

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

In the Matter of the Accusation Against:

STACY W. MCCAY, Respondent

Case No. 2-111057592

OAH No. 2022060279

PROPOSED DECISION

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference and telephone on October 11, 2022.

Lauro A. Paredes, Deputy Attorney General, State of California represented complainant Mary Vixie Sandy, Ed.D., Executive Director of the Commission on Teacher Credentialing, State of California (the Commission).

Stacy W. McCay, respondent, represented herself.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on October 11, 2022.

FACTUAL FINDINGS

Respondent's Credential History

1. The Commission is responsible for credentialing public school teachers in California, including disciplining the holders of such credentials.

2. On August 1, 2000, the Commission issued a Clear Multiple Subject Teaching Credential (credential) to respondent. The credential authorizes respondent to teach all subjects in a self-contained class, as a self-contained classroom teacher, to team teach or to regroup students across classrooms, in grades 12 and below, including preschool and in classes organized primarily for adults, to teach core classes consisting of two or more subjects the same group of students in grades five through eight, and to teach any of the core subjects to a single group of students in the same grade level as the core for less than 50 percent of the workday. The credential was in full force and effect at all times relevant to the allegations set forth in the accusation and will expire on September 1, 2025, unless renewed.¹

Accusation

3. On May 2, 2022, complainant signed the accusation in her official capacity alleging four causes for discipline as grounds to take an adverse action

¹ Respondent previously held a Multiple Subject Teaching Permit that was issued on August 30, 1999, and expired on September 1, 2000. Respondent also held a 30-day substitute teaching permit that was initially issued on March 11, 1996, and was continually renewed until April 1, 2000.

against respondent's credential. Complainant alleged that respondent engaged in unprofessional conduct, immoral conduct, acts involving moral turpitude, and demonstrated evident unfitness for service. The causes for discipline were based on complainant's allegations that respondent filed a false claim for injury with her employing school district and had an unapproved absence.

Complainant alleged four aggravating factors that demonstrated a greater degree of adverse action was warranted. Those aggravating factors were: (1) respondent's misconduct evidenced multiple acts of wrongdoing and/or demonstrated a pattern of misconduct; (2) respondent was warned by her district to conduct herself in a professional and honest manner at all times; (3) respondent's misconduct was surrounded by or followed by bad faith, dishonesty or other violation of the laws governing educators; and (4) respondent's misconduct significantly harmed a child entrusted to the care of a credential holder or applicant, significantly harmed the public or the educational system.

4. Respondent timely filed a notice of defense and this hearing was set.

Trial Stipulation

5. On August 31, 2022, complainant and respondent executed a "Trial Stipulation." In that document respondent stipulated and agreed to the facts and aggravating factors set forth in the accusation, acknowledged her legal rights, and "knowingly, intelligently, freely and voluntarily admits the complete truth and accuracy of each and every charge contained in [the accusation]." Respondent further admitted her credential was subject to discipline for the violations described in the accusation. As a result of that stipulation, respondent admitted the following facts:

- At all times relevant herein, respondent was employed by the Buena Park School District (District) as a certificated employee and assigned to work as an elementary teacher at Gordon H. Beatty Elementary School located in Buena Park, California.
- Respondent was dismissed from her employment at that District on or about February 20, 2020, for the reasons discussed below.
- On the morning of October 22, 2018, respondent reported to her school secretary and Principal that she had sustained an injury on a rubber mat as she was walking to the office. It was established that respondent was dishonest in filling her October 22, 2018, injury report and in her statements to investigators.
- Upon notification, school staff followed the standard procedure and asked respondent if she needed to see the doctor and also requested a statement. Respondent initially refused but later that day agreed to go to Concentra, the hospital used by the District for work place injuries.
- Respondent was treated at Concentra, then filed a Workers' Compensation Claim with the District's compensation plan. An investigation into the claim was begun and respondent was interviewed by an investigator.
- As part of the investigation, respondent was interviewed on November 15, 2018. Respondent's statement was recorded with her permission and subsequently transcribed. During the interview, respondent reported that her injury occurred early in the morning at approximately 7:30 a.m., on October 22, 2018. Respondent volunteered that she was wearing "Nike flex runs 2013's." Respondent stated that her injury occurred while using a cane

for support. According to respondent, after passing the first doorway to her classroom, she put the cane on the border of the mat in front of the second doorway. Respondent then went to put weight on her cane. The mat border slipped out from underneath her, jerking her body in a way that caused her injury. Respondent took a picture of the mat before reporting her injury.

- After reviewing video footage of the incident, the investigator concluded that everything in respondent's statement was false, from the shoes she was wearing to the injury she claimed to have received.
- At approximately 7:11 a.m., respondent is shown in the video in sandals and using a cane. Respondent is seen approaching the door that is farther away from the camera and walking smoothly onto the mat in front of the door (first mat). Respondent then lifts her cane up as she reaches into her pocket to retrieve her cellular phone. Holding her phone in one hand, Respondent steps briefly on the second mat. Respondent's cane is elevated and never touches the second mat.
- At approximately 7:23 a.m., respondent is again seen stepping on to the second mat. Respondent then pauses, looks down and is seen separating the rubber border from the second mat, with her left foot and then further separating it with her right foot. Respondent then walks away. A few moments later, respondent returns to the area of the second mat. She stops in front of the second mat and turns away from the camera. Grabbing her cellular phone, she turns back towards the camera and appears to take multiple pictures of the second mat and then walks off camera.

- On or about July 21, 2016, respondent informed the new principal at Beatty Elementary that she would be attending the Olympics in Brazil, and therefore would not be available to report to work until August 22, 2016. The Principal notified respondent that her leave needed to be approved by the District office.
- The new principal consulted the District office and found that respondent did not have approval to miss school time to attend the Olympics. The principal contacted respondent by phone on July 25, 2016, and informed her that she did not have approval to go on the trip during student instructional time. The principal documented the conversation in a letter and emailed respondent a copy of the letter.
- On or about July 28, 2016, respondent responded in writing to the principal's letter. Respondent claims that she had been planning to go to the Olympics in Rio de Janeiro for four years. Respondent claims that all her immediate supervisors had been aware of her plans to attend the Olympics and that no one had informed her that she would need to get written approval for the trip. Respondent further states that she had always understood the change in the school calendar would not affect her plans and that she had made many nonrefundable purchases based on that belief. Respondent asserted that she strongly believed that her absence should be approved based on the decision by the district to honor travel plans made before the change of the instructional calendar.
- The principal replied to respondent in writing on July 29, 2016. The principal advised respondent that prior notice to administrators did not constitute written approval. The principal also noted that, as respondent's trip to Rio de

Janeiro was recreational in nature, it could not be approved as personal necessity or sick leave according to her bargaining unit contract language. The principal recommended respondent submit a request for unpaid leave of absence to the Governing Board if she intended on moving forward with the trip.

