

BEFORE THE
COMMISSION ON TEACHER CREDENTIALING
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

WILLIAM CRAIG SMITH,

Respondent.

Case No. 1-56567006

OAH No. 2012031056

PROPOSED DECISION

This matter was heard by Mark Harman, Administrative Law Judge (ALJ) of the Office of Administrative Hearings, on June 24, 25, 26, 27, 28, and July 1, 2013, in Los Angeles, and on July 2, 2013, in San Luis Obispo, California.

Mary Vixie Sandy (Complainant) was represented by Tara L. Newman, Deputy Attorney General. Respondent, William Craig Smith, represented himself in this matter.

Evidence was received and argument was made. The record was left open to allow Complainant to submit a transcript of a student's testimony given at a 2009 arbitration hearing, and to allow Respondent to make objections to this document. The transcript was received and marked as Exhibit 48. Respondent's objections were marked as Exhibit W. The objections were overruled and Exhibit 48 was admitted under Evidence Code section 1291. The record was closed and the matter was submitted for decision on July 15, 2013.

Complainant alleges that Respondent has engaged in immoral and unprofessional conduct while employed by the Santa Maria-Bonita Unified School District (District) as grounds to revoke Respondent's teaching credential and to deny any credential applications. Respondent denies these allegations. He also contends that District personnel harassed and intimidated him in retaliation for his many complaints and challenges of District policies.

FINDINGS OF FACT

1. Complainant filed the Accusation as the Executive Director of the California Commission on Teacher Credentialing (CTC). Respondent was served on January 11, 2012. He filed his Notice of Defense on January 19, 2012, and this matter ensued.

2. Respondent is the holder of a Professional Clear Multiple Subject Teaching Credential issued on September 1, 2011. He previously held a Professional Clear Multiple Subject Teaching Credential issued on August 1, 2006, which was valid until September 1, 2011. The current credential is valid until September 1, 2016.

3. Between 2000 and 2004, Respondent was a substitute teacher for the District, while training for a regular teaching credential. He also taught during intercessions, and the Saturday school. Dr. Joanne Cameron, Ph.D. (Cameron), the District's Assistant Superintendent for Human Resources for 19 years, was not familiar with most of the District's substitute teachers, but she was familiar with Respondent because he had been barred from substitute teaching at seven of the District's school sites. Cameron said the site administrators had objected to Respondent's teaching practices and methods of correction.

4. Respondent applied for a permanent job in 2004. Cameron was involved with the hiring process. Respondent had negative reviews. The master teachers who supervised him during his student teaching had not passed him. When the District did not hire him, he filed a complaint with the Equal Employment Opportunity Commission (EEOC). The parties participated in mediation to resolve the matter and the District hired Respondent. He was assigned to teach the "opportunity" class at Arellanes Junior High School (Arellanes).

5. The "Opportunity class" is for students who have not had a lot of success in the regular classroom and are at risk of not completing high school. Students in the opportunity classroom have been removed from their regular classrooms. They may have behavior problems while attending school, such as being habitually absent, disorderly, or insubordinate, or they may be at risk of developing these behaviors. These students may benefit from self-contained classrooms, smaller class sizes, and specialized instruction. The teacher is challenged to become sensitive to the students' unique needs and potential. Respondent was an inexperienced teacher with a forceful personality. He did not bond well with the students. In his first year, he used a "whole class instruction" strategy, but it was not effective. He needed to individualize each student's instruction. (Exh. A.)

6. Respondent, in addition to teaching the opportunity class, was the supervising teacher of the independent study (I/S) program. He contacted the subject matter teachers, gathered appropriate work assignments, and put these together in work packets for each I/S student. Teachers had the option to have Respondent create the assignments for the I/S students. Carl Sousa, the principal of Arellanes during Respondent's first two years, from 2004-2006, wrote in Respondent's evaluation on March 6, 2006: "He is always cooperative and makes the Independent Study program at our school run smoothly. [¶] He supervises kids before school, during lunch and after school when necessary. He's always willing to go above and beyond his classroom duties to be of assistance to the administrative team."

7. After 30 years with the District, Sousa retired at the end of the 2005-2006 school year. The District appointed Patty Grady, Ph.D. (Grady), to replace him. Grady had observed Respondent when she was the assistant principal and he was a substitute teacher at El Camino Junior High School (El Camino) between 2000 and 2002. Before Grady began her duties as principal, she received a telephone message in March 2006, in which Respondent said: "I heard you got the principal's job; I don't know about you." Respondent was disappointed that Ted Ferrari (Ferrari), Arellanes' assistant principal, had not been appointed, even though Ferrari had not applied to become the principal.

8. Grady had seen Respondent use inappropriate discipline strategies at El Camino. Respondent had marched his students through the campus in a straight line when they would not engage in learning. If the line was not straight enough, he made students do pushups. She heard Respondent say, "If they're not going to perform in the classroom, then they're going to listen to me outside." He had continued this practice at Arellanes. Grady initiated several changes in the opportunity program that Respondent did not agree with. For example, opportunity students were not required to stay the entire school day under Sousa. Grady, however, believed letting the students out early, at noon, increased the potential for them to get into trouble during the time between leaving school and arriving home. Grady augmented the students' hours in the classroom to a full school day. Respondent told Grady he was going to "abide by her rule," but he did not agree with it.

9. Under Sousa, Respondent had assumed quasi-administrative duties of ~~supervising students out on the school grounds before school, during lunch, and after school;~~ he was allowed to carry an administration radio. He did not have an administrative credential. Grady believed teachers should not be able to hear confidential communications between her and Ferrari while discussing student discipline, so she took the radio away from Respondent. On November 8, 2006, two students were fighting by Room 1 before school. Respondent and Ferrari stood nearby, engaged in a conversation. They did not see the fight. Grady investigated the incident and told Ferrari to refrain from speaking to teachers while supervising students in the morning, and to focus on the students. She asked Ferrari to convey her directions to Respondent. The next day, Grady asked Respondent if Ferrari had spoken to him about being on the grounds during supervision and he said no.

10. Before Grady became principal in 2006, Respondent had been approved to attend a conference on mathematics. After Grady arrived, she decided to send only the single subject math teachers and rescinded Respondent's approval. Respondent was unhappy. Grady told Respondent she would send him to a conference to improve his skills in behavior or reading. She testified, "These kids needed structure. He needed a discipline plan. I wanted him to attend a conference that helped him to want to engage with the kids."

