. Respondent then initiated physical contact with Jane Doe 2. Respondent testified he tapped Jane Doe 2 on her shoulder and tugged her shirt. Jane Doe 2 testified Respondent tugged on the belt loop of her shorts. The specific physical contact was not established by the preponderance of the evidence. However, the

evidence established Respondent engaged in some physical contact with Jane Doe 2's clothing that made her feel uncomfortable at that moment.

101. Respondent then left his home, and Jane Doe 2 continued babysitting the children.

102. After the June 11, 2022 babysitting incident, Jane Doe 2 texted Jane Doe 7, who was in Italy. Jane Doe 2 informed her mother there was an incident with Respondent while babysitting that made her uncomfortable, and they would talk about it when Jane Doe 7 returned home. After Jane Doe 7 returned home, Jane Doe 2 provided her with the details of Respondent's actions that made her feel uncomfortable. Jane Doe 2 told Jane Doe 7 that Respondent was "being creepy" and she did not want to be alone with him again.

103. Paragraphs 42 through 44 of the ASOC allege that Respondent gave Jane Doe 2 \$500 in cash as "an apology" for his behavior and that he purchased numerous gifts for Jane Doe 2 and Jane Doe 7. The allegations in paragraphs 42 through 44 were not established by a preponderance of the evidence.

104. Jane Doe 7 and Respondent continued to have a sexual relationship until the end of July 2022.

105. In numerous text messages after June 11, 2022, Respondent informed Jane Doe 2 that Jane Doe 7 was mad at him. Respondent asserted in the texts that Jane Doe 7 was angry because Respondent was supposed to pick up Jane Doe 7 from the airport after her international trip and he had asked Jane Doe 2 to pick her up instead.



106. Jane Doe 7 confirmed she was angry at Respondent but explained her anger arose when she learned Respondent “made a pass at” her daughter. Jane Doe 7 was particularly upset because Respondent’s conduct toward Jane Doe 2 occurred after Jane Doe 7 and Respondent had engaged in a sexual relationship for many months. Jane Doe 7 admitted she wanted to “destroy” Respondent at that point. However, her extreme anger about the situation does not diminish her credibility because other evidence corroborated her testimony.

107. Despite the June 11, 2022 incident, Jane Doe 2 and Jane Doe 7 accepted Respondent’s help filling out Jane Doe 2’s college applications.

108. On August 3, 2022, Respondent texted Jane Doe 7, “Now you are ‘gonna go to the school board’[?]” (Exhibit 26.) Jane Doe 7 responded, “Fuck off jeff. I’m not eating more time on your lies. It’s over.” (*Ibid.*) Respondent texted, “SO YOU GO TO THE SCHOOL BOARD THIS WILL HAPPEN 1. I will be out on [p]aid leave 2. The district will hire a lawyer to look at every text between us. 3. I will lose my job 4. Every detail/ picture text etc. will be published and put in a report and go to the media. Do not do this [Jane Doe 7]. It is going to ruin my life. And hurt you. [Jane Doe 2.] My kids. Stop it.” (*Ibid.*)

### **RESPONDENT’S INAPPROPRIATE COMMENTS IN CLASS AND ON BREAKS**

109. The facts regarding Respondent’s inappropriate classroom comments were established by the credible testimony of P.S., Jane Doe 2, and Jane Doe 3.

110. Jane Doe 3 is a graduate of SLOHS. She was a senior during the 2022-2023 school year. She testified in an even and candid manner, and she presented as a credible witness.

111. During the 2021-2022 school year and the first trimester of the 2022-2023 school year, students spent their breaks and lunch time in Respondent's classroom. Respondent was known among students as the "cool teacher" and the "kick back surfer" teacher who "wanted to be more of a friend than a teacher." (Testimony of P.S. and Jane Doe 3) This characterization of Respondent was corroborated by a video P.S. took of Respondent in his classroom during the 2021-2022 school year. Respondent overheard P.S. and her friends bantering during class about growing up to be "country club moms," and he joked, "If you're gonna be a country club mom, you gotta start exercising more." P.S. asked to video record him saying that, and he allowed her to do so, smiling while repeating the joke. (Exhibit 6.)

112. Throughout the 2021-2022 school year and Fall 2022, during class time and lunch time in Respondent's classroom, Respondent made inappropriate comments about female students' bodies. For example, when the weather was hot and the female students wore short shorts, tank tops, or tube tops, Respondent often commented, "It's a tits-out, ass-out type of day." (Testimony of P.S. and Jane Doe 2.) Respondent told the female students he liked the warm weather when girls wore short shorts. When a female student wore a crop top, Respondent would ask, "Where is the rest of your shirt?" (Testimony of Jane Doe 2.) When the weather was cold, Respondent would tell female students, "I can see your nipples." (Testimony of P.S. and Jane Doe 2.) Once when Jane Doe 2 was wearing a push-up bra, her friends commented that her boobs looked bigger, and Respondent agreed Jane Doe 2's "boobs look bigger." (Testimony of Jane Doe 2.) Respondent also asked Jane Doe 2 if she had lost her virginity yet. (*Ibid.*)

## **RESPONDENT'S MISCONDUCT WITH JANE DOE 1**

113. Jane Doe 1 testified at the administrative hearing about the inappropriate texts between her and Respondent. Jane Doe 1's credibility was questionable. Jane Doe 2 and P.S. characterized Jane Doe 1 as dishonest, and P.S. noted that Jane Doe 1 said she was "scared" and was going to show only selected and edited texts to the District because Respondent was to blame as the adult. Jane Doe 1 also has a motivation to be untruthful in her testimony in light of the civil lawsuit she filed against Respondent and the District. Consequently, her testimony was unreliable to establish the facts regarding her interactions with Respondent.

114. As noted above, Respondent's testimony in general lacked credibility. Specifically, regarding Jane Doe 1, Respondent's testimony that he tried to stop her from texting him was belied by his actions, as he kept responding to her texts in a manner that encouraged further communication. Respondent did not attempt to block Jane Doe 1's texts or notify administrative staff. Consequently, Respondent's testimony was unreliable to establish the facts of his interactions with Jane Doe 1.

115. The facts regarding Jane Doe 1, set forth below, are only those established by credible evidence, including the credible testimony of P.S., Jane Doe 2, Jane Doe 3, and corroborating evidence.

116. Jane Doe 1 is a graduate of SLOHS. She was a 17-year-old senior during the 2022-2023 school year.

117. Respondent's cell phone number was readily known to numerous SLOHS students, including Jane Doe 2 and Jane Doe 3.

118. On an unknown date before October 7, 2022, Jane Doe 1 obtained Respondent's cell phone number.

119. Jane Doe 1 expressed interest in working at Respondent's family's Pumpkin Patch. Prior to October 7, 2022, Jane Doe 1 texted Respondent about working at The Pumpkin Patch asking, "What do you even do[?]" Respondent answered, "Smile. Sell pumpkins. Make \$." Jane Doe 1 texted, "What I'm best at [winking emoji]" Respondent answered, "Flirt." (Exhibit 2.)