- On August 1, 2016, the District received a letter from respondent addressed to the Director of Human Resources. In the letter, respondent claims that she had made plans to go to the Olympics when the school calendar changed and that the teachers had been told during a staff meeting that they could use their personal necessity days for vacations that had been previously approved. Respondent requested that the district honor what she considered her approved leave.
- The District did not approve Respondent's absence. Respondent went on her trip to Brazil and missed the first two weeks of the school year.
- On September 22, 2016, the District issued a Notice of Unprofessional Conduct based on Respondent's unauthorized two-week trip to Brazil. The investigation that led to the Notice of Unprofessional Conduct found that Respondent's behavior was unprofessional and dishonest. Respondent was further ordered to (1) comply with all directives given to her by her supervisors; (2) comply with all applicable rules and procedures when requesting leave; and (3) conduct herself in a professional and honest manner at all times.

Respondent's Documents

6. Respondent submitted several letters from colleagues, supervisors, family and friends, and medical providers attesting to her work ethic, professionalism, community involvement, good character and/or medical treatment. Those letters were received as administrative hearsay pursuant to Government Code section 11513, subdivision (d), and are summarized below.

LETTERS FROM COLLEAGUES AND FOUNDATION PRESIDENT

7. Mindi Whitely, a middle school teacher in the Buena Park district, wrote a letter June 2022 stating that respondent began her teaching career at Beatty Elementary School in 1999 when Ms. Whitely was a second year teacher. Over the many years they taught together, Ms. Whitely "had the pleasure of watching [respondent] interact with her class and other children." Respondent was the Student Council advisor and activity person for many years and "went above and beyond what is expected of a fourth grade teacher to provide an engaging environment for our students." Ms. Whitely wrote further:

Outside the classroom, [respondent] was also one of the leaders in technology. She was a tech lead for several years and is able to use Office and Google docs. She has stayed up to date with the use of technology with her substitute position in three separate districts that use different programs.

I would personally recommend [respondent] for a teaching position. Any school would benefit from her experience, honesty, and eagerness to learn. It is my opinion that

[respondent] should be allowed to continue teaching and not lose her teaching credential.

Respondent testified that Ms. Whitley is aware of the District proceeding.

8. Lynn Sipes, a Buena Park School District employee who teaches at Pendleton Elementary School, authored a letter June 2022 "To whom it may concern." Ms. Sipes wrote: "I highly recommend that [respondent] be allowed to continue teaching. Before we started teaching together some 20 years ago, we were substitute teachers together." Ms. Sipes wrote further:

[Respondent's] 20 years of experience in the classroom has shown her ability to be effective with students. I know how much she loved being a substitute teacher all those years ago. We've also had the opportunity to discuss how much she has enjoyed substitute teaching recently. Even during some of the worst times for teachers, [respondent] has been positive when discussing the obstacles we have faced during the Covid 19 pandemic.

During our 20 years of teaching together we were never lucky enough to be at the same school; however, we were in the same grade level and often met at grade level collaborations and trainings. [Respondent] was always well-informed on many topics that we had to discuss or learn about. She was always prepared and asked intelligent questions.

9. Alice Burnett, Founding President, of Buena Park School District's Foundation, a fundraising organization, past chair of the American Cancer Society Relay for Life, and City of Buena Park Human Resources Manager, wrote an undated letter addressed "To whom it may concern." She wrote that as a volunteer and past event chair for the American Cancer Society's local Relay for Life event, she has worked with respondent for several years. She described respondent as "always passionate and available to help in any way." Respondent "has captained teams, fundraised at Beatty Elementary School with the Student Council, and has been on the committee for this event many times. She is also at nearly every community event in Buena Park. Since I work for the city, I always look forward to seeing her at events" which she listed. Ms. Burnett has also "gotten to know [respondent] personally. She is honest, caring, and a lot of fun. Many of the student volunteers would gravitate toward [respondent]" like Ms. Burnett's son does, because respondent "just knew how to make volunteering fun." Ms. Burnett wrote further:

I remember her final years working at Beatty School. Those were very difficult years for her and I could tell that the pain of her injury and the stress of her Workers' Compensation case greatly affected her. As I am the Human Resources Manager at the City of Buena Park, she had asked for advice on navigating California's Workers' Compensation system. Knowing the difficulty she had, I was shocked and disappointed at the outcome of her case and employment at the district.

Personally, I have seen how much more she is enjoying her life now. It is always a pleasure to be around [respondent]

as she is an upbeat and outgoing person. Even through the pandemic, she continued to show community support to events [sic], even in our limited and virtual capacities. She has shown as a volunteer and community member she is an asset. I believe she is also an asset to the schools she has been working for these last several years. Teachers that [sic] love their profession and the students they serve are greatly needed and [respondent] has more than proven her value. Please allow her to continue helping the students in our community.

Respondent worked with Ms. Burnett at the District.

10. Jennifer Turner, a science teacher in the Los Angeles Unified School District, authored a letter to the commission on June 2, 2022. She wrote that "it is too late to overturn what the Buena Park School District did to [respondent], but it is not too late to make sure when I say that she should not lose her teaching credential." Ms. Turner wrote that respondent's "last few years at the Buena Park School District, and specifically Beatty Elementary School were very hard and extremely stressful. In 2013 her back was broken when she sat in a broken chair, that was supposed to be removed from the room because it was broken, and it collapsed under her." Ms. Turner wrote further:

As a result of this she needed to have surgery and was in a nursing home for 10 days. I visited her in that nursing home and she didn't know if she was ever going to be able to walk again. Surgery was moderately successful and she was able to walk again. She didn't recover from the emotional,

physical, and social distress while continuing to work at Beatty Elementary School. What [respondent] was like before she broke her back at Beatty Elementary School and what she was like after were two different people.

Since [respondent] has left Beatty Elementary School, and after her termination hearing, she has changed again for the better. She is a happier person, she has lost a lot of weight, is healthier, and enjoys teaching and being around students more. Yes, I understand that I am not a doctor, but I have known [respondent] for over 12 years and the changes due to her injury, the stress of working for the Buena Park School District after they did not support her through recovery, and the change after she left district were transformative. [Respondent] is an excellent teacher and I do believe it would be beneficial for her to continue working with students. She has dedicated her life to teaching and does a wonderful job.