11. Grady communicated frequently with Respondent, almost always concerning student discipline, trying to make changes in his methods. Respondent objected to Grady's

policies. Grady met with him or sent emails to him at least 53 times between September 2006 and June 2007. Grady was concerned because Respondent was sending a large number of students to the office for behaviors. She heard Respondent yelling at students while she was walking by his classroom. Students were not doing their work. Respondent and students engaged in disrespectful exchanges. Some students walked out of the classroom and went to the principal's office. Respondent set up his computer so that he was not directly facing the students when he was looking at the computer screen. He aimed a camera on top of the computer - "an eye" - to videotape the students misbehaving. He wanted to show Grady "how they were behaving." Grady began conducting classroom observations. She was surprised to learn that students were not on behavior contracts.

12. Respondent threatened students with disciplinary actions that went beyond his authority. Parents and students shared their complaints about Respondent with Grady. Students said that Respondent accused them of things they did not do. He took a discipline situation and escalated it until the consequences went far beyond the alleged provocation. Respondent told students he worked in a prison, he knew martial arts, he was a probation officer, he had a badge, and he could get a student locked up in jail.¹ Respondent apparently made these remarks to get students to calm down. Grady asked Respondent to prepare and implement a behavior plan for his classroom, which Sousa also had endorsed during the prior school year. Respondent did not provide a behavior plan, as Grady had requested.

13. Respondent and Grady continually disagreed about how to address the behaviors of one student, R.L. Respondent would not relent in his quest to have R.L. removed from Arellanes. Respondent, without first informing Grady or checking on her schedule, arranged a meeting with R.L.'s parents to discuss R.L.'s two-day suspension from class. Grady was unable to attend due to a meeting that was previously scheduled. A Spanish-language interpreter facilitated the meeting. The interpreter later reported to Grady that Respondent told R.L.'s parents that R.L. should be transferred to Fitzgerald, the continuation school. Grady had repeatedly told Respondent that he lacked any authority to suspend a student from school or to place a student at Fitzgerald. Respondent told R.L.'s parents that he was a probation officer and showed them an "I.D. card" from his wallet.² He

¹ Two students at El Camino confirmed that Respondent made similar statements to his class. G.C. testified he heard Respondent tell students he worked in a prison, and he could get you locked up in jail. Student I.R. similarly testified at an arbitration hearing in 2009. I.R. quoted Respondent as having said, "You're going to the state prison where I worked in . . . I'm gong to call the cops if something happened." (Exh. 48, p. 637.)

² Complainant did not offer the testimony of R.L. or R.L.'s parents. Respondent's statements during this meeting, as reported by the interpreter to Grady, are admissible only as administrative hearsay, i.e., these statements may only be used to supplement or explain other evidence in the record. (Gov. Code, § 11513, subd. (d).)

telephoned Grady's office before she ended her other meeting. Grady met with R.L.'s parents and Respondent. She asked Respondent his concerns and the intent of the meeting, and he replied, "I do not have any options in place to help [R.L.] and I recommend that he be sent to Fitzgerald. . . . Both Ms. Grady and I want to help [R.L.] but we have different opinions - I want to give my opinion so that I can sleep at night." (Exh. 8.)

14. Grady conducted several classroom observations of Respondent during the 2006-2007 school year. She testified she "never saw a structured lesson being taught" by Respondent. In one observation, Respondent wrote an assignment on the board, went to his desk, and looked at his computer, with his back to the students. A student asked a question and Respondent replied, "It hasn't been long enough for you to figure it out on your own. . . . You figure it out." On another occasion, on November 1, 2006, Respondent had sent R.L. from the class to the office. Grady and R.L. returned to the class. Grady sat in the back and observed Respondent presenting the social studies lesson. A student was reading a passage while the other students read along silently. Respondent asked a question about the passage. He advised his students to raise their hands to respond. R.L. and another student eagerly raised their hands to answer the question; however, a third student blurted out the answer.

15. R.L. said, "He didn't raise his hand." Respondent told R.L. to be quiet, and then he returned to probe the third student for the answer. Respondent asked another question about the lesson, and R.L. blurted out the answer. Respondent reprimanded R.L. for speaking before he raised his hand or was called upon. R.L. became frustrated and disruptive, repeating, "This isn't fair." Respondent continued to argue with R.L. (Exh. 8.) Other students asked if they could read, and he said, "No, I will call on you when it is your turn." Grady believed the students were not engaged in the lesson. Respondent then instructed the students to begin writing answers to the questions at the end of the chapter and he returned to his desk. One student complied. When Grady left the classroom 10 minutes later, none of the other students had begun the assignment. Respondent was still sitting at his computer. Grady testified at the hearing, "He was always on the computer."

16. According to Grady's notes, on February 9, 2007, Respondent phoned the front office at 9:00 a.m. and stated that R.L. was out of control and not doing any of his work. Grady went to the classroom and saw R.L. sitting at the back table doodling in his notebook. She asked R.L. what he was supposed to be doing at this time, and he replied, "I am supposed to be taking a Math test but Mr. Smith does not teach us anything so I can't know the answers." (Exh. 8.) Grady asked R.L. to get his Math test and come to the front office. R.L. needed to copy the problems from the board, so Grady waited for him and observed the following:

[R.A.] was sitting at his seat doing nothing. [R.F.] was playing with a necklace. [A.M.] was doodling on a piece of paper on his desk. Respondent was sitting at his computer. [R.A.] said to [Respondent], "Will you correct my

math problems so I can see how I did on the test?" [Respondent] replied, "I don't have time to do this now - I will do it later. Go ahead and open up your math book and read the chapter on Mean, Medium and Mode. We will get to this later." [He] continued to work on his computer for the entire 10 minutes that I was in the classroom. He did not offer to help the students. He did not respond to the students or myself during the 10 minute period. (Exh. 8.)

17. Respondent lodged numerous complaints with Cameron accusing Grady of disparaging treatment and of undermining his authority in the classroom. Cameron was tasked with investigating these complaints. Respondent often told Grady that he would file an EEOC complaint against her. He filed an EEOC complaint in March 2007, not for himself, but on behalf of Ferrari, alleging that Grady had mistreated Ferrari.³ He suggested that Grady had caused Ferrari to resign as assistant principal.⁴ Cameron and Paul Hamill (Hamill), a lawyer retained by the District, began an investigation into these allegations.

18. In 2007, Respondent asked Grady to call the Sheriff's Department because he claimed he had been assaulted by a student. Respondent told Grady and the deputy that a student had rushed him and that he had to lay the student down on the ground. The Sheriff's deputy asked Grady to investigate. Grady interviewed four or five students and a lab technician. She concluded that Respondent instigated the physical altercation by "baiting" the student. The student did not assault Respondent, but merely pulled on his leg, trying to get Respondent to take his foot off the student's \$20 bill lying on the floor. Respondent "flipped" the student on his back. Grady was concerned about retaliation, so she placed the student off campus and at home where he did independent study. No action was taken against the student. Respondent alleged that Grady's investigation was "a retaliation issue" because she knew Respondent had filed a discrimination complaint against her.