120. On the evening of October 7, 2022, Jane Doe 1 and Respondent sent several texts to each other.

121. The evidence depicting the content of Jane Doe 1 and Respondent's texts is incomplete because Jane Doe 1 deleted and edited some parts of the text string, including texts and photos, prior to production to the District. (Exhibit 3.) However, a portion of the unabridged text exchange was captured in a video recording showing Jane Doe 1's cellphone screen. (Exhibit 4.) The evidence established that the October 7, 2022 text exchange between Jane Doe 1 and Respondent occurred as set forth below.

122. On October 7, 2022, in response to an unviewable text from Jane Doe 1, Respondent sent a "face palm" emoji. Jane Doe 1 then sent Respondent a smiling picture of herself with the camera angled downward to capture her face and chest. Respondent texted, "See you at work tomorrow girl! [star eyes smiley face emoji]." Jane Doe 1 texted, "Yes you will! Bring me a beer in a water bottle. Would ya." Respondent answered, "So many things I want to say." Jane Doe texted, "What do you mean, say them." Jane Doe then switched the topic to her working at The Pumpkin Patch on October 8, asking Respondent when he would be there, and he informed her, "330ish. Thanks girl! Appreciate you." There are several additional texts between them

where Respondent answers Jane Doe 1's texts at least four more times, but the content of these texts is unreadable. (Exhibits 3 and 4.)

123. Respondent testified he sent the "palm face" and "star eyes smiley face" emojis and the text, "so many things I want to say," as a way of telling Jane Doe 1 to stop texting him. This assertion is disingenuous and devoid of credibility. No reasonable person would construe these emojis and the "so many things I want to say" text as a way of telling the student to stop texting. Respondent had several opportunities to specifically tell Jane Doe 1 to stop texting him but instead continued the conversation until their inappropriate texting was discovered.

124. During the weekend of October 7, 2022, two SLOHS students hosted a house party attended by other SLOHS students. Jane Doe 1 attended the party and showed some of her friends the text messages she exchanged with Respondent. Students at the party made a video recording of Jane Doe 1's cellphone screen showing the text messages. The text messages then became a source of gossip among SLOHS students.

125. Jane Doe 1 worked at The Pumpkin Patch on the morning of Saturday, October 8, 2022. That morning, Respondent drove SLOHS students to Santa Barbara for basketball games, and he did not arrive at The Pumpkin Patch until after 3:30 p.m.

126. Jane Doe 1 and Respondent worked at The Pumpkin Patch on Sunday morning, October 9, 2022. While at The Pumpkin Patch, Respondent confronted Jane Doe 1 about their text conversations. Respondent asked Jane Doe 1, "Are you trying to get me fired?"

127. Paragraph 19 of the ASOC alleges, Respondent then made Jane Doe 1 change his name in her phone from "Daddy Brandow" to "Thomas." This allegation was

not proven by a preponderance of the evidence. Although Jane Doe 1 changed Respondent's contact name in her phone from "Daddy Brandow" to "Thomas," the preponderance of the evidence did not establish she did so on Respondent's demand.

128. By Monday, October 10, 2022, Jane Doe 2 heard student rumors about the text messages between Respondent and Jane Doe 1. That morning, Jane Doe 2 went to Respondent's classroom to tell him about the rumors and that students were circulating screen shots. She joked with Respondent, "You may want to get a lawyer because other students told [her the texts] were inappropriate messages." (Testimony of Jane Doe 2.) Respondent "freaked out." (*Ibid.*) Respondent told her she could be pulled in for questioning by the principal, and he asked her, "What are you going to say? This could go badly for me." Jane Doe 2 recalled, "His tone of voice was 'please protect me.'" Respondent told Jane Doe 2 to pull out her cellphone and delete the text messages between him and her. Jane Doe 2 complied.

129. When Jane Doe 2 left Respondent's classroom, she immediately called and told her mother, Jane Doe 7, what Respondent instructed her to do. Jane Doe 7 told Jane Doe 2 to retrieve the deleted text messages between Respondent and Jane Doe 2. Jane Doe 2 recovered and took screen shots of her texts with Respondent.

130. Paragraph 24 of the ASOC alleges that Respondent asked Jane Doe 2 how to delete messages from his phone, and he directed her to delete the messages between him and Jane Doe 1. These allegations were not proven by a preponderance of the evidence.

131. That same day, October 10, 2022, at 12:16 p.m., Respondent texted Jane Doe 1, "Please come to my classroom immediately." Jane Doe 1 responded, "Why," and

Respondent texted, "It's important." Jane Doe 1 again asked, "Why. I'm in class." (Lunch started at 12:34 p.m.) Respondent repeated, "It's important." (Exhibit 5.)

132. Jane Doe 1 did not go to Respondent's classroom immediately. However, after lunch, as she and Jane Doe 3 were walking by Respondent's classroom to enter their ceramics class in the classroom next to his, Respondent told them to step into his classroom.

133. The preponderance of the evidence did not establish Respondent ever grabbed Jane Doe 1's wrist.

134. Jane Doe 1 and Jane Doe 3 entered Respondent's classroom as he instructed. Jane Doe 3 recalled Respondent appeared extremely stressed, which differed from his typical, calm, "kick back at the beach" demeanor. Respondent did not yell at them, but he raised his voice and demanded that they delete his contact information and all of his text messages from their phones. At that point, Jane Doe 3 was aware of the text messages between Respondent and Jane Doe 1, but Jane Doe 3 had not seen them. Jane Doe 3 told Respondent, "I barely ever text you. I text my advisors more, [but] out of respect, I will delete them." (Testimony of Jane Doe 3.) Jane Doe 1 and Jane Doe 3 left Respondent's classroom. While walking into their ceramics class, Jane Doe 3 deleted Respondent's contact information and text messages from her cellphone.

135. On or after October 10, 2022, P.S. went to Respondent's classroom to discuss the texts between him and Jane Doe 1. Respondent told her that his texts to Jane Doe 1 meant, "You should not be texting me like this." (Testimony of P.S.) P.S. trusted Respondent and believed his explanation at that time. Respondent mentioned the investigation into his conduct, and he told P.S. that Jane Doe 1 was "going after"

him, and his students “should be on his side.” P.S. believed Respondent wanted his students “to agree with everything he has done,” “defend him and his reputation,” and “stand up for him, not [Jane Doe 1].”

136. Despite his testimony asserting his innocence, Respondent could not credibly explain why he declined to report Jane Doe 1’s texting to the District or provide the texts to the District. Respondent did not credibly explain why, on October 10, 2022, he still had Jane Doe 1’s cellphone number after purportedly deleting her texts and why he texted Jane Doe 1 to meet him so he could tell her to delete their texts. His agitation and actions on October 10, 2022, were not indicative of someone who had engaged in innocent behavior, but rather were the apparent efforts of someone striving to cover up misconduct.