11. Gail A. Kairis, Administrator of Instructional Programs, North Orange County ROP, wrote a letter June 21, 2022, addressed "To whom it may concern." She was thankful for "the opportunity to recommend" respondent. Ms. Kairis wrote that respondent joined North Orange County ROP as a substitute teacher in August 2021 and "took on one of the most difficult assignments in the substitute teaching arena. It was a long-term position, outside her area of expertise in Automotive." Ms. Kairis wrote further:

[Respondent] took initiative, was resourceful and committed. She worked with the students on Employability skills, teaching them how to apply for a job and the skills needed to work well with others such that they would be able to keep their job. She also created engaging, table-top activities related to the automotive industry in an effort to keep the students interested in the pathway.

To say that classroom management was a challenge with this assignment is an understatement. [Respondent] was exceptional with the students. She was professional regardless of what came her way and remained in the assignment until the teacher returned a couple of months into the year.

The skills [respondent] exhibited in this assignment and the others following, demonstrate her ability to take on any task, to do whatever it takes to complete it and to maintain professionalism at all times. These are rare and valuable qualities today. I both appreciate and highly recommend [respondent]. Please feel free to call me if you have any further questions [and she provided her contact information].

Respondent testified that the auto shop program she taught there had no lesson plans and no teacher before she arrived. Ms. Kairis is aware of the District proceeding against respondent and her termination.

12. Taylor Swaney, North Orange County ROP, Medical Careers and Sports Medicine, wrote a letter to the commission on June 13, 2022. She noted that respondent was her long term substitute during the 2021-2022 school year while Ms. Swaney was on maternity leave for several months. Ms. Swaney noted that it "was a great concern of mine to leave my class with a substitute for so long, but I was glad to have [respondent] cover during my time away. To my knowledge, students continued with their rigorous curriculum, were taught in a safe environment, and were treated with respect and positivity." Ms. Swaney noted:

A great deal was required of [respondent] to come in mid-year to a hands-on class environment. Coming into the class mid-year required [respondent] to acquire classroom management quickly, establish daily policy and procedures as a new instructor, and learn to teach curriculum for two medical classes. [Respondent] was also required to adapt the course grading policies and submit semester grades and course certifications through an online learning management system. [Respondent] was able to complete these tasks, and most importantly, students were still able to learn the curriculum in both my Medical Careers and Sports Medicine classes.

Though I only met [respondent] briefly in person, I believe because of her willingness to take on this long term substitute position, my students were able to continue learning and I am sincerely grateful. I feel that [respondent]

is an asset to North Orange County ROP in the teaching profession.

Respondent testified about knowing more than she thought in this field.
Respondent is not sure if Ms. Swaney is aware of the District proceeding.

13. Anthony Abney, Principal at Maple Elementary School, authored a "letter of recommendation" on May 6, 2021, addressed "To Whom It May Concern." Mr. Abney wrote that respondent has been serving as a long-term substitute at his school for the past three months. Respondent "has been supporting one of my fourth-grade teachers for most of her tenure at Maple. She has been very flexible when requested to cover other duties and has also tutored several students after school." Mr. Abney wrote that "Maple is a high need school, and many of our students in the class she supports need specialized instruction and accommodations in order to succeed. [Respondent] has worked with the teacher to provide those students with strategies and skills to be successful, both academically and behaviorally." Mr. Abney stated that he has not observed respondent teach but "can say she is a flexible and dependable substitute teacher. She has also attended professional developments on reading workshop and culturally responsive teaching practices." Mr. Abney requested that he be contacted for any additional information or clarification.

Respondent testified that she began working at Maple Elementary School after being terminated. Quote Mr. Abney does not know about the District proceeding.

14. Seana Brief, Educator, Cypress High School, Law and Justice Signature Academy, Legal Practices Career Pathway, authored a letter May 25, 2022, addressed to "Representative of the Court." Ms. Brief has been "working closely" with respondent "for the past six months" and has "seen her respond with dignity and grace to her

students in the best of times and the worst of times. This year has been extremely stressful, both for students and teachers, and we have faced many mutual challenges because of the pandemic.” Ms. Brief wrote further:

In all of these situations, [respondent] has been honest, professional, caring, and sensitive to her student’s needs. She stepped into an emergency teaching situation and I could always trust her to do the right thing for everyone involved. With 20 years of teaching experience, [respondent] always knew what to do, even if there were no official instructions. She is a true educational professional.

Thank you for taking the time to read this letter and contemplate [respondent’s] situation. I feel that she should be able to keep teaching and doing what she does so well . . . help students succeed. Please feel free to contact me further if you would like more information. I look forward to the court resolving this matter in [respondent’s] favor, for the sake of justice.

15. Patrick Salem, North Orange County ROP, Engineering Technologies, Sunny Hills High School, wrote a letter August 19, 2022, addressed “To Whom It May Concern.” Mr. Salem wrote:

Thank you the opportunity to recognize [respondent] for her excellent work. [Respondent] was asked to help me in the beginning of the year with my transition from the workforce to teaching high school students. It was helpful

to have such an experienced teacher in the class with me to give me tips for classroom management. Her tips were helpful but never heavy-handed. Her insights into high school demonstrated that she has been effective in the classroom.

[Respondent] also talked about how much she has enjoyed teaching over these last few years. It has been a pleasure to be in the classroom with [respondent] and I would recommend her for any teaching position. I hope she will be able to teach for many years in the future.

Respondent testified that the ROP has several principals, and they appreciate her experience and have asked her "to do lots." There is a new teacher at the ROP, and as ROP teachers "do not go through teaching school," they teach based on their fields of experience, she worked with the new teacher in the classroom, showing him how to teach.

16. Seven Special Education Paraprofessionals at A. E. Arnold Elementary School in Cypress signed a letter on respondent's behalf. They wrote that when they "heard [respondent] may not be able to substitute teach anymore [they] were disheartened" and "wanted to help her in any way [they] could because she has been wonderful with [their] students." They "have had the opportunity to be in classes with" respondent and she "is kind, patient, and caring with" students. They wrote: "Change is very hard on our students, but she makes our students feel comfortable, When the teachers have to miss class, we are always happy to see that [respondent] is the sub." They concluded: "We would like to recommend that [respondent] is allowed to continue teaching."

Respondent testified that Cypress special education is clustered altogether and they have four or five aides in each classroom. Respondent substituted "in their pod a lot" and the aides are shy and did not want to write individual letters, "even though they appreciate my hard work," so they wrote this group letter.