19. Cameron met with Respondent to get to the bottom of his complaints. She asked him for specifics, but he would not speak to her; he said she was retaliatory. Cameron told Respondent she could not go forward without specifics. The teachers' union later reported to Cameron that some teachers were troubled by Respondent's negative comments about Grady and District administrators. Cameron interviewed all of the teachers, but still was unable to uncover a basis for Respondent's allegations. Cameron told Respondent that a position had opened for an opportunity teacher at El Camino and he should consider it, since

³ Respondent decided to file the EEOC complaint because, allegedly, he saw Grady yell at Ferrari.

⁴ Ferrari took a teaching position at Liberty Elementary after leaving Arellanes in March 2007. Ferrari testified in support of Respondent at the hearing. Notably, he never offered any reason why Respondent had filed the EEOC complaint on his behalf.

he had a positive relationship with Mark Muller (Muller), El Camino's principal, and it could be a better fit for him. He said, "I'm not leaving. She [Grady] needs to go." He later accused Cameron of bias because she had said she would not remove Grady.

The Stolen Math Book

20. On April 20, 2007, Respondent believed a student had stolen a math textbook, so he called the police dispatch, after learning that an assistant principal, Mr. Burke, was unavailable. Grady was off-campus at that moment. When she arrived afterward, at 9:30 a.m., she was informed by Mr. Burke about the situation. At 10:30 a.m., Respondent sent a student to the office because of the stolen math book. Grady met with the student, and then with Respondent and the student together. She sent the student back to the classroom. At 10:50 a.m., Officer Greene from the Sheriff's Department arrived at Arellanes. Grady overheard Respondent talking to Officer Greene as she approached them. She heard Respondent ask Officer Greene to come to his classroom so that he could "round-up" the students to be spoken to. It happened that, at that moment, the students Respondent wanted to round up were in other classes. Grady intervened.

21. Grady spoke to Officer Greene alone. The officer explained to her that he was investigating a string of burglaries in the area, which had delayed his arrival at the school. He said that the dispatch officer was displeased about receiving a call to respond to a report of a stolen textbook. Grady explained to Officer Greene that she had not had a chance to investigate the situation before Respondent made the call. She told the officer that he should continue with his burglary calls and, after she had investigated the stolen book, she would provide him with the results of her investigation. Grady told Respondent the same thing.

22. Grady directed Respondent that, in the future, he was not to call the Sheriff's dispatch regarding a stolen math book, or for any other campus incidents involving students or theft of school property. Grady told Respondent how to handle this matter in the future. First, she would conduct a site investigation and assess whether it was important enough to call the Sheriff's dispatch. Second, she, alone, would make a determination of when and whether to contact law enforcement. She explained that her policy was necessary to develop a good working relationship between the school and law enforcement. She said, "Please check with me before you decide to call the Sheriff's Department in the future." (Exh. J14.)

23. Respondent was not satisfied with Grady's direction and did not accept Grady's assertion that his call for a police response violated school policy. Later that day, he contravened Grady's direction and again telephoned the Sheriff's Department. He asked Officer Greene why he had not returned to the school campus to investigate the stolen math book. Respondent testified that he was justified making the call because he believed Grady had misled him after Officer Greene left the school site, i.e., she allegedly told him Officer

Greene would return to investigate further.⁵ Respondent filed a grievance against Grady. At the informal meeting, he insisted that he had a right to call the Sheriff's dispatch whenever he felt a need to do so, and that he would do so if any items were stolen from his classroom.

24. On the day after the book incident, Respondent wrote to Cameron that he was interested in the opportunity teaching position at El Camino if it was still available. He wrote, "I am looking at an avenue of peace. I could survive at AJH [Arellanes] if necessary, but I don't think it is a comfortable situation for me and the parties involved." Cameron was pleased and said she would work with Respondent to find solutions to his concerns; however, the focus of Respondent's discrimination complaints soon shifted from Grady to Cameron and to the District Superintendent, Dave Francis (Francis).

Respondent's Last Full Year of Teaching within the District

25. Muller was hopeful and supportive of Respondent joining the staff of El Camino at the beginning of the 2007-2008 school year. Muller previously had selected Respondent to teach Saturday schools and he had observed Respondent, in shortened sessions, helping children to attain a degree of success. There were no complaints at the beginning of the 2007-2008 school year, but then some complaints began coming in from teachers and students.⁶ Muller sat in and observed Respondent in his classroom. Muller testified at the hearing that the climate in the classroom was not good.

26. Muller observed that there was not a strong rapport between Respondent and his students. Students did not like him. Muller said, "As the year went by, I continued to go into the class to observe. I noticed there was not a good 'tone' between Respondent and the students. . . . This is a low economic community. We are trying to help them be the first in their family to succeed. Respondent speaks loudly all the time. It could be interpreted as yelling. He spoke aggressively at times: 'Get to work,' 'Work harder,' 'Sit down.'"

27. Muller wanted Respondent to implement a progress system, to measure students' success, so they could see how they were doing. Students talked while Respondent lectured, so Muller told him to work with them individually. Muller also recommended a "check system" for behavior, where students could earn rewards. Muller told Respondent,

⁵ Later on the same day, Respondent wrote in an email to Cameron that he had called the Sheriff's dispatch "to report a crime and as I told Mr. Burke, to let the kids know stealing from the teacher is serious," but he denied that it was meant to create "fear tactics."

⁶ Muller received a complaint that alleged Respondent was physically aggressive toward a student. Muller sent the complaint to the District office for the District to investigate. He also received complaints from physical education teachers that Respondent had been telling them what they needed to do for the I/S program.

"Find a better strategy," because what Respondent was doing was not working. Respondent did not implement Muller's suggestions or make changes in his classroom strategies.

28. Muller evaluated Respondent at the end of the 2007-08 school year. He found that Respondent met standards for that year. Respondent, however, had not been "successful," because he had failed to make needed changes or to improve his teaching skills and, as a result, students' skills failed to improve. Respondent's apparent indifference was troubling to Muller, because he believed Respondent wanted to help his students. Muller decided he needed to implement changes, with or without Respondent's choice.

The Independent Study Complaint

29. In the 2007-2008 school year, Respondent complained about his duties as supervising teacher of the I/S program at El Camino. The I/S supervising teacher created assignment packets, usually during the teacher's prep period. Respondent handed out the work packets. He met with both the students and their parents, before or after school, he went over the students' responsibilities, and he obtained their signatures on I/S contracts. The packets were returned to him for grading. He maintained the records for the District's auditor. Respondent worked beyond the normal school day to complete all of these tasks.