### **RESPONDENT’S DISHONESTY**

137. When District personnel interviewed Respondent before issuing the 45-day notice in December 2021, Respondent maintained the text message chain between Jane Doe 1 and himself was appropriate. Respondent informed District personnel he deleted the entire text message chain in accordance with his regular practice of deleting all iMessage conversations. However, Respondent showed Dickenson some of the non-incriminating texts relating to students working at The Pumpkin Patch. Respondent did not explain to District personnel why he declined to report Jane Doe 1’s texting to the District, why he continued texting Jane Doe 1 on October 10, 2022, and why Jane Doe 1’s contact number remained on his phone.

138. When District personnel confronted Respondent with his text to Jane Doe 1 stating “so many things I want to say,” Respondent deceitfully explained he was conveying to Jane Doe 1 that he was upset. As noted above, no reasonable person



would construe “so many things I want to say” as a way of telling the student he was upset or that he wanted her to stop texting. Respondent had already texted, “Flirt” and other messages to Jane Doe 1, and he had numerous opportunities to tell Jane Doe 1 to stop texting him, but he continued the conversation until his misconduct was discovered.

139. During the initial stage of the District’s investigation, Block, Dickenson, and Dellinger interviewed P.S. She acknowledged there were texts between Jane Doe 1 and Respondent, but she withheld information about the party where the video recording of Jane Doe 1’s phone was made. P.S. also acknowledged there were conversations in Respondent’s classroom about girls’ prom dresses, but she offered no additional information about Respondent’s inappropriate comments. P.S. was “hesitant to share” information at that time because she “was not sure . . . whose side [she] should be on,” and she thought she “did something wrong and would be punished.”

140. During the initial stage of the District investigation, Dickenson, Dellinger, and another man she did not recognize (likely Block) interviewed Jane Doe 2. She was asked about the text messages between Jane Doe 1 and Respondent and about comments Respondent made during class. Jane Doe 2 lied and said Respondent “was a good guy” and did not make inappropriate comments in class. She lied to protect Respondent because she noticed Respondent started wearing his wedding ring again after the rumors of the texts came out. Jane Doe 2 did not want Respondent to get into any more trouble. She later decided to testify truthfully because she realized what happened “was not right” and she “did not want anyone else to go through that.”

141. Respondent’s efforts to get Jane Doe 1, Jane Doe 2, and Jane Doe 3 to delete his contact information and all text messages between him and them prevented the District from determining the full extent of Respondent’s text messaging with

students. Additionally, Respondent's manipulation of impressionable teenage students to stand up for him, thus prompting their initial evasive and dishonest responses to the District, prevented the District from determining the extent of Respondent's misconduct in the classroom.

142. Respondent was dishonest with District administrators when they asked about his interactions with Jane Doe 1. Respondent was also dishonest by engaging in efforts to avoid detection of his misconduct, including deleting the text messages on his cellphone and asking Jane Doe 1, Jane Doe 2, and Jane Doe 3 to delete text messages from their cellphones.

143. Respondent was also dishonest in leaving the SLOHS campus regularly during paid work hours (preparation time and class time) for non-work-related reasons which he did not disclose to Mamo or the District.

144. As discussed above, Respondent continued his dishonesty during his testimony, which was replete with his refusal to admit his proven misconduct, denials of his efforts to hide text messages, and disingenuous explanations of his text messages and other misconduct.

### **VIOLATION OF BOARD POLICIES**

145. Respondent repeatedly violated Board Policy BP4119.21 by failing to: "maintain the highest ethical standards," "behave professionally," "exercise good judgment when interacting with students and other members of the school community," and "engage in conduct that enhances the integrity of the district." Instead, Respondent exercised poor judgment by regularly leaving campus during paid work hours to engage in a sexual relationship with a student's mother. Respondent

engaged in “harassing behavior towards” Jane Doe 4 and 5, used “profane, obscene . . . language” with students in his classroom, and was “dishonest with [District] staff.”

146. Respondent violated Board Policy BP4119.24 in failing to maintain appropriate adult-student interactions with students, as evidenced by his text messages with Jane Doe 1 and Jane Doe 2, his physical contact with Jane Doe 2, and his inappropriate comments to female students in his classroom. Respondent failed to “maintain the highest professional and ethical standards in [his] interactions with students both within and outside the educational setting.” Instead, Respondent engaged in “inappropriate interactions with students” including “boundary-blurring behaviors that undermine trust in the adult-student relationship and lead to the appearance of impropriety.” Respondent engaged in the “sexual harassment” of students, including “flirtations,” “inappropriate comments about a student's body or appearance,” and “maintaining personal contact with a student that has no legitimate educational purpose, by . . . electronic communications . . . without including the student's parent/guardian or the principal.” Respondent inappropriately “communicat[ed] electronically with students,” on his cellphone that has the means to “eliminate the records of communications” rather than on recommended “[D]istrict equipment.”

147. Respondent violated Board Policy BP 4030 by harassing his co-workers, Jane Doe 4 and Jane Doe 5, and creating an offensive work environment for them.

## **Publicity and Impact on District and Students**

148. After March 2023, numerous news articles about Respondent’s inappropriate behavior with Jane Doe 1 and other unnamed students and staff appeared in the local press. These included: a July 8, 2023 article titled, “SLO High

School's former athletic director accused of sexual misconduct, on leave" (Exhibit 50); a July 11, 2023 article titled, "SLO coach allegedly pursued underage student, left on the job" (Exhibit 51); a July 12, 2023 article titled, "SLO High School teacher, basketball coach on leave after misconduct allegations" (Exhibit 48); a July 20, 2023 article titled, "SLO High School coach on paid leave over alleged inappropriate behavior with student" (Exhibit 43); a September 5, 2023 article titled, "San Luis High School's long history of covering up sexual misconduct" (Exhibit 52); a September 19, 2023 article titled, "Emails expose SLO High School's failure to protect students" (Exhibit 53); a November 14, 2023 article titled, "Former San Luis Obispo High School teacher, school district face lawsuit over alleged sexual harassment" (Exhibit 49); a November 16, 2023 article titled, "Lawsuit against former SLO High coach details years of sexual harassment allegations" (Exhibit 44); a November 7, 2023 article titled, "Police: No criminal case against former SLO High coach accused of sexual harassing student" (Exhibit 45); a November 14, 2023 article titled, "Former SLO High School student sues over alleged sexual misconduct" (Exhibit 54); a December 6, 2023 article titled, "California coach was considered for promotion after girl accused him of harassment, emails show" (Exhibit 46); and a February 22, 2024 article titled, "SLO school district says it's not liable for sexual harassment by former basketball coach" (Exhibit 47). Additionally, an online attorney advertisement during the same time frame stated, "We are currently accepting potential claims for review involving allegations of inappropriate verbal and physical harassment by former San Luis Obispo High School coach, Jeff Brandow. If you or someone you know was a victim of such alleged harassment, contact our offices." (Exhibit 55.)