PERFORMANCE EVALUATIONS FROM BUENA PARK SCHOOL DISTRICT

17. A District Teacher Evaluation Form for the 2016-2017 school year, when respondent taught fourth grade at Beatty Elementary School, documented that respondent "meets standards" in all areas and there were no areas that "needed growth." The six standards rated were Engaging and Supporting All Students in Learning, Creating and Maintaining Effective Environments for Student Learning, Understanding and Organizing Subject Matter for Student Learning, Planning Instruction and Designing Learning Experiences for All Students, Assessing Student Learning, and Developing as a Professional Educator. In the comments section respondent's evaluator, who was her school principal, wrote:

[Respondent] meets the expectations and goals of professional standards of teaching. Her instructional program and lesson delivery is designed to maximize learning opportunities for students to meet grade level standards.

[Respondent] will strive to incorporate the Standards-Based Practices in her daily lessons to support high level of rigor for all students. She will continue to apply practices in her classroom to create and maintain an effective and collaborative environment for student learning. She will

plan instruction and use strategies to meet the needs of all students.

[Respondent] will continue to spend time collaborating with her colleagues to develop new ideas for lessons that will actively engage her students. She will continue to collaborate with her colleagues to support the planning and delivery of CCSS lessons (acronym not explained) using Eureka Math, Writing Workshop and our district's curriculum guide. She will continue to work on effectively communicating with staff members. She will continue to develop as a professional educator by participating in district and site sponsored trainings.

18. A District Teacher Evaluation Form for the 2015-2016 school year, when respondent taught fourth grade at Beatty Elementary School, documented that she "meets standards" in all six standards evaluated. In standard six, Developing as a Professional Educator, the category "works with families to improve professional practice" was marked as "an area of needed growth." In the comments section respondent's principal wrote:

[Respondent] continually strives to meet the expectations and goals of the professional standards of teaching. Her instructional program and lesson delivery is designed to provide learning opportunities for all students to meet grade level standards. Classroom observations include evidence of curriculum planning integrated with technology to support lesson planning and student engagement.

[Respondent] works closely with her colleagues to develop activities to support students' learning. She will continue to work on the development of project-based activities that go beyond traditional paper/pencil curriculum to help students problem solve and become critical thinkers.

[Respondent] will work on creating and maintaining an effective environment for student learning. She will continue to work to establish a climate that promotes fairness and respect so all students feel safe and secure.

[Respondent] will continue to participate in district and site PDs [professional developments] to develop greater understanding and organization of subject matter for student learning.

[Respondent] will continue to work with her colleagues to plan instruction and design learning experiences that meets [s/c] the needs of all students. Instruction will be modified to adjust for student needs.

[Respondent] will continue to work with her colleagues to develop formative assessment to help guide instruction to support student learning.

[Respondent] will participate in district PD to develop as a professional educator. She will work on supporting positive relationships with her student's [s/c] parents. This includes keeping open lines of communication with parents to

ensure that classroom goals and expectations are clearly articulated and clarified when needed with parents request meetings and conferences.

[Respondent] has taken on the role of student Council advisor for many years and enjoys planning schoolwide activities to promote school spirit and family involvement. Her efforts to organize the various activities are appreciated by students, staff members and parents.

19. A District Teacher Evaluation Form for the 2013-2014 school year, when respondent taught fourth grade at Beatty Elementary School, documented that she “meets standards” in all six standards evaluated. There were no areas of needed growth identified. In the comments section respondent’s principal wrote:

[Respondent] continually strives to meet the expectations and goals of the professional standards of teaching. Her instructional program and lesson delivery is designed to provide learning opportunities for all students successfully meet grade level standards. Classroom observations include evidence of DII strategies (acronym not explained) that support lesson planning and student engagement.

[Respondent] exhibits working knowledge of subject matter and student development. She demonstrates progress in implementing DII strategies into her instructional delivery and will continue to participate in the professional development opportunities to expand her level of comfort

and expertise in this area. I am recommending for her to continue seeking opportunities to strengthen her instructional delivery based on DII strategies and to create lessons that promote higher levels of student interaction, engagement and critical thinking.

[Respondent] has taken on the role of student Council advisor for many years and enjoys planning schoolwide activities to promote school spirit and family involvement. Her efforts to organize the various activities are appreciated by students, staff members and parents.

As our school transitions from CA State Standards to Common Core Standards, shifts in instructional practices will take place in lesson planning and instructional delivery. Future classroom observations will focus on how we instruct students to be critical thinkers and problem solvers to prepare for college and career readiness.

She will continue to collaborate with her colleagues to review Common Core State Standards and plan CCSS lessons to support high level of rigor as defined by the Cognitive Rigor Matrix.

20. A District Teacher Evaluation Form for the 2011-2012 school year, when respondent taught fourth grade at Gordon H. Beatty,² documented that she “meets

² Presumably this is Beatty Elementary School.

standards” in all six standards evaluated. There were no areas of needed growth identified. In the comments section respondent’s principal wrote:

[Respondent] is completing her thirteenth year in the Buena Park School District as fourth grade teacher at Gordon H. Beatty School. [Respondent] continues to work closely with the fourth grade team oftentimes responsible for assisting the team in acquiring new computer skills and/or updating fourth grade data in the district’s data collection system. This year [respondent] has worked closely with her fourth grade colleagues to increase her skill level with the delivery of DII strategies specifically, the posting of ELA and Math standards, lesson objectives, student response in complete sentences, implementation of callbacks and classroom teams and student engagement.

Additionally, [respondent] continues to be our Student Council Advisor. She is extremely adept at organizing and maintaining a high functioning Student Council organization that supports the needs of the students and school.

Recommendations: Continue to work on increasing your skill level in the delivery of lesson structure and sequence as it relates the stages of the lesson, structured student interaction that includes preparation of predetermined questions throughout the lesson and student engagement.

LETTERS FROM RESPONDENT'S MEDICAL PROVIDERS

21. Dr. Salvatore J. Plano, Jr., respondent's chiropractor for over 20 years wrote that respondent "was a very active individual that [*sic*] would come to me for chiropractic treatments when she was sore from her activities. Because she was so active in different sports and activities, I saw her often enough to get to know her chiropractic conditions and well-being." Dr. Plano wrote further:

In March 2013 [respondent] had a traumatic event that altered her body's dynamics significantly. She had a laminectomy and discectomy to help reduce the lower extremity neuropathy and radicular symptoms that led her to experience residual side effects. [Respondent] went through a very traumatic event. While treating her between March 2013 and January 2020 her body and condition had worsened greatly. She was in constant pain that lead to flare ups to her lower extremities.