30. Since 2001, the District had paid the I/S supervising teacher a small stipend based on the number of days for each I/S contract that was completed, e.g., \$10 per 5-day contract. Respondent felt the pay was unfair and violated the minimum pay standards of the collective bargaining agreement. Cameron was willing to pay Respondent \$25 per hour for any extra work he performed beyond a normal school day. Respondent was not satisfied with this solution. He also maintained that the District required its I/S supervising teachers to do a job that, under the Education Code, was voluntary.

31. Classroom teachers cannot be compelled to perform I/S duties on top of their regular duties. The local teachers' union and the District, however, had agreed in 2001 to include the duties of the I/S supervising teacher with the opportunity teacher assignment at the junior high level. They also had negotiated the compensation associated with this assignment. Thus, the teachers' union did not agree with Respondent's complaint and decided not to join his grievance. On January 16, 2008, the Teachers' Union/District Labor Management Council (LCM) met to discuss the grievance. Cameron notified Respondent of the LMC's resolution of his grievance. The job description would not be changed; because of Respondent's large opportunity class and responsibilities, another teacher would continue the I/S program at El Camino "at this time." When time and workload permitted, the opportunity teacher would continue to complete I/S packets as outlined in the job description and assistance would be provided when needed. In addition to the salary associated with the opportunity/independent study teacher assignment, the practice of paying a stipend for I/S contracts completed would remain the same.

32. Respondent also filed a uniform compliance complaint with the California Department of Education (CDE). He argued that, unless all teachers were cooperative and created work assignments related to the individual student's level of academic achievement and performance, the work assignment packets were nothing but "busy work," violated state mandates, and discriminated against Hispanic students. Cameron consulted with Jean Klinghoffer, a retired administrator and independent contractor, who had worked with the District since 2000 on I/S program matters. In response to Respondent's complaint to the CDE, Klinghoffer reviewed the I/S program and determined that it was in compliance.

33. Respondent sent Cameron many emails arguing that the District's I/S supervising teacher job classification violated the Education Code. He said the District should compensate him and the other I/S supervising teachers for "this wrong when many have worked countless hours for around 3 to 4 hundred dollars a year or less when the district has received full ADA for each student and overall has not lost a thing. . . . Finally, do you realize that trying to solve this by finding a way to compensate individuals affected is a lot cheaper than going the route you are headed?" Cameron wrote Respondent back, saying his grievance was resolved and was no longer an issue.

34. The tone of Respondent's emails became more contentious. Respondent suggested that Cameron had been disingenuous with him, and was dishonest. He asserted that Cameron and the District had "knowledge" that the District's I/S program was in violation of law. He wrote that he would take the matter to the Public Employment Relations Board and that he was "going for all the back pay for me and other teachers." Cameron responded by reiterating the complaint procedures that had been followed and the results of the grievance. On February 7, 2008, Respondent wrote, "Fine! I will have the district served the proper paperwork by the sheriff or my representative. . . . If you want to spend more of my taxpayer dollars when you know the situation, help yourself."

The Sexual Harassment/Hostile Work Environment Complaint

35. Three days later, on February 10, 2008, Respondent wrote a letter to Cameron, which said he was "filing sexual harassment charges against Patty Grady, Tiffany Fife and the district administration for allowing this behavior to go on and not recognize it and taking action. [¶] I was subject to working in a hostile environment. . . . I left the school so I could get out of the hostile environment." This letter was the first time Respondent had mentioned a hostile work environment at Arellanes. On February 12, 2008, Respondent sent an email to Cameron and Francis accusing the District of "underhanded dealings" and suggesting "at this point [the District should decide] whether they are willing to come to a peaceful, but fair settlement of the issues we are dealing with. [¶] . . . [¶] I ask that you let me know if there is an offer to deal with the issues on a fair basis." Cameron replied, "I will follow the process on your Sexual Harassment complaint. Your previous complaints have been dealt with as I followed the District's processes fairly and promptly and they are now completed. [¶] Please

direct your inquiries on these issues to me as directed and not the Superintendent. If you fail to do as directed you are insubordinate. It is within our judgment to direct you not to contact Mr. Francis at this time.”

36. Respondent demanded that, because his new complaint involved Cameron, it must be handled at the Superintendent level. Cameron sent this complaint to the District’s legal counsel for a response. Cameron met with Respondent on February 15, 2008. She told him his sexual harassment complaint had alleged the same facts that she previously investigated based on his previous complaints. Cameron told him not to contact Francis regarding his past complaints or issues. She told him to direct his communications either to her or to the District’s legal counsel. Respondent continued sending emails to Francis.

Cameron Perceives Respondent’s Communications to Her as a Threat

37. Respondent accused Cameron and Francis of withholding information about his complaints from the District’s Governing Board (Board). He wrote Cameron on February 15: “[T]he board really has no clue what is happening unless charges are brought against the district in some form.” He said Cameron and Francis were manipulating the system. He assumed that “law suits, state investigations and public disclosure” were the only way to get the Board’s attention to look into this issue, because Cameron, “Francis, and the lawyer are keeping most of what is happening” among themselves.

38. On February 27, 2008, Respondent wrote Cameron: “I would like to thank you. I can’t say why yet, but I will in the future. As a person who may not like what you have done, I want to warn you of perjury [sic]. I am not accusing you of anything, but I am seeing some things that deeply disturb me. Please be careful.” Cameron perceived this email as a threat. She held a meeting with Respondent and warned him about threatening District employees. A few weeks later, he wrote “I am going public with situations concerning the district, and announcing actions that are in progress to deal with certain situations.” A week later, he wrote, “Now other legal situations are going to get legally ugly. Are you sure you don’t want to find a way to solve it fairly.” Respondent went to the lobby of the Santa Maria Police Department on April 22, 2008. He filed a written complaint under Education Code section 44114, subdivision (a), saying he believed he was the target of harassment and intimidation by his employer, and specifically, by Cameron. He claimed that Cameron accused him of threatening her, which he said was based on her “ridiculous” misunderstanding of his prior comments to her.

39. Meanwhile, Cameron and Hamill were investigating additional complaints against Respondent they had received from students, parents, and the teachers’ union president. Respondent’s behavior was causing a negative climate at El Camino. On April 28, 2008, Respondent wrote to Cameron: “I would appreciate if you would leave my friends alone. Your calling them along with your attorney to ask about me is inappropriate and

unprofessional. What is your reason for your actions? If it doesn't stop, legal action with the local police and the other organizations will follow immediately." Cameron responded: "The District has the right to conduct an investigation on the information that we receive." Respondent replied: "I will be reporting this harassment and intimidation to the proper authorities. They have a right to investigate also. The way I see things, and I am not a legal scholar, obstruction of justice may be in the cards." Respondent wrote to Francis, in violation of previous directives, that: "JoAnn has become relentless in her pursuit of me. I don't think it is fair, especially after hearing all the rumors JoAnn has started. Enough is Enough! If she wants this to go to the criminal courts, I will be glad to accommodate her."