149. Several District administrators and students testified credibly at the administrative hearing regarding the impact of Respondent's behavior on the students and the District.

150. Jane Doe 3 testified Respondent's conduct and numerous news articles have changed the way she previously viewed relationships, and she questions if she let comments go over her head. She noted she was 17 when Respondent told her to delete texts, and "when an adult tells you to do something, you do it." This has affected her ability to trust.

151. P.S. testified that when Respondent's actions became public and the news articles came out, her "whole belief" changed, and she became uncomfortable about Respondent's conduct.

152. Dickenson noted educators typically receive a high degree of trust. However, since Respondent's misconduct came to light, "that trust has been challenged," and parents and students have vocalized their concerns and doubts about whether students are safe at SLOHS.

153. Block testified the intense news coverage significantly affected the District, its staff, and its students, particularly students at SLOHS. Staff and students are now "in a position where students are questioning who is a trusted adult."

154. Several witnesses indicated that the school community relationships have become fragmented.

## **LEGAL CONCLUSIONS**

### **Jurisdiction**

1. The Commission has jurisdiction to proceed in this matter pursuant to Education Code section 44944. (Factual Findings 1, 2, and 18.)

## **Burden of Proof**

2. The District has the burden of proof in this matter since it is seeking to dismiss Respondent from employment as a certificated employee. The standard of proof is preponderance of the evidence. (*Gardiner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1040.)

## **Motions in Limine**

### **MOTION IN LIMINE #1 – STATUTE OF LIMITATIONS – JANE DOE 6:**

3. Among other things, the SOC alleged, and the ASOC alleges and attaches exhibits incorporated by reference to establish, Respondent engaged in misconduct regarding Jane Doe 6, a member of the local press covering school sports, until she filed a request for restraining order on August 7, 2018, and obtained a restraining order against Respondent on August 22, 2018. The SOC and ASOC do not indicate when and how the District became aware of Respondent's alleged misconduct with Jane Doe 6.

4. Respondent sought to preclude all allegations and evidence pertaining to Jane Doe 6 by arguing they are time barred pursuant to the Education Code.

5. Education Code section 44944, subdivision (b)(2)(A), provides:

Testimony shall not be given or evidence shall not be introduced relating to matters that occurred more than four years before the date of the filing of the notice, except in one of the following circumstances:

(i) Testimony or evidence regarding allegations of behavior or communication of a sexual nature with a pupil that is beyond the scope or requirements of the educational program . . . may be introduced in a disciplinary proceeding . . . where such allegations have been substantiated through an investigation or proceeding, or for which the employee was subject to discipline or other form of penalty.

(ii) Testimony or evidence regarding allegations of an act described in Section 288 of the Penal Code with respect to a pupil of any age, Section 288.3 of the Penal Code, Section 44010 of this code, or Sections 11165.2 to 11165.6, inclusive, of the Penal Code may be introduced in any disciplinary proceeding.

6. The allegations regarding Jane Doe 6 involve matters that occurred before August 7, 2018, which is more than four years before the August 16, 2023 date of the filing of the original notice of intent to dismiss and SOC. The allegations regarding Jane Doe 6 do not involve behavior or communication of a sexual nature with a pupil, and the District has not established any exceptions to the four-year bar.

7. In its Opposition, the District maintained the doctrine of equitable estoppel applies to overcome the four-year bar.

8. The California Supreme Court, in *Atwater v. Dept. of General Services* (*Atwater*) (2007) 41 Cal.4th 227, held the four-year time limitation is not absolute. A district meeting the requirements of equitable estoppel could be allowed to introduce

evidence of, and base its dismissal proceedings on, incidents falling outside the four-year window. (*Atwater, supra*, 41 Cal. 4th at p. 233.)

9. The doctrine of equitable estoppel generally requires the establishment of four elements: (1) the party to be estopped must be apprised of the facts; (2) the party to be estopped must intend or reasonably believe that their conduct will be acted upon, or must act such that the party asserting the estoppel had a right to believe it was so intended; (3) the party asserting the estoppel must be ignorant of the true state of facts; and (4) the party asserting the estoppel must actually rely upon the other party's conduct to their detriment or injury. (*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 489; *Chaplis v. County of Monterey (Chaplis)* (1979) 97 Cal. App. 3d 249, 258.)

10. "Mere silence would not create estoppel unless the silent party was under some obligation to speak, and a party invoking such estoppel must show that it was the duty of the other to speak, that he has been induced to act by reason of the silence, and that the silent party had reasonable cause to believe that he would so act." (*Chaplis, supra*, 97 Cal. App. 3d at p. 262.)

11. "More specifically, to overcome an apparent limitations bar, the plaintiff claiming delayed discovery of the facts constituting the cause of action has the burden of setting forth pleaded facts to show ""(1) the time and manner of discovery and (2) the inability to have made earlier discovery despite reasonable diligence. The burden is on the plaintiff to show diligence, and conclusory allegations will not withstand demurrer."" (*Czajkowski v. Haskell & White, LLP* (2012) 208 Cal. App. 4th 166, 175.

12. In attempting to establish equitable estoppel, the District contended in its Opposition, "Not only did Respondent instill fear into Jane Doe 6, which very likely



deterred her from coming forward, he also actively concealed his sexual harassment of Jane Doe 6 from the District. The District relied on the fact that there were no reports of Respondent's misconduct relating to Jane Doe 6 and did not discover that Respondent had been engaging in such misconduct until the Cal Coast News article was published in July of 2023. The principle of equitable estoppel clearly applies in this matter because through his concealment to the District and intimidation of Jane Doe 6, Respondent actively concealed his misconduct, which left the District only being able to discover it outside of the four-year time limit." (Opposition, p. 5.)

13. The District fails to establish that equitable estoppel should be applied in this case to admit evidence of Respondent's alleged misconduct with Jane Doe 6. The District's speculative assertion that Respondent's alleged misconduct "very likely deterred [Jane Doe 6] from coming forward" is insufficient. The SOC and ASOC do not allege, nor did the District make an offer of proof, that Respondent actively deterred Jane Doe 6 from reporting his harassment to the District. The SOC and ASOC do not allege, nor did the District make an offer of proof, that Respondent engaged in any specific conduct, which the District reasonably relied upon, to prevent the District from discovering Respondent's alleged misconduct with Jane Doe 6. Rather, in its Opposition, the District asserts Respondent concealed his misbehavior and the District relied on his silence. As noted in *Chaplis*, mere silence cannot establish estoppel unless Respondent had an obligation to speak, and the District did not establish Respondent had a duty to report his alleged misconduct. Furthermore, the SOC and ASOC do not allege, nor did the District make an offer of proof, that it employed reasonable diligence to discover Respondent's alleged misconduct with Jane Doe 6 before August 2023.

14. Given the foregoing, Respondent's Motion in Limine #1 was granted, and any evidence pertaining to Jane Doe 6 was excluded.