[Respondent] had difficulty moving and often had to use a cane and curtail all of her activities. Since January 2020, [respondent's] back and other chiropractic symptoms have improved from time off. Even since returning to work in teaching, she has not decreased in improvements like she has previously when she worked for Buena Park.

[Respondent] has been able to return to many of her former activities, obviously not all because she did sustain some long term residual effects. She has needed less chiropractic treatment and her pain levels have decreased. Stress is a

factor in many issues [respondent] had while she worked for Buena Park. Even though she still has the same job stress it is not a main factor in her chiropractic treatment any longer.

22. Paul Rosandich, M.D., respondent's board certified psychiatrist at Kaiser, wrote a letter on June 8, 2022, addressed "To Whom it May Concern." Dr. Rosandich stated that respondent has been his patient since February 2020 and:

in the intervening months she has been treated by me for what included psychologic issues. With her current treatment regimen I can report that she has shown significant improvement with regard to her overall mental health, and that symptoms have all but resolved.

No other information regarding respondent psychologic issues was introduced.

23. Elise Hsin-Ying Lee, M.D., respondent's physician at Kaiser, authored a letter on September 3, 2019, "per patient request." Dr. Lee wrote that the letter was "to state the conditions for which patient had been seen by myself in the physical medicine and rehabilitation clinic, once in 2018 and a second time in 2019." Dr. Lee stated that respondent "suffers from chronic low back pain since an injury occurred on the job several years ago." Dr. Lee also wrote:

[Respondent] has mild gait disturbance and ankle weakness presumably due to the injury. She had undergone lumbar discectomy with lamiectomy [*sic*] in 2013 with improvement but has residual neurological deficits. Symptoms remain

chronic to this date with intermittent worsening, which is in keeping with the nature of her chronic pain condition.

LETTERS FROM VOLUNTEER ORGANIZATIONS

24. Deborah Murray, director, Senior Program Manager, Union Bank, and Former Lead, Extra Mile Committee, San Diego MS Challenge Walk, National Multiple Sclerosis Society (NMSS), wrote a letter June 9, 2022, addressed "To whom it may concern." Ms. Murray met respondent at Ms. Murray's first San Diego MS Challenge Walk event nearly a decade ago where Ms. Murray served as both a walker and lead volunteer on the Extra Mile Committee for NMSS. Ms. Murray wrote:

From the first event we built a friendship founded on a mutual passion for devoting time to find a cure for this debilitating disease which had a personal impact on both our lives. [Respondent] contributes her creativity and energy not just during the event weekend, but also in the months leading to the event as an active volunteer contributing ideas around how to make each event unique, special, and impactful.

In the years I have known [respondent], I have known her to be a compassionate and driven individual who often works through discomfort and pain to stay committed to many charitable organizations. Her effervescent smile is as infectious as it is endearing, and people gravitate to her positivity and genuine spirit.

Her love of teaching doesn't stop at the classroom doors. On the Challenge Walk route (all 50 miles) [respondent] can be found throughout the weekend at various rest stops, passing out stickers, offering high-fives, ensuring loudly to encourage the walkers to reach not just the next mile, but their fullest potential. As someone who has walked the event, the treasured sticker from [respondent] is one of many high points of an otherwise grueling weekend.

For years I have seen [respondent] struggle through the physical limitations of her injuries at volunteer events. I've also seen her struggle through the mental anguish and consequential impacts of these injuries, notwithstanding the injustice of the workplace where she sustained her injuries actively working to drive her out of a profession that not only brought her joy, but that provided meaningful benefit for the youth of her community.

While the outcome of her case was not her favor, the silver lining is I have seen her spark renewed through being a substitute teacher. The oppression of the case is no longer weighing her down, and she is looking and feeling healthier, despite her permanent injuries.

[Respondent] is an energizing, fearless, and compassionate friend and volunteer colleague who loves teaching. While the case with the district concluded with ending her full-time employment, I implore the court to allow her to

maintain the ability to use her skills and talents in the classroom through substitute teaching. Kids thrive in environments where they have many diverse and engaged role models, removing [respondent's] credential only serves to remove just such a role model.

Respondent testified that she continued to walk the event before she broke her back, now she volunteers at the event. She said that Ms. Murray knows about the Buena Park School District proceeding.

25. Kylie Rich, Manager, Walk MS and Emerging Events, National MS Society, sent a letter respondent thanking her for her "commitment to the National Multiple Sclerosis Society and being a long-time volunteer for organization." Ms. Rich wrote further:

Specifically with our Challenge Walk MS: Southern California event, we appreciate your volunteer efforts you've given to us for nearly 20 years. As you know, the Challenge Walk event weekend takes countless volunteers like you to help the event runs smoothly, and we are grateful to have you as part of our dedicated Crew team making it happen. Since the inaugural Challenge Walk MS: Southern California over 20 years ago, you have been an integral part of that Crew. Additionally, we would like to celebrate that you also were honored with the Nancy Bates Most Inspirational Crew Award in 2017, an award given to a top volunteer for this year.

We appreciate your continued support as a volunteer and look forward to having you as part of our Challenge Walk MS Crew in 2022.

26. Fred Smith, the former Mayor of Buena Park, former president Buena Park Noon Lions, and former Chair of Silverado Days, wrote a letter on June 3, 2022, addressed to the Office of the Attorney General. Mr. Smith wrote that he has had “the pleasure of knowing [respondent] since she was a child.” He has gotten to know her “very well” through “our families’ volunteer work in the community.” Respondent has volunteered and worked for the city of Buena Park since she was a child in such capacities as coaching youth sports, volunteering for the American Cancer Society Relay for Life, and Coordinating Council delivering Christmas food, presents and holiday cheer. He described her as a “pillar of the community.” Mr. Smith wrote:

I have gotten to know [respondent] best through her volunteer work for the Buena Park Noon Lions and especially our biggest charity community event Silverado Days, our city carnival. [Respondent] has worked tirelessly to assist the community. She has done every job she could from MCing the pie eating contest to manning the information booth. She can always be counted on to help out where needed.

[Respondent] would be an asset to any workplace, but I know how much she enjoys teaching. It would be a loss to the school districts she is currently working in if she was unable to work for them.