I.R.'s story

40. I.R. was one of Respondent's students in 2008. One day, I.R. was being kept in after-school detention. I.R. was by himself, with Respondent. When he thought he was done with detention, he stood up and asked Respondent if he could leave. Respondent told him that he could leave in 15 minutes. I.R. waited for 15 minutes to pass and asked again if he could leave. The two of them continued to argue. Respondent would not let I.R. leave. Respondent told I.R., "What are you going to do now? You're in this class by yourself. You guys usually do stuff when you have a bunch of bodies." The classroom had two doors, and I.R. began walking toward one of these. Respondent stood in front of the door and said, "No, you can't go anywhere." Respondent pushed I.R. away from the door. I.R. "faked" like he was moving toward the other door, causing Respondent to move in the same direction, and allowing I.R. to walk out through the first door.

41. I.R. went to the office of Gail Burgess (Burgess), an academic counselor.⁷ Burgess had known I.R. at the elementary level for many years. She described him as a happy-go-lucky kid. I.R. was very upset. He had tears in his eyes. He was shaking from either fear or anger. Burgess thought something had happened. I.R. said, "Mr. Smith pushed me." Burgess thought I.R. was scared because Respondent would not let him leave the room.

42. Respondent denies he pushed I.R., but I.R.'s testimony is credible. When Respondent came into Burgess's small office, he was upset. Burgess and I.R. sat, while Respondent stood. Respondent told Burgess that I.R. was in detention and was trying to leave. He said I.R. had been pounding his desk. Burgess needed to find an administrator. She thought this was more than a typical student/teacher interaction. Burgess took I.R. to the resource office and I.R. told his story to Officer Torres and Ms. Orton, the assistant principal.

⁷ In 2009, I.R. testified that he closed the door to Burgess's office and locked it, because he wanted to talk to Burgess alone and knew that Respondent was following behind him. I.R. testified that Respondent unlocked the door to Burgess's office and came inside while I.R. was trying to tell Burgess what had happened. I.R. testified that Respondent said to Burgess, "He is lying. If I pushed him, where are the bruises?"

Making Students Run as Punishment

43. Rachele Azziz (Azziz) was the physical education teacher for opportunity students at El Camino in spring 2008. She often saw Respondent at his desk when she went into his classroom to take the students to the field. She and Respondent had different teaching styles. She saw Respondent yell at students. During her physical education class, Respondent occasionally took control, without asking her, and made the students line up because they were not paying attention. Respondent yelled to make students run as a form of punishment. If they failed to complete the distance within a certain time, he made them run again. Some of the students were obese and did not have the ability to run. Respondent denied that he made students run as punishment. He maintained that he was helping them get fit in order to meet standards. Respondent's contention in this regard was not persuasive.

Respondent Used a District Computer During Classroom Periods to do Personal Things

44. From 2006 through 2008, Respondent spent an extensive amount of time on his computer in the classroom during the regular school day, conducting searches of websites, many of which were not related to the educational program. He also composed a multitude of personal emails to District personnel during his teaching hours. The District hired an expert to conduct a forensic examination of computers that Respondent used in his classroom. The report of this expert, along with Grady's observations and the testimony of students, established that Respondent misused his computer. Student I.R. testified: "We would be doing work at our desks when he used the computer. He would be looking at stories about Obama and Clinton. If we asked him for help with our work, he would say, 'You figure it out, I'm busy.'" G.C. confirmed that Respondent used the computer to teach lessons. G.C. also said Respondent was "on the computer a lot. Other teachers did not do it as much. He spent more time on the computer than teaching."

45. Respondent was questioned by the District in 2008 concerning his computer use. He failed to provide complete and truthful answers. He denied that he used the classroom computer for his personal business or enjoyment during classroom periods. He was confronted with evidence from the computer's history files showing a large number of website searches. He placed blame for these searches on students and a teacher who relieved him in the classroom during his breaks.

46. In his testimony, Respondent denied that he misused the computer. He said that he used it for instruction and grades. He admitted that he used the computer to look "at things not related to classroom stuff," e.g., he used the computer to look up "sports talk" and business sites. He said he conducted those searches during his breaks. He said he used the computer to track stocks for teaching students about decimals, fractions, and multiplication. He said he would never refuse to answer students' questions because he was preoccupied with the computer. Respondent's assertions, denials, and explanations were not persuasive.

In sum, he often misused his computer in the classroom instead of working with students and fulfilling his teaching responsibilities.

Asking Students to Disclose the Substance of Cameron's Interviews

47. After Cameron had interviewed some of Respondent's students, she told Respondent not to question the students about these interviews. Respondent, nevertheless, questioned his student individually and asked them for information about what was told to them by Cameron, in violation of Cameron's directive.

Spitting on Students' Lunches

48. The opportunity students generally did not take lunch with the other students in the cafeteria, but ate separately. If a student had been sent home for the day, there could be an extra lunch for that person, and some students wanted to have seconds. Students reported that Respondent took extra food away and did not let his students eat it. He would put the food in the trash and spit on it to keep students from eating it. This was confirmed by G.C. Respondent denied he spit on anybody's food. He said all extra food was put in the trash after the students had finished eating. He said he spat in the trash can to keep them from taking the food from the trash, which they sometimes used as objects to throw at each other in the class. Respondent testified, "I spit in the trash, they thought that was gross, so it deterred them from digging through trash." Jose Antonio Rodriguez (Rodriguez) was employed by the District as a Student Opportunity Access Program instructor who worked part-time in Respondent's classroom in 2008. He said that Respondent's students complained to him about Respondent spitting in the food. He did not believe the students at first, but when he heard other stories about Respondent, he began to believe them.

Respondent's Eight Suspension Notices

49. On June 6, 2008, Cameron served Respondent with a notice suspending him for the first 10 days of the 2008-2009 school year, based on Cameron's findings that Respondent physically and verbally abused students, misused a computer, refused to follow directions not to contact Superintendent Francis, attempted to extort the District under threat of filing additional complaints and criminal charges, and intimidated student witnesses. Seven more suspension notices were issued to Respondent during the 2008-2009 school year, which, together, imposed a total of 105 days of suspension, as set forth in more detail, *post*. Respondent requested an evidentiary hearing to contest all of these suspension notices.