**MOTIONS IN LIMINE #2 AND #3 – ED. CODE § 44031 AND *MILLER V. CHICO***

15. Respondent filed Motion in Limine #2 and #3 to exclude evidence pertaining to Jane Doe 5 and Jane Doe 4, respectively, on grounds that the SOC's allegations related to Jane Doe 5 and Jane Doe 4 contain derogatory information concerning Respondent which the District relied on to terminate Respondent's employment but which was not provided to Respondent for review and response before serving him with the Notice of Intent to Dismiss, as required by Education Code section 44031 and *Miller v. Chico Unified School District* (1979) 24 Cal.3d. 703 (*Miller*).

16. Education Code section 44031, subdivision (b)(1) provides, in pertinent part;

Information of a derogatory nature shall not be entered into an employee's personnel records unless and until the employee is given notice and an opportunity to review and comment on that information. The employee shall have the right to enter, and have attached to any derogatory statement, his or her own comments.

17. Analyzing the requirements of Education Code section 44031, the California Supreme Court in *Miller* reasoned:

[P]ursuant to [Ed. Code 44031,] a school [employee] must be permitted to review and comment on derogatory written material compiled and maintained by a school district even

though the material has not been properly placed in his personnel file. A school board cannot avoid the requirements of section 44031 by putting derogatory written material in another file not designated "personnel file" and by such a process of labelling prevent the [employee] from reviewing and commenting upon allegations directed against him.

Moreover, in order to enforce the mandate of section 44031, we construe the provision to prohibit a school board from basing any employment decision on its analysis of derogatory information unless the board has notified the employee of such derogatory information and has afforded him an opportunity to comment upon it.

(*Miller, supra*, 24 Cal.3d. 703 at p. 707.)

18. However, the *Miller* court indicated a school board's consideration of derogatory material alone does not prevent it from acting on it; the material must be a crucial element in the school board's decision. Specifically, the *Miller* court noted, "The school board apparently did improperly consider some derogatory information in reaching its decision to reassign plaintiff. Because the trial court did not decide whether the improper material was a crucial element in the board's decision, we remand the case to the trial court for that determination." (24 Cal. 3d 703, 707.)

19. *Miller* and Education Code section 44031 address the use of derogatory written material compiled and maintained by a school district even though the material has not been properly placed in a personnel file. In this case, prior to taking

evidence at hearing, it was not yet clear what derogatory material, if any, was reduced to writing (including electronic writings), and maintained in a file other than Respondent's personnel file. Prior to taking evidence at hearing, it was also not clear what, if any, derogatory material the District relied on as a crucial element in its decision to issue the original Notice of Intent to Dismiss. These facts must be established by the evidence, after the record is opened. The Commission was tasked with determining: (1) if there were any derogatory writings on which the District relied and were crucial to the District's decision to issue the August 2023 Notice of Intent to Dismiss, and (2) whether such writing was not properly placed in Respondent's personnel file or he was not notified of it and afforded an opportunity to comment before the District acted on it. Given the foregoing, Respondent's Motions in Limine #2 and 3 were denied.

20. As set forth in the Factual Findings, Beddall created a shared Google document containing information about Respondent's inappropriate conduct with Jane Doe 4. The evidence did not establish what specific derogatory information was contained in that Google document. Beddall shared the Google document with then Principal O'Connor and forwarded it to the District's Human Resources Department. Beddall also forwarded Jane Doe 5's complaint about Respondent to the District's Human Resources Department. No documentation of Respondent's inappropriate behavior with Jane Doe 4 or Jane Doe 5 was placed in Respondent's personnel file, and Respondent was not questioned about it. However, the District did not follow up on the Google document or Jane Doe 5's complaint, and the District did not rely on the Google document or Jane Doe 5's complaint as crucial factors in the District's decision to issue the August 2023 Notice of Intent to Dismiss. The District did not investigate Respondent's inappropriate behavior with Jane Doe 4 or Jane Doe 5 until well after the 45-day notice was issued in December 2022 and after July 2023 news articles appeared

in the local press reporting facts similar to Jane Doe 4's and Jane Doe 5's situations with Respondent. District counsel did not contact Jane Doe 4 or Jane Doe 5 until after the news articles appeared. The Google document was not forwarded to District counsel until after the District filed the original SOC in August 2023.

21. Since the District did not base any employment decision about Respondent on its analysis of the purported derogatory information in the Google document or Jane Doe 5's complaint, the allegations regarding Jane Doe 4 and Jane Doe 5 are not barred.

#### **MOTION IN LIMINE #4 – 45-DAY NOTICE OF UNPROFESSIONAL CONDUCT**

22. Respondent filed Motion in Limine #4 to exclude evidence regarding unprofessional conduct based on the District's failure to provide notice of unprofessional conduct as set forth in Education Code section 44938.

23. Education Code section 44938 provides, in pertinent part:

(a) The governing board of any school district shall not act upon any charges of unprofessional conduct unless at least 45 calendar days prior to the date of the filing, the board or its authorized representative has given the employee against whom the charge is filed, written notice of the unprofessional conduct, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his or her faults and overcome the grounds for the charge. [¶] . . . [¶]

(c) . . . “Unprofessional conduct” as used in this section means, and refers to, the unprofessional conduct particularly specified as a cause for dismissal or suspension in Sections 44932 and 44933 and does not include any other cause for dismissal specified in Section 44932.

24. On December 29, 2022, the District gave Respondent a 45-day Notice of Unprofessional Conduct regarding Respondent’s conduct with Jane Doe 1 and Jane Doe 3. The SOC was filed August 15, 2023, and the Notice of Intent to Dismiss was issued August 16, 2023, more than 45 days from the December 2022 Notice of Unprofessional Conduct. However, the original SOC also alleged Respondent’s unprofessional conduct regarding Jane Doe 2, Jane Doe 4, and Jane Doe 5, and the ASOC added allegations of unprofessional conduct regarding Jane Doe 7. The December 2022 Notice of Unprofessional Conduct did not specifically mention Jane Doe 2, Jane Doe 4, Jane Doe 5, or Jane Doe 7, and the District did not provide separate 45-day Notices of Unprofessional Conduct regarding Jane Doe 2, Jane Doe 4, Jane Doe 5, or Jane Doe 7. Therefore, the District “shall not act upon any charges of unprofessional conduct” for Jane Doe 2, Jane Doe 4, Jane Doe 5, or Jane Doe 7.

25. Nevertheless, the ASOC does not only allege unprofessional conduct, but based on the same facts, alleges additional grounds for dismissal (i.e., immoral conduct, evident unfitness, dishonesty, etc.) regarding all individuals with Jane Doe designations. The lack of 45-day notice would not be a jurisdictional bar to those additional grounds. Consequently, Motion in Limine #4 was denied, and no evidence was excluded based on the asserted lack of notice regarding Jane Doe 2, Jane Doe 4, Jane Doe 5, and Jane 7, because the proven facts may give rise to grounds for dismissal which do not require the 45-day notice.