LETTER FROM U.S. CENSUS BUREAU SUPERINTENDENT

27. Terry Little, Field Superintendent, U.S. Census Bureau, authored a letter on July 22, 2022, addressed "To Whom It May Concern." In it she stated that respondent is a Field Representative with the U.S. Census Bureau, a position that requires a "federal background check." Ms. Little wrote: "The job collects information that is protected by Title 13. You must take an oath to keep all collected data confidential. [Respondent] has shown that she can be trusted to keep the oath required by the US Federal Government." Ms. Little noted further that respondent "completes her work within the timeframe expected and is always willing to take on more work if necessary. She has a respectful relationship with me and expeditiously completes her Census mandatory trainings. She is a pleasure to have on my team."

LETTER FROM RESPONDENT'S FATHER

28. Donald McCay, respondent's father, wrote a letter stating how proud he is of his daughter. He wrote how respondent originally planned to follow in his footsteps and become a police officer, being a Police Explorer in high school, and attended the police academy after college graduation. However, she suffered an injury to her patella tendon at the police academy when she fell while training. She then began substitute teaching for the Buena Park School District. Mr. McCay described respondent as "about the best person I know." He wrote that her fall at Beatty Elementary School changed her life so much that he is "amazed she has stayed so good." Her surgery was delayed due to a misdiagnosis, she was in intolerable pain, and while he cared for her she "could do nothing but scream in agony." He described the district as caring little about respondent. His life experiences have taught him "much about Workers Comp and how it works." He described his knee injury and how he dealt with the workers' compensation system when he was Mayor of Buena Park.

During those times, the system “did everything that could be done, for the welfare of their injured employee.” His “observation is that the Buena Park School District did as little as they could do.” He recounted how he picked respondent up from the emergency room after she blacked out and fell at school but the school did not call for an ambulance, instead a school employee revived respondent after the fall, and drove her to the hospital. Mr. McCay “always felt that the District fired [respondent] just because she was injured on the job and tried to have the District treat her properly afterwards. But through it all she has remained a positive, upbeat, friendly and a hardworking teacher. Now, after everything else the District has done, they want to take away her livelihood.³ Unconscionable. Don’t let them do it!”

Respondent’s Testimony

29. Respondent graduated from Savanah High School in Anaheim. She went to Cypress College and Cal State Fullerton, receiving her undergraduate degree in criminal justice. She received her master’s degree in cross-cultural teaching from National University. She began substitute teaching while working on her credential and began working full-time in the Buena Park School District after receiving her credential. She worked at that school district for approximately 23 years, where she taught fourth grade the entire time. She acknowledged that approximately 90 percent of the time she is the only adult alone in the classroom with students. She was also the student council advisor for approximately 10 years, a position where she raised funds, organized school dances, lunchtime games, planned special events, and worked with the parent fundraising group.

³ Mr. McCay seemed to mistakenly think the district was pursuing this action.

Respondent testified how much better her life is since leaving the Buena Park School District. Even her friends and coworkers have noticed the difference. After her life had changed for the better, she realized she had "work to do on myself," so she sought psychiatric treatment and she believes it has been very successful. She is happier and healthier since leaving Buena Park School District and is really enjoying her work.

Currently respondent is substitute teaching for different school districts: Fullerton School District where she has done long term subbing and really enjoys working with special education students; Cypress School District; and North Orange County ROP, which offers high school classes that are skill oriented such as in the energy, medical and automotive fields. Respondent disclosed her termination from Buena Park School District to the Fullerton School District. She has had no discipline issues with any of the new school districts where she now works. She underwent thorough government background checks to work at those districts and was "cleared."

Respondent described how much she enjoys teaching and plans to continue working as a long-term substitute if her credential is not revoked as she has really enjoyed substitute teaching. She enjoys working with special education and high school students. Other districts pay more but she is "super happy" at the districts where she now works and would like to continue doing so. She is willing to have a probationary credential with terms and conditions.

Respondent no longer uses a cane since leaving Buena Park School District and if her back hurts she does not substitute teach that day. She explained that given her back pain, she really should not have been teaching at Buena Park School District when the mat incident occurred. With her current schedule, she can remain at home on days she has back pain.

Respondent testified that she broke her back while working at Buena Park School District and it was one of her three workers' compensation cases. In fact, she won all of those cases even though the district fought her on all of them. On one occasion she fell down, hit her head, and the principal picked her up and put her in the principal's car, the school did not call an ambulance. She described her broken back incident as follows: in March 2013 she sat in a broken chair at work and ruptured her disc. She was treated through the workers' compensation system, and spent two weeks in a nursing home. She could not move and underwent surgery, a discectomy and laminectomy, which improved her back somewhat, but never returned her to her pre-injury condition.

Respondent does not recall reporting the incident involving the rubber mats. She has been told that she reported it and she has been shown a document which she wrote and signed but she has no memory of doing so. She has been told many things about what happened that day, but has no recollection of them. However, she testified that she does not think she claimed that she fell. She has foot drop of approximately one-half inch as a result of her back injury with some neuropathy and decreased strength. She had to learn to walk normally again following her surgery. She has seen the video regarding the October 2018 fall and what she sees on that tape is that she slipped and jerked her body; she walked by the mats, this is all she saw on the video. She testified she may have been going back to look at the mat to see what caused her pain when she walked by the mat. She said it is not a great video and she does not know if she moved the mats or not. She is aware that the underlying Buena Park School District proceeding determined that she had falsified a report of injury.

She explained that she is using a cane in the video and only did so when she was "in so much pain, is ridiculous how much pain I was in." Since she is using a cane

in the video, she must've been in extraordinary pain that day. She should not have gone to work; now she does not go to work if she has pain. Whenever she was in pain she would get a "really angry," her "adrenaline was going." She was also on pain medications that she took at night, but does not recall if any of them were narcotics, they were pain medications and muscle relaxants. She explained that the pain that she was in the last few years at Buena Park School District affected her recollection of "many, many things," and she does not know what medication she took the night before that incident, so does not know if the medication affected her memory.

When asked about the interview of the incident that took place one month later, she recalled it being an "interrogation." Respondent testified that at the underlying Buena Park School District hearing the investigator who interviewed respondent was upset that "they had changed her report" and testified about that during that hearing. Of note, no evidence corroborating or refuting that testimony was offered. Neither the decision in the underlying school district matter nor a transcript of the investigator's testimony from that hearing were introduced in this hearing.

Between her 2013 injury and the mat incident in 2018, respondent had another workers' compensation claim. She denied being angry at the Buena Park School District for how those matters were handled. She is mad at the workers' compensation carrier who kept denying her claims. She denied faking an injury to get back at the carrier. She stated that she did not go back to the physician the carrier recommended or follow-up on the recommendations or her claim at that time. She wanted nothing to do with the carrier.