Respondent Interferes with a District Board Meeting

50. On August 27, 2008, at approximately 6:00 p.m., Respondent went to the District offices and disrupted a non-public session of the Board. The Board and District

administrators were sitting in a conference room where they usually conducted closed-door sessions. An open session of the Board was scheduled to begin at 6:30 p.m., approximately one-half hour later, in the main Board room, where there is space for the public to sit and participate. The time periods of the open and closed sessions were posted on the Board's meeting agenda. Respondent had attended and spoken at Board meetings several times, so he was familiar with the practice of open and closed sessions.

51. Cameron first noticed someone opening a door that leads from an outdoor patio into a small office, which opens directly into the conference room. The doors were open between the conference room and the office, so a person in the office could overhear conversations in the conference room. Cameron could see to the outside door. She alerted David Riloquio (Riloquio), the Board president, and Hamill that a person was trying to enter through the door. Riloquio and Hamill met Respondent as he entered from the outside.

52. A verbal argument ensued between Respondent and Hamill. Riloquio told Respondent it was a closed session. Respondent said he had some information he wanted to email to Riloquio. Hamill asked Respondent to leave, but he refused. Riloquio testified that Respondent seemed more agitated than at previous sessions of the Board. His voice was altered, with an aggressive tone, and he was agitated. Riloquio testified: "Mr. Smith was acting abnormally." Respondent said he wanted to speak to the Board. Hamill again told Respondent to leave, but he would not leave. Cameron could see and hear the men arguing and was fearful for her safety. The Board determined to contact the police. Respondent eventually went outside and Hamill followed. Respondent also called the police department and requested assistance. The police department did not respond to either call.

53. Respondent later told a police officer that he had entered the closed-door session inadvertently and he felt threatened by the manner in which Hamill had asked him to leave. He said he told Hamill to get away from him, but Hamill refused. When he left the room, Hamill followed him outside. Respondent's assertion that he entered the room by accident was not credible because of his previous experiences appearing at Board meetings.

54. On August 29, 2008, Respondent presented another letter to the police department alleging that Cameron had harassed and intimidated him for several months. He wrote that, ever since he had filed a uniform complaint alleging discrimination in the I/S program, Cameron had threatened to take his job away from him.⁸ He asked that the police

⁸ Cameron and Respondent reached an impasse after he grieved the I/S requirements of his position and complained to the CDE. In May 2008, Cameron wanted written assurance that Respondent was going to perform all of the duties of his assignment, but Respondent refused to sign a supplemental contract affirming that he would perform these duties. Cameron intended to post his position and offer it to other teachers if Respondent refused to sign the document. Cameron did not hire a permanent teacher to fill his position, but retained

refer his complaint to the District Attorney for criminal prosecution. As part of this report, Respondent alleged that Hamill had harassed him at the August 27 Board meeting.

55. On September 3, 2008, Francis issued a notice informing Respondent that he was suspended for 15 days, to be served from September 22 through October 10, 2008, for trespassing, interrupting a closed session of the Board, insubordination, making threatening statements and gestures, and interfering with a police investigation. Respondent sent an email to Francis on September 5, 2008, in violation of prior directives.

56. On September 12, 2008, Francis issued a notice informing Respondent that he was suspended for 15 days, to be served from October 13 through 31, 2008, for dishonesty and insubordination, namely, on August 27, 2008, Respondent told District administrators that he filed criminal charges and intended to seek a restraining order against Cameron.

57. On September 19, 2008, Cameron issued a notice informing Respondent that he was suspended for 15 days, to be served from November 3 through December 1, 2008, for repeated insubordination and dishonesty, attempted extortion, and violating a directive not to contact the superintendent on August 31, and September 8 and 12, 2008.

58. On September 29, 2008, Cameron issued a notice informing Respondent that he would be suspended for 15 days, to be served from December 4, 2008, through January 22, 2009, for insubordination and employee dishonesty, namely, for refusing to comply with a directive not to contact Francis by sending him an email on September 20, 2008, which was harassment and intimidation, and contained threats and false allegations.

Respondent's Demands for Pay Stubs

59. Respondent and his wife applied for financing to purchase a home in October 2008. The lender/underwriter required verification of Respondent's salary and would not accept a District statement of the amount of Respondent's gross salary; instead, it wanted recent pay stubs. Respondent did not receive any pay in October because he was under suspension. In August and September, he received reduced pay. So, he had no pay stubs showing his "normal" rate of pay. Respondent did not want to provide his lender the actual pay stubs that showed, while suspended, he earned considerably less than his regular salary.

60. Respondent telephoned Christine Arebalo (Arebalo), a District personnel clerk, and asked for her assistance. Arebalo told Respondent she could complete the District's verification of employment form and include information demonstrating the amount that had been paid to him. Respondent told Arebalo he did not want her to provide the lender with

a substitute to fill in while Respondent was serving his suspensions in 2008-2009. Respondent never taught again in a District classroom after the 2007-2008 school year.

information about his actual pay. He wanted her to send the lender pay stubs showing what he would have earned if he were in full paid status. Arebalo told Respondent that she could not send the lender pay stubs for money that was not paid.⁹ She suggested that she could send a verification form that would show his pay over the past two years, and any projected pay increases. Respondent continued to insist that he wanted pay stubs, but eventually, he agreed to allow Arebalo to send the verification form to the lender.

61. Arebalo sent the verification form to the lender. A lender representative called Arebalo and asked for recent pay stubs. The lender stated that Respondent claimed he did not have pay stubs because he was on paid medical leave. Arebalo told the lender that the medical leave story was untrue and that she would talk to her supervisor before providing any more information to the lender. Arebalo spoke to Cameron and reviewed the authorization to release information. Respondent called Arebalo and said, "I do not want you to provide them with actual pay information." Respondent was upset during the call. He informed Arebalo that "he better get his loan or it would cost the District."

62. Respondent emailed Cameron and wrote, "I don't want to show the suspension action because it is not final . . . it could adversely affect my obtaining [a loan.]" He described the part of his salary he had not received while under suspension as money being kept "in holding until the hearing determination." He contended that he was going to get the money back after he prevailed at the hearing on his suspensions. He made a veiled threat that "[u]sing this information could cause me to lose my new home and this could be a legal nightmare. I hope there is something that can be done because I have invested thousands that may not be able to be returned." On November 4, 2008, Respondent sent a letter to the lender, in which he said, "I receive monthly pay of around \$5600.00 dollars and am receiving this amount each month." He said that had had been suspended for a "brief" period and, though he was not working on the job, he was receiving his pay each month "but the pay for the suspension period was being held until I have a hearing on 11/13/08 and a determination to the merits of the suspension is made. . . . [T]he district is prepared for me to return to work after the Christmas winter break which ends on 1/22/08. Depending on the outcome of the hearing, I could be back to work sooner. Regardless, I will be receiving pay that will allow me to pay my loan." This letter was false and misleading.