## Causes for Dismissal

### PERSISTENT VIOLATION OF REASONABLE REGULATIONS OF THE DISTRICT

26. Education Code section 44932, subdivision (a)(8), provides grounds for dismissal of a teacher based on "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 or by the governing board of the school district employing him or her."

27. To dismiss a teacher under Education Code section 44932, subdivision (a)(8), for violations of law or school rules, the violations must be either "persistent" or "motivated by an attitude of continuous insubordination." (*Gov. Board of Oakdale Union School District v. Seaman* (1972) 28 Cal.App.3d 77, 81.) The word "persistent" has been interpreted to mean "stubborn" or "continuing or constant." (*San Dieguito Union High School District v. Commission on Professional Competence* (1985) 174 Cal.App.3d 1176, 1183; *Governing Board of the Oakdale Union School District v. Seaman* (1972) 28 Cal.App.3d 77, 82 (*Seaman*).) Additionally, a single violation of a school board's rules is insufficient cause for dismissal; it is the persistent disregard of school rules that the law is designed to regulate. (*Seaman*, 28 Cal.App.3d at p. 84.)

28. In this case, Respondent engaged in the persistent violation of Board policies, including Board Policy BP4119.21 (with Jane Doe 4 and Jane Doe 5), Board Policy BP4119.24 (with Jane Doe 1, Jane Doe 2, and other students), and Board Policy BP 4030 (with Jane Doe 4 and Jane Doe 5.)

29. Cause for dismissal of Respondent exists under Education Code section 44932, subdivision (a)(8), based on his persistent violation of the reasonable regulations prescribed for the government of the public schools by the governing

board of the District. (Factual Findings 1 through 147; Legal Conclusions 15 through 28.)

### **WILLFUL REFUSAL TO PERFORM REGULAR ASSIGNMENTS**

30. Education Code section 44939 provides grounds for dismissal of a teacher based on “willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing school district.”

31. To dismiss a teacher for “willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing school district,” the teacher’s refusal to perform his regular assignment must have been “willful.” In the context of a public employee’s insubordination or “willful” misconduct, the term insubordination “carries a volitional coloration which excludes the notion of accidental or even negligent conduct. . . [and] insubordination, equally with willful misconduct, requires proof of intent or willfulness. The latter elements imply that the person knows what he is doing and intends to do what he is doing.” (*Coomes v. State Personnel Bd.* (1963) 215 Cal. App. 2d 770, 775.) Consequently, a willful refusal to perform a regular assignment must be more than an unsatisfactory, unprofessional, negligent, or even persistent failure to perform a regular assignment. Instead, it must be an intentional, volitional refusal to perform any part of a regular assignment.

32. Although Respondent unreasonably left his students with an unsupervised student teacher numerous times per week for several months, the preponderance of the evidence failed to establish Respondent willfully left his class uncovered and intentionally refused to perform any part of his assignment.



33. No cause for dismissal of Respondent exists under Education Code section 44939, based on willful refusal to perform regular assignments without reasonable cause as prescribed by reasonable rules and regulations of the District. (Factual Findings 1 through 147; Legal Conclusions 30 through 32.)

### **UNPROFESSIONAL CONDUCT**

34. Education Code section 44932, subdivision (a)(2), provides grounds for dismissal of a teacher based on unprofessional conduct.

35. "Unprofessional conduct" as used in Education Code section 44932, subdivision (a)(2), 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 Education v. Swan* (1953) 41 Cal.2d 546, 553.)

36. In this case, Respondent engaged in conduct unbecoming of a teacher in good standing when he exchanged inappropriate texts (including "Flirt") with Jane Doe 1 and allowed the text messaging to continue instead of taking steps a reasonable teacher should take to terminate the inappropriate contact. Additionally, Respondent's dishonesty with District administrators when they asked about his interactions with Jane Doe 1 and his deceitful efforts to avoid detection of his misconduct, including deleting the text messages on his cellphone, constitute unprofessional conduct.

37. Cause for dismissal of Respondent exists under Education Code section 44932, subdivision (a)(2), based on unprofessional conduct with Jane Doe 1 and his dishonesty with the District. (Factual Findings 1 through 28, 113 through 138, 142, and 144; Legal Conclusions 22 through 25, and 34 through 36.)

## **DISHONESTY**

38. Education Code section 44932, subdivision (a)(4), provides grounds for dismissal of a teacher based on dishonesty.

39. Respondent was dishonest with District administrators when they asked about his interactions with Jane Doe 1. Respondent was also dishonest when he engaged in efforts to avoid detection of his misconduct, including deleting the text messages on his cellphone and asking Jane Doe 1, Jane Doe 2, and Jane Doe 3 to delete text messages from their cellphones. Respondent was also dishonest when he regularly left the SLOHS campus during paid work hours (preparation time and class time) for non-work-related reasons which he did not disclose to Mamo or the District.

40. Cause for dismissal of Respondent exists under Education Code section 44932, subdivision (a)(3), based on dishonesty. (Factual Findings 1 through 147; Legal Conclusions 22 through 25, 38, and 39.)

## **IMMORAL CONDUCT**

41. Education Code section 44932, subdivision (a)(1), provides grounds for dismissal of a teacher based on immoral conduct.

42. "'Immoral' [conduct] 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." (*Board of Education of the San Francisco Unified School District v. Weiland* (1960) 179 Cal. App.2d 808, 811 (*Weiland*).)

43. "Immoral conduct" has been compared to moral turpitude, which "is sometimes used synonymously with 'dishonesty' or a high degree of unfairness." (*Weiland*, 179 Cal.App.2d 808, 811.)

44. Respondent engaged in immoral conduct (i.e., conduct "showing moral indifference to the opinions of respectable members of the community," and "inconsiderate attitude toward good order") when he made highly inappropriate comments about female students' bodies in his classroom, when he asked Jane Doe 4 about being sexually active, and when he regularly left campus during paid work hours to engage in a sexual affair with a student's mother. Respondent further engaged in immoral conduct (i.e., dishonesty) when: he was dishonest with District administrators about his interactions with Jane Doe 1; he engaged in efforts to avoid detection of his misconduct, including deleting the text messages on his cellphone and asking Jane Doe 1, Jane Doe 2, and Jane Doe 3 to delete text messages from their cellphones; and he regularly left the SLOHS campus during paid work hours (preparation time and class time) for non-work-related reasons which he did not disclose to the District.

45. Cause for dismissal of Respondent exists under Education Code section 44932, subdivision (a)(1), based on immoral conduct. (Factual Findings 1 through 147; Legal Conclusions 15 through 25, 41 through 44.)