When asked if she understood the commission's concerns regarding the allegations in the accusation, respondent replied, "I don't know how to respond to that." She did not find a claim of a false injury to be concerning. She said that if one

were to claim a false injury, she would need to look into that issue but it would not necessarily exclude the individual from employment. She could not answer when asked if she thought she had done anything wrong at Buena Park School District, stating that she could not recall the incident so could not answer the question.

Respondent testified about the circumstances regarding her attendance at the 2016 Olympics in Brazil. In the 2014-2015 school year, the District changed the school start date to be before Labor Day; it had always been after Labor Day for the 20 years respondent worked at the district. She had already made plans to attend the Olympics in Brazil based on the old start date which was in existence when she purchased the tickets and had gotten permission to still attend from her principal at the time when the district announced the new start date. By the time of the Olympics, respondent had a new school principal who had no issues with respondent attending the Olympics but said she had to contact the HR department to determine the procedures. The principal then came back and "apologized profusely" to respondent saying that it was not her, but the district that was making her write letters stating respondent could not attend the Olympics.

Respondent gleefully testified that she had tickets to an Olympic event every day, she got to go to so many events, and "is happy it is on the record." She told her school that she was going to go to the Olympics and thinks she missed two weeks of school. She had lined up a substitute to cover her classroom and had all the day to day lesson plans lined out. Respondent was not paid for those days that she missed.

Respondent described her lengthy volunteer history. She has been volunteering at events since she was a young child. She passionately described volunteering for city and charity events. She has held various leadership positions as well as being the go to person to get things done for the events. She explained that her mother had multiple

sclerosis and died from it which led respondent to become actively involved in fundraising organizations aimed at treating that disease.

Respondent testified in a direct and forthright manner. She answered all questions posed to her and was respectful of the proceedings. She made a very pleasant and credible witness.

Closing Arguments

30. Complainant argued this was an interesting case because respondent is clearly a good and excellent teacher but she attended the Olympics without approval and, most concerning, was her immoral conduct for faking an injury. Complainant noted that this case is a difficult one to decide. Complainant cited to the factors that must be considered, arguing that the issue is not whether respondent is a good teacher, as competency is not at issue; instead, the issue is trustworthiness. Complainant argued that what a teacher reports must be true, especially given that teachers are typically the only adult in the classroom, as was the case here. Complainant asserted that respondent's testimony that she could not recall the events surrounding reporting an injury in 2018 was not credible, that she lied for money, and she has not taken responsibility for her actions. Complainant requested that respondent's credential be revoked.

31. Respondent argued that she did not fake an injury for financial gain. She could not recall the events of faking an injury and knows only that she wanted nothing more to do with the workers' compensation carrier. Since leaving the district, her health has improved, she is seeing a psychiatrist, and she does not work if she has back pain. She is competent and is a different person than who she was when she worked at the Buena Park School District. She would like to continue teaching.

LEGAL CONCLUSIONS

Standard and Burden of Proof

1. Where an administrative proceeding involves the suspension or revocation of an existing license, the standard of proof is clear and convincing proof to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.) "Clear and convincing evidence" requires a high probability of the existence of the disputed fact, greater than proof by a preponderance of the evidence. Evidence of a charge is clear and convincing as long as there is a high probability that the charge is true. (*People v. Mabini* (2001) 92 Cal.App.4th 654, 662.)
2. In this proceeding, complainant has the burden of proving that cause exists to discipline respondent's teaching credential.

Authority Authorizing Discipline

3. Education Code section 44421 authorizes the Commission to privately admonish, publicly reprove, revoke or suspend the credential or certificate of one who has engaged in immoral or unprofessional conduct, persistently defied or refused to obey the laws regulating the duties of persons serving in the public school system, demonstrated evident unfitness for service or for any cause which would have warranted the denial of an application for, or a renewal of, a credential.
4. Education Code section 44345 authorizes the Commission to deny an application for issuance of a credential if the applicant has committed an act involving moral turpitude. The denial shall be based upon reasons related to the applicant's fitness to teach or fitness to perform other duties for which the applicant is

certificated, or competence to perform the duties which the credential authorizes the applicant to perform.

5. California Code of Regulations, title 5, section 80300, subdivision (a), authorizes the Commission to take "adverse action" against certificate holders which includes "a denial, a private admonition, public reproof, suspension or a revocation of one or more credentials." Subdivision (b) defines an "aggravating factor" as an event or circumstance which demonstrates that a greater degree of adverse action for an act of professional misconduct is needed for public protection. Aggravating factors may include, but are not limited to, multiple acts of wrongdoing, bad faith or dishonesty, harm to children, the public, or the educational system.

6. California Code of Regulations, title 5, section 80302, states:

(a) The Committee, in conducting its investigation, shall determine the relationship between the alleged misconduct and the applicant's or holder's fitness, competence, or ability to effectively perform the duties authorized by the credential. Such relationship may be based on facts which include, but are not limited to, the following:

(1) The likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity anticipated;

(2) The proximity or remoteness in time of the conduct;

(3) The type of credential held or applied for by the person involved;

- (4) The extenuating or aggravating circumstances surrounding the conduct;
 - (5) The praiseworthiness or blameworthiness of the motives resulting in the conduct;
 - (6) The likelihood of the recurrence of the questioned conduct;
 - (7) The extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the person involved, or other certified persons;
 - (8) The publicity or notoriety given to the conduct.
- (b) If the Committee finds no relationship between the alleged misconduct and the applicant's or holder's fitness, competence or ability to effectively perform the duties authorized by the credential the Committee shall close the investigation.

Application of the Morrison Criteria

7. The criteria set forth in *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, are embodied in California Code of Regulations, title 5, section 80302. The factors include the extent to which the conduct has adversely affected students, fellow teachers, or the educational community and the degree of impact; the proximity or remoteness in time of the conduct; the type of certificate held; the extenuating or aggravating circumstances surrounding the conduct; the praiseworthiness or blameworthiness of the motives resulting in the conduct; the probability that the

questioned conduct will recur; the extent to which adverse action may have a chilling effect upon the constitutional rights of the person involved or on other certificated persons; and the publicity or notoriety given to the conduct. Those factors were reviewed and considered in this decision.

Immoral or Unprofessional Conduct, Moral Turpitude

8. Terms such as immoral conduct, unprofessional conduct, and moral turpitude are so general that they must be given meaning in relation to the particular profession involved. Although a teacher may have committed an immoral act, unless it indicates his unfitness to teach, it is not an appropriate basis for his discharge. (*Morrison, supra*, p. 220.)