63. On November 5, 2008, Respondent emailed Cameron and asked that the December suspension be delayed so that he could be working and the lender would stop holding up escrow to purchase the home. Cameron denied this request. On November 7, 2008, Respondent sent Cameron an email asking that the Board be notified of "my request

⁹ In addition, the District did not print employees' pay warrants or pay stubs, which were issued by Santa Barbara County based on information submitted to it by the District. Regardless, the District would not provide altered pay stubs.

for district level charges of discrimination, harassment and retaliation. . . I would like the investigation to be done by a neutral party. . . In my opinion, your behavior in the capacity of Personnel Director has been abusive, underhanded, criminal, malicious and exceeds your authority in some cases. . . I also will be pursuing criminal charges according to CA Ed Code and filing another police report.” At the same time, Respondent called for a “hearing” alleging discrimination, collusion, harassment and intimidation against the District’s legal counsel, and requesting information about how much money had been paid to them.

64. Respondent asserted that it was the lender’s perception that, rather than being under a suspension, Respondent was not employed by the district. He asked Cameron to put in writing that the District did not count the period from November 20, 2008, through January 19, 2009, as part of his suspension. He argued that these days were non-working days for all District employees and, therefore, these could not be counted as part of the period of his unpaid suspension. Cameron denied his request.

65. In sum, the evidence established that Respondent made misrepresentations to a mortgage lender in 2008 about his income from the District while he was under suspension without pay. He repeatedly requested a District employee to provide payroll documentation that showed his gross income as if he were in fully-paid status, but omitting to disclose that he was not currently earning a paycheck. The District refused to do so because it would be misleading. Respondent thereafter threatened the District with legal action if he lost his home purchase financing.

Additional Suspension Notices

66. On December 17, 2008, Cameron issued a notice informing Respondent that he was suspended for 15 days, to be served from January 23 to February 13, 2009, for requesting the District to provide false information regarding his pay to a home lender.

67. On December 19, 2008, Francis issued a notice informing Respondent that he was suspended for 15 days, to be served from February 17 through March 9, 2009, for insubordination and dishonesty, for repeatedly making false and defamatory statements to Riloquio, the District Board’s President.

68. On February 20, 2009, Cameron issued a notice informing Respondent that he was suspended for 15 days, to be served from March 10 through 30, 2009, for misuse of a laptop computer at Arellanes.

69. A multiple-day hearing was held in 2008-2009 before an arbitrator for the purpose of determining whether there was evidence that established a basis for the eight suspension notices. The arbitrator issued a decision upholding all of the suspension notices and the Board adopted the arbitrator’s decision on September 2009.

70. Effective March 30, 2009, Respondent was placed on paid administrative leave.

Notice of Unprofessional Conduct

71. On September 10, 2009, the District served Respondent with a Notice of Unprofessional Conduct. Attached to this notice was an "Improvement Plan." Cameron notified Respondent that he was required to attend a meeting with her on September 20, 2009, to discuss this notice and plan. Respondent called in sick that day and did not attend the meeting. Later, Respondent and the teachers' union filed a grievance stating that the District lacked the authority to require Respondent to participate in an improvement plan.

72. On or about December 9, 2009, the District issued a Statement of Charges and Recommendation of Dismissal against Respondent. On January 27, 2010, the District issued an Accusation against Respondent. Prior to a hearing on the Accusation, the parties reached a settlement. Respondent resigned from the District in July 2010, effective August 3, 2010.

73. Respondent was elected to the Board in November 2010.

Demeanor Evidence

74. Respondent was respectful of the process throughout the hearing. He displayed at times a tendency to lose composure and become frustrated during the cross-examination of witnesses. His questions became irritatingly insistent, his voice got louder and more accusatory. Although he followed the ALJ's directions most of the time, he would forget the prior directions and repeat most of these things in the heat of the moment as he aggressively engaged witnesses.

Unproven Allegations

75. Complainant alleged that Respondent offered false testimony during the evidentiary hearing on his suspensions. Complainant failed to offer evidence to support this allegation, and this allegation was not established.

76. Complainant alleged that Respondent told his students to complete a mandatory evaluation of him as a teacher for extra credit. Complainant failed to establish this allegation.

77. Complainant alleged that Respondent physically pushed students and blocked them from leaving classroom when they tried to report his abusive. These allegations were based on incidents unrelated to I.R.'s story. Complainant failed to offer evidence regarding these incidents; therefore, this allegation was not established.

The "Morrison" Factors

78. Respondent's conduct must be evaluated in terms of his fitness to teach pursuant to the pertinent criteria first set forth by the Supreme Court in *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 229-230 (*Morrison*).¹⁰ Application of the *Morrison* factors indicates unfitness to teach. Respondent engaged in innumerable instances of unprofessional conduct during his tenure with the District. He spent an excessive amount of time complaining and attacking District policies and administrators, rather than helping his students succeed. He spent an overwhelming amount of time and effort disciplining his students, rather than developing strategies to engage them in learning. He was loud, confrontational, and rude to many students, teachers, parents, and administrators. He misused his computer during teaching periods for personal business. His behavior in the classroom was not acceptable under any standard and it had an adverse effect on students and teachers. Students justifiably commented that they did not learn much in his classroom.

79. Complainant did not establish that Respondent engaged in serious physical abuse of students, but amply demonstrated that Respondent was verbally and emotionally abusive. He had a bad temper. He yelled at and punished his students inappropriately. He threatened to suspend or send students to the office; moreover, he threatened criminal sanctions if they did not behave. Scolding and intimidating 12-year-olds are improper, regardless of Respondent's assertions that they were troublemakers and gang members.

80. Respondent's belligerent conduct towards colleagues also disrupted the educational process and adversely affected both students and faculty. Between 2006 and 2010, Cameron spent greater than 80 percent of her time responding, or assisting in responding, to Respondent. Grady spent a significant amount of time addressing Respondent's problems and concerns. The number of communications that Respondent sent

¹⁰ The Court set forth the following factors: the likelihood that the conduct may have adversely affected students or fellow teachers; the degree of such adversity anticipated; the proximity or remoteness in time of the conduct; the type of teaching certificate held by the party involved; the extenuating or aggravating circumstances, if any, surrounding the conduct; the praiseworthiness or blameworthiness of the motives resulting in the conduct; the likelihood of the recurrence of the questioned conduct; and 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. (See also Cal Code Regs., tit. 5, § 80300, subds. (b) & (m).) Not all factors may apply in each case and only the pertinent ones need to be examined. (*West Valley-Mission Community College District v. Conception* (1993) 16 Cal.App.4th 1766, 1777; *Governing Board v. Haar* (1994) 28 Cal.App.4th 369, 384 (*Haar*).) The determination of fitness for service required by *Morrison* is a factual one. (*Board of Education v. Jack M.* (1977) 19 C.3d 691, 698, fn. 3; *Fontana Unified School District v. Burman* (1988) 45 Cal.3d. 208, 220-221; *Haar, supra*, 28 Cal.App.4th at p. 384.)

to Francis also became disruptive. Respondent repeatedly failed to comply with his administrators' directions. He constantly ignored suggestions for improvements in his teaching skills and classroom management. He refused to participate in an improvement plan; Muller said Respondent's refusal was "unethical." He never asked for any assistance. He was often wrong on important issues, but never changed his opinions or expressed remorse for his bad conduct. He threatened the District when he could not get what he wanted. To Respondent, it was more important to win an argument than to resolve a problem. Respondent's deficiencies demonstrated a pattern of misconduct.