### **ANALYSIS OF RESPONDENT'S FITNESS TO TEACH**

46. In order to dismiss a teacher for immoral conduct, unprofessional conduct, or dishonesty, the teacher's conduct must indicate the teacher is unfit to teach. (*Morrison v. State Board of Education* (1969) 1 Cal.3d 214 (immoral conduct

must indicate an unfitness to teach); *Perez v. Com. on Professional Competence* (1983) 149 Cal.App.3d 1167, 1174 (unprofessional conduct must also indicate an unfitness to teach); *Fontana Unified School District v. Burman* (1988) 45 Cal.3d 208, 220, fn. 12 (dishonesty must also indicate a teacher's unfitness to teach).)

47. The Commission has broad discretion to determine what constitutes unfitness to teach. (*California Teachers Ass'n v. State of California* (1999) 20 Cal.4th 327.)

48. In analyzing fitness to teach, it must be kept in mind that a teacher is regarded as a role model for students, as noted by several courts:

"The calling (of a teacher) is so intimate, its duties so delicate, the things in which a teacher might prove unworthy or would fail are so numerous that they are incapable of enumeration in any legislative enactment. 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 matters of major concern in a teacher's selection and retention." (*Board of Education v. Weiland*, 179 Cal.App.2d 808, [. . .] citing from *Goldsmith v. Board of Education*, 66 Cal.App.157, 168[.] )

There are certain professions which impose upon persons attracted to them responsibilities and limitations on freedom of action which do not exist in regard to other

callings. Public officials such as judges, policemen and schoolteachers fall into such a category.

As between a teacher and his student, "(a)n important part of the education . . . is the instilling of a proper respect for authority and obedience to necessary discipline. Lessons are learned from example as well as from precept." (*Johnson v. Taft School Dist.*, 19 Cal.App.2d 405, 408, 65 P.2d 912.) And as our Supreme Court said in *Board of Education v. Swan*, 41 Cal.2d 546, at 552 [ . . . ], "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 (students) coming under his care and protection."

(*Board of Trustees v. Stubblefield* (1971) 16 Cal.App.3d 820, 824-825; *San Diego Unified School Dist. v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1463-1464.)

49. As set forth in *Morrison v. State Board of Education* (1969) 1 Cal.3d 214 (*Morrison*), a teacher's conduct cannot be abstractly characterized as "immoral," or "unprofessional," thus warranting discipline, "unless that conduct indicates that [Respondent] is unfit to teach." (*Id.* at 229.) *Morrison* enumerates eight criteria for analysis of whether a teacher is unfit to teach. Not all *Morrison* factors must be met for the *Morrison* test to be satisfied. (*Governing Board v. Haar* (1994) 28 Cal.App.4th 369.) It is sufficient when the most pertinent *Morrison* factors have been considered. (*West Valley-Mission Community College Dist. v. Concepcion* (1993) 16 Cal.App.4th 1766, 1777.) Moreover, the *Morrison* analysis need not be conducted on each individual fact

established, but rather can be applied to the accumulated facts established collectively. (*Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1457.)

50. As set forth below, the *Morrison* criteria are applied to the case at hand, addressing immoral conduct, unprofessional conduct, and dishonesty as grounds for dismissal.

51. The first factor enumerated by *Morrison* is “the likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity anticipated.” (*Morrison, supra*, 1 Cal.3d at p. 229.) In this case, Respondent’s misconduct had adverse emotional impacts on several students, on District staff, and the school community. Respondent developed a negative on-campus and community standing affecting his fitness for service as a teacher. Additionally, Respondent’s dishonesty had an adverse impact on his relationship with District administration, thereby fostering a lack of trust and confidence in him, and thus rendering him unfit for service as a teacher.

52. The second factor enumerated by *Morrison* is “the proximity or remoteness in time of the conduct.” (*Morrison, supra*, 1 Cal.3d at p. 229.) Respondent’s misconduct with Jane Doe 4 and Jane Doe 5 occurred during the 2019-2020 school year. He continued to engage in misconduct through October 2022, including making inappropriate comments about female students’ bodies; regularly leaving campus during paid work hours for non-work-related reasons, which he did not disclose to the District; inappropriate texting with Jane Doe 1; dishonesty with District administrators about his interactions with Jane Doe 1 and engaging in efforts to avoid detection of his misconduct by deleting the text messages on his cellphone and asking Jane Doe 1, Jane Doe 2, and Jane Doe 3 to delete text messages from their cellphones.

Respondent's misconduct occurred almost continuously for several years until at least October 2022, and is therefore proximate in time. Respondent continued his dishonesty throughout his testimony at this administrative proceeding, thus further demonstrating his unfitness to serve as a teacher.

53. The third factor enumerated by *Morrison* is "the type of credential held by the person involved." (*Morrison, supra*, 1 Cal.3d at p. 229.) Respondent holds a credential authorizing him to teach grades 9 through 12. Respondent's credential provides him the ability to exert influence over and act as a role model for teenagers. Respondent's credential also provides him with the chance to interact with female students and female co-workers. Respondent's proven misconduct and unprofessional interactions with female students and staff demonstrate his unfitness to teach using the credential he holds. The type of credential held by Respondent is inapplicable to the analysis of whether his dishonesty renders him unfit to teach. However, dishonesty is an undesirable trait for any teacher, regardless of the credential held.

54. The fourth factor enumerated by *Morrison* is "the extenuating or aggravating circumstances surrounding the conduct." (*Morrison, supra*, 1 Cal.3d at p. 229.) In this case, there are no extenuating circumstances for Respondent's misconduct. However, in aggravation: (1) Respondent regularly left campus during paid work hours to engage in a sexual affair with a student's mother (Jane Doe 7) whom he met after viewing her Instagram account in class and asking her daughter (Jane Doe 2) for her phone number; (2) Respondent continued to regularly leave campus during paid work hours to engage in his sexual relationship with a student's mother after being counseled by administrators; (3) Respondent engaged in his inappropriate conduct despite his years of teaching experience and training to the contrary; (4) Respondent sought to cover up his misconduct with Jane Doe 1, deleting

all text messages, and enlisting Jane Doe 1, Jane Doe 2, and Jane Doe 3 in the cover-up; and (5) Respondent affirmed his prior falsehoods during testimony, compounding his prior deceitfulness with additional duplicity under oath. These aggravating circumstances support a finding that Respondent is unfit to teach.

55. The fifth factor enumerated by *Morrison* is "the praiseworthiness or blameworthiness of the motives resulting in the conduct." (*Morrison, supra*, 1 Cal.3d at p. 229.) There is nothing praiseworthy about Respondent's conduct. Respondent's conduct can only be viewed as blameworthy. Respondent sought to engage in unprofessional and improper communications and interactions with female co-workers and students, and he regularly left campus during paid work hours to have a sexual relationship with his student's mother. There is also nothing praiseworthy about Respondent's dishonesty. Instead, Respondent's self-serving motivation for his dishonesty is obviously blameworthy. The foregoing supports a finding that Respondent is unfit to teach.