9. The determinative test of a charge of immoral or unprofessional conduct is fitness to teach, which is a question of ultimate fact. (*Board of Education v. Jack M.* (1977) 10 Cal.3d 691.)

10. There is broad discretion in determining what constitutes immoral conduct in the context of teacher disciplinary matters. (*California Teachers Assn. v. State of California* (1999) 20 Cal.4th 327.) Immoral conduct has been defined by the courts as follows:

[T]hat which is hostile to the welfare of the general public and contrary to good morals. Immorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable members of the community, and as

an inconsiderate attitude toward good order and the public welfare. (*Palo Verde etc. School Dist. v. Hensey* (1970) 9 Cal.App.3d 967, 972, citing *Bd. of Education of San Francisco Unified School Dist. v. Weiland*, 179 Cal. App 2d 808, 811.)

11. The statutory definition of immoral conduct "must be considered in conjunction with the unique position of public-school teachers, upon whom are imposed 'responsibilities and limitations on freedom of action which do not exist in regard to other callings.'" (*San Diego Unified School Dist. v. Comm. on Professional Competence* (2011) 194 Cal.App.4th 1454, 1466) [citation omitted].)

12. Moral turpitude has been defined as an act that is contrary to honesty and good morals. (*In re Scott* (1991) 52 Cal.3d 968, 978; see also *Golde v. Fox* (1979) 98 Cal.App.3d 167, 181 [moral turpitude is "any crime or misconduct committed without excuse or any dishonest or immoral act not necessarily a crime"].)

Evident Unfitness for Service

13. "Evident unfitness for service" has been defined to mean clearly not fit or adapted to teach, ordinarily by reason of temperamental defects or inadequacies. "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." (*Woodland Joint Unified School District v. Commission on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.)

Duties and Responsibilities of a Teacher

14. “[R]esponsibilities and limitations on freedom of action which do not exist in regard to other callings” are imposed upon certain professions, “such as judges, policemen and schoolteachers. . . .” (*Board of Trustees v. Stubblefield* (1971) 16 Cal.App.3d 820, 824.)

15. A factor to consider is whether the teacher can serve as a role model for students. (*San Diego Unified School District v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1465-1466.)

16. The court of appeal in *Board of Education v. Weiland* (1960) 179 Cal.App.2d 808, 812, citing *Goldsmith v. Board of Education* (1924) 66 Cal. App. 157, 168, explained:

[T]he 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. . . . 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.

Rehabilitation

17. Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is presented by sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) The evidentiary significance of an applicant's misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) As Chief Justice Lucas observed, "The amount of evidence of rehabilitation required to justify admission varies according to the seriousness of the misconduct at issue." (*Kwasnik, supra*, at p. 1070.)

18. Rehabilitation commonly involves a substantial period of exemplary conduct following the misdeeds. (*In re Gossage* (2000) 23 Cal.4th 1080, 1096.) Rehabilitation is a state of mind and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved reformation and regeneration. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.)

Administrative Hearsay

19. Government Code section 11513, subdivision (d), states: "Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. An objection is timely if made before submission of the case or on reconsideration."

Evaluation

20. While the stressors respondent reportedly experienced from feeling the District wrongly targeted her and opposed her workers' compensation claims were certainly understandable, that did not explain her actions involving the mat incident on October 22, 2018, or during her interview on November 15, 2018. Although her pain level and/or medication use may have caused her to truly forget her actions on October 22, 2018, this did not explain the statements she made during her interview which occurred approximately one month later. More importantly, given the trial stipulation, all the facts alleged in the accusation are deemed true and conclusively established, and respondent's testimony to the contrary at this hearing must be discounted.

Respondent gleefully testified about attending the Olympics and expressed no remorse for any of her actions set forth in the accusation. Instead, she blamed the District. By all accounts she is now in favorable employment situations, but her testimony and the character reference letters begged the question of how she would behave if she were to find herself in an unfavorable employment situation. Given that she did not renounce her actions captured on video, her written statement, her interview, or her attendance at the Olympics, and seemed to dispute she did anything wrong, there is no assurance the conduct will not reoccur.

Teachers must be counted on to accurately relay information, especially as they are often the only adult in the classroom. The facts here raised concerns about respondent's ability to be trusted. Although her colleagues described her in glowing terms, her conduct in 2018 and failure to show any remorse for it were troubling. Based upon the evidence presented here, public protection requires the revocation of respondent's credential.

Cause for Adverse Action

21. Complainant established by clear and convincing evidence that cause exists to take adverse action against respondent's credential pursuant to Education Code section 44421 because respondent engaged in unprofessional conduct when she submitted a false report of an injury and made false statements at an interview about that injury.

22. Complainant established by clear and convincing evidence that cause exists to take adverse action against respondent's credential pursuant to Education Code section 44421 because respondent engaged in unprofessional conduct when she took an unapproved trip to the Olympics.

23. Complainant established by clear and convincing evidence that cause exists to take adverse action against respondent's credential pursuant to Education Code section 44421 because respondent engaged in immoral conduct when she submitted a false report of an injury and made false statements at an interview about that injury.

24. Complainant did not establish by clear and convincing evidence that cause exists to take adverse action against respondent's credential pursuant to Education Code section 44421 because respondent did not engage in immoral conduct when she took an unapproved trip to the Olympics.

25. Complainant established by clear and convincing evidence that cause exists to take adverse action against respondent's credential pursuant to Education Code section 44421, as defined by Education Code section 44345, subdivision (e), because respondent engaged in acts of moral turpitude when she submitted a false report of an injury and made false statements at an interview about that injury.

26. Complainant did not establish by clear and convincing evidence that cause exists to take adverse action against respondent's credential pursuant to Education Code section 44421, as defined by Education Code section 44345, subdivision (e), because respondent did not engage in acts of moral turpitude when she took an unapproved trip to the Olympics.

27. Complainant established by clear and convincing evidence that cause exists to take adverse action against respondent's credential pursuant to Education Code section 44421, because she is evidently unfit for service because she submitted a false report of an injury and made false statements at an interview about that injury.

28. Complainant did not establish by clear and convincing evidence that cause exists to take adverse action against respondent's credential pursuant to Education Code section 44421, because she is not evidently unfit for service because she took an unapproved trip to the Olympics.

ORDER

The Clear Multiple Subject Teaching Credential issued to Stacy W. McCay is revoked.

DATE: November 2, 2022


Mary Agnes Matyszewski (Nov 2, 2022 08:35 PDT)

MARY AGNES MATYSZEWSKI

Administrative Law Judge

Office of Administrative Hearings