81. Respondent engaged in various deceptions and falsehoods that involved moral turpitude. When confronted with evidence of his misconduct, such as his use of the computer, he offered false explanations. He ignored or rebelled against the discipline imposed on him. He was not honest on a number of levels. He pursued complaints he said were "never about the pay," but repeatedly asked the District to offer him money to resolve matters. His allegations of sexual discrimination were another charade to draw attention away from his own misconduct. His depiction of a vast conspiracy against him was never proven on any level or to any degree. His outright deception regarding his income verification in fall 2008, when he was applying for a home loan, was willful and flagrant.

82. Respondent's failures were not mere negligence. He intentionally pursued a personal agenda through resistance, antagonizing behaviors, and impugning of District administrators. He created a negative learning environment for his colleagues and students. Respondent did not establish that personal circumstances, such as a traumatic event or its aftermath, were causing his behaviors. It would be hard to imagine what the District could have done to assist Respondent or reverse his campaign against the District, other than by acceding to his every demand. Respondent never demonstrated that he was willing to utilize the many opportunities he was given to correct the problems. He exacerbated the problems.

83. Respondent's misconduct is evident and is the result of an inadequacy or defect in temperament.

84. Except for those previously found to have merit, all other allegations in the Statement of Charges and all other contentions of the parties at the hearing are found to lack merit or to be surplusage.

LEGAL CONCLUSIONS

1. Education Code section 44421 provides that: "The Commission on Teacher Credentialing shall privately admonish, publicly reprove, revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause that would have

warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.” Section 44345 includes, as grounds for the denial of an application for a credential, whether the applicant: “(e) Has committed any act involving moral turpitude.”

2. The standard of proof to be used in this proceeding is “clear and convincing proof to a reasonable certainty.” (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) This means the burden rests on Complainant to establish the charging allegations by proof that is clear, explicit and unequivocal—so clear as to leave no substantial doubt, and sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.) This requires Complainant to make an evidentiary showing which meets a more exacting measure of persuasion than the customary preponderance. A slight preponderance in favor of Complainant is not enough.

3. “Immoral conduct,” of which Respondent has been accused, has been defined to mean that which is hostile to the welfare of the general public and contrary to good morals. It includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, and dissoluteness. Or, it can be conduct that is willful, flagrant, or shameless, or conduct showing moral indifference to the opinions of respectable members of the community, or as an inconsiderate attitude toward good order and the public welfare. (*Board of Education v. Weiland* (1960) 179 Cal.App.2d 808, 811 (*Weiland*)).

4. “Evident unfitness for service,” while it is not specifically set forth in Education Code section 44421, is found in the dismissal provision of section 44932, subdivision (a)(5), and within the meaning of this provision, requires that the unfitness for service be attributable to a defect or inadequacy in temperament, presumably not remediable merely on receipt of notice that the teacher’s conduct fails to meet the expectations of the employing school district. (*Woodland Joint Unified School District v. Commission on Professional Competence (Zuber)* (1992) 2 Cal.App.4th 1429, 1444-1445.)

5. Cause exists to revoke Respondent’s Professional Clear Multiple Subject Teaching Credential under Education Code sections 44421 and 44345, subdivision (e), for immoral conduct and for commission of an act of moral turpitude, as set forth in factual finding numbers 44 through 46, 59 through 65, and 81, and legal conclusion numbers 1 through 4; and 7. Respondent provided untruthful and incomplete answers to District personnel when confronted regarding his computer use. He also solicited the District to provide a fraudulent document to a lender regarding his pay.

6. Cause exists to revoke Respondent’s Professional Clear Multiple Subject Teaching Credential under Education Code section 44421, for unprofessional conduct, as set forth in factual finding numbers 7 through 83, and legal conclusion numbers 1 through 5; and 7. Respondent has engaged in numerous acts involving dishonesty; improper discipline of students; verbal and emotional abuse of students and colleagues; willful defiance of

supervisors' directives, misuse of a District computer and failure to fulfill his duties in the classroom, refusal to make changes in his classroom or to improve his teaching skills, continually bringing charges or threats of charges against his superiors in a manner that was disruptive to the educational process and not geared toward resolving problems, all to the detriment of students and teachers. Respondent's misconduct has demonstrated a defect in character which makes him unfit for teaching.

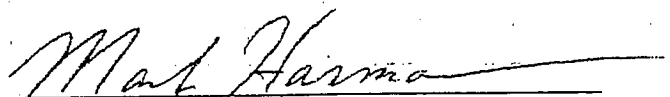
7. Complainant has demonstrated that Respondent's immoral and unprofessional conduct, as set forth in factual finding numbers 7 through 77, is substantially related to the qualifications, functions, and duties of a credentialed teacher under the Morrison factors, as set forth in factual finding numbers 78 through 83, and demonstrates his unfitness to teach.

8. Complainant has established a pattern of conduct which renders Respondent unfit to teach. Respondent's misconduct is of a severity and nature, extending over a substantial period of time, that warrants revocation of his credential to teach.

ORDER

The Accusation against Respondent William Craig Smith is sustained. The Professional Clear Multiple Subject Teaching Credential and all other certification documents held by Respondent are revoked. Any applications for a credential that have been submitted by Respondent and that are pending before the Commission on Teacher Credentialing are denied.

DATED: October 22, 2013



MARK HARMAN
Administrative Law Judge
Office of Administrative Hearings

RECEIVED

2013 NOV 22 AM 10:38

ATTORNEY GENERAL LOS ANGELES

JC Figueroa

11/21/13

The Association against Immigrant Detention (AAID) is requesting that the Attorney General take action to ensure that the Department of Homeland Security (DHS) complies with the provisions of the Immigration and Nationality Act (INA) regarding the treatment of immigrants in detention.

AAID
11/21/13