56. The sixth factor enumerated by *Morrison* is "the likelihood of the reoccurrence of the questioned conduct." (*Morrison, supra*, 1 Cal.3d at p. 229.) In this case, Respondent ceased texting Jane Doe 1 after their inappropriate text messaging came to light. However, Respondent has an extended history of seeking female attention (from Jane Doe 4, Jane Doe 5, Jane Doe 7, Jane Doe 2, and Jane Doe 1), despite knowing the impropriety of his actions. Respondent also continued his sexual relationship with Jane Doe 7 during paid work hours despite being called into a meeting with the vice principal to address his leaving campus and despite his knowledge of the indiscretion of this behavior (e.g., his text to Jane Doe 7, "Me leaving work isn't actually ok"). Given Respondent's continual misconduct over several years despite possible negative repercussions, and given Respondent's efforts to cover up



his wrongdoing, there is a significant possibility of recurrence of misconduct. Additionally, Respondent continued his dishonesty from Fall 2022 (with District administrators) through his misleading testimony to the Commission at hearing. Respondent's steadfast adherence to falsehoods, even while under oath and faced with contrary evidence, demonstrated his propensity for deceit and tainted his entire testimony such that virtually none of his statements were reliable. Consequently, Respondent's deceitfulness is likely to recur. The foregoing likelihood of recurrence of Respondent's misconduct and dishonesty supports a finding that Respondent is unfit to teach.

57. The seventh factor enumerated by *Morrison* is "the extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers." (*Morrison, supra*, 1 Cal.3d at p. 229.) In this case, there is no evidence that disciplinary action would inflict an adverse impact or chilling effect on Respondent's or other teachers' constitutional rights. No case law was presented to establish a teacher has the constitutional right to engage in inappropriate comments in class, unacceptable texting with a teenage student, or unwanted communications with co-workers, or to leave campus during paid work hours to engage in a sexual relationship with a student's mother. No authority was presented to establish a teacher has a constitutional right to be dishonest with his employing District, and then to continue his deceitfulness under oath. Moreover, teachers fall within a class of professions "which impose upon persons attracted to them, responsibilities and limitations on freedom of action which do not exist in regard to other callings." (*Board of Trustees v. Stubblefield*, 16 Cal.App.3d 820, 824-825; *San Diego Unified School Dist. v. Commission on Professional Competence*, 94 Cal.App.4th 1454, 1463-1464.) Consequently, there is no constitutional concern to

weigh against the imposition of discipline for Respondent's misconduct and dishonesty.

58. The last factor enumerated by *Morrison* is "the publicity or notoriety given to the conduct." (*Morrison, supra*, 1 Cal.3d at p. 229.) As noted by the Court in *Board of Trustees v. Stubblefield, supra*, 16 Cal.App.3d at p. 826, a teacher may be discharged where his conduct "has gained sufficient notoriety so as to impair his on-campus relationships." In this case, the publicity and notoriety given to Respondent's misconduct has been significant, and it has negatively impacted his on-campus relationships with District staff and with students. Given the publicity and notoriety of this case, the impairment to Respondent's relationships with his students and colleagues will likely continue. The foregoing supports a finding that Respondent has been rendered unfit for service as a teacher.

59. Analysis of Respondent's conduct applying the *Morrison* criteria establishes Respondent's unfitness to teach. (Factual Findings 1 through 154; Legal Conclusions 46 through 58.)

### **EVIDENT UNFITNESS FOR SERVICE**

60. Education Code section 44932, subdivision (a)(6), provides grounds for dismissal of a teacher based on evident unfitness for service.

61. "Evident unfitness for service" as used in Education Code section 44932, subdivision (a)(6), has been defined by the Court in *Woodland Joint Unified School Dist. v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444-1446, as follows:

“Evident unfitness for service” . . . means “clearly not fit, not adapted to[,] or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies.”

[Footnote.] 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. [¶] . . . [¶]

Our conclusion does not mean that the criteria for unfitness set out in *Morrison v. State Board of Education* . . . may be disregarded where “evident unfitness for service” is at issue. These criteria must be analyzed to determine, as a threshold matter, whether the cited conduct indicates unfitness for service. (*Board of Education v. Jack M.* (1977) 19 Cal.3d 691, 696.) If the *Morrison* criteria are satisfied, the next step is to determine whether the “unfitness” is “evident”; i.e., whether the offensive conduct is caused by a defect in temperament.

62. In this case, Respondent engaged in misconduct over several years. He texted female coworkers after work hours with unwanted requests to meet at, or to pick him up from, bars at night. Respondent’s colleagues describe him as flirtatious, apparently liking “the chase,” and seemingly seeking an extra-marital affair. Respondent later obtained Jane Doe 7’s phone number from her daughter during Respondent’s class time when he was looking at Jane Doe 7’s Instagram account. For several months, Respondent regularly left campus during paid work hours to engage in a sexual relationship with his student’s mother. In addition to indiscrete actions with

adults, Respondent engaged in unacceptable interactions with students. His inappropriate comments and conduct with students allowed them to feel they could text him inappropriately. Several students described Respondent as someone who sought to be the “cool teacher” and “one their friends,” without the required demarcation and necessary differentiation as an adult and their teacher.

63. Respondent demonstrated a lack of judgment and a lack of discretion by engaging in a pattern of inappropriate interactions with female colleagues and students despite knowing the impropriety of his actions and the risk of negative repercussions. In addition to his poor judgment and lack of discretion, Respondent demonstrated an inability to accept responsibility for his actions and a propensity for dishonesty during the District’s investigation and continuing throughout his falsehoods under oath. Respondent’s enduring misconduct and deceit apparently arise from fixed defects in temperament or character which are not remediable. Since teachers are expected to demonstrate good judgment, honesty, and trustworthiness, Respondent’s character defects demonstrate his “evident unfitness for service.”

64. Cause for dismissal of Respondent exists under Education Code section 44932, subdivision (a)(6), based on evident unfitness for service. (Factual Findings 1 through 154; Legal Conclusions 46 through 63.)

## **Disposition**

65. While grounds for dismissal exist, the Commission retains discretion to determine whether dismissal is the appropriate sanction. (*California Teachers Ass'n v. State of California* (1999) 20 Cal.4th 327, 343-344.)

66. The District established several causes for Respondent’s dismissal from employment, most significantly his evident unfitness for service. Respondent’s defects

in temperament, including his lack of judgment and his enduring propensity for dishonesty, will continue to impede him from being a trusted teacher, a role model for students, and a respected colleague. Consequently, dismissal is the appropriate sanction.

## ORDER

Respondent, Jeffrey Brandow, shall be dismissed.

DATE: 09/05/2024

Christopher K. Bourke  
Christopher K. Bourke (Sep 5, 2024 15:04 PDT)

CHRISTOPHER BOURKE

Commission Member

DATE: 09/05/2024

Matthew Hutsell  
Matthew Hutsell (Sep 5, 2024 15:12 PDT)

MATTHEW HUTSELL

Commission Member

DATE: 09/05/2024

Julie Cabos-Owen

JULIE CABOS OWEN

Administrative Law Judge

Office of Administrative Hearings