
5B

Information/Action

Professional Practices Committee

Proposed Disciplinary Guidelines for Adverse Action Orders and Conditions of Probation

Executive Summary: This agenda item introduces Proposed Disciplinary Guidelines for Adverse Action Orders and Conditions of Probation for use by the Commission, legal counsel, administrative law judges, and other persons involved in the educator misconduct process.

Recommended Action: Staff recommends the Commission approve the Proposed Disciplinary Guidelines and instruct staff to initiate the rulemaking process.

Presenters: Thomas Lazar, Deputy Attorney General, Licensing Section, Office of the Attorney General, Katie Hampton, Staff Counsel, Division of Professional Practices

Strategic Plan Goal:

I. Educator Quality

- d) Effectively, efficiently, and fairly monitor the fitness of all applicants and credential holders to work with California students.

February 2019

Proposed Disciplinary Guidelines for Adverse Action Orders and Conditions of Probation

Introduction

The Proposed Disciplinary Guidelines for Adverse Action Orders and Conditions of Probation (hereafter “Guidelines”) are intended for use by individuals involved in adverse action proceedings against credential holders and applicants, including administrative law judges and attorneys, Committee members, as well as the Commission members, who review proposed decisions and settlements and exercise ultimate authority to make final decisions. These Guidelines are intended to facilitate uniformity of adverse action orders, consistency in decision-making, notice to educators, and transparency to the public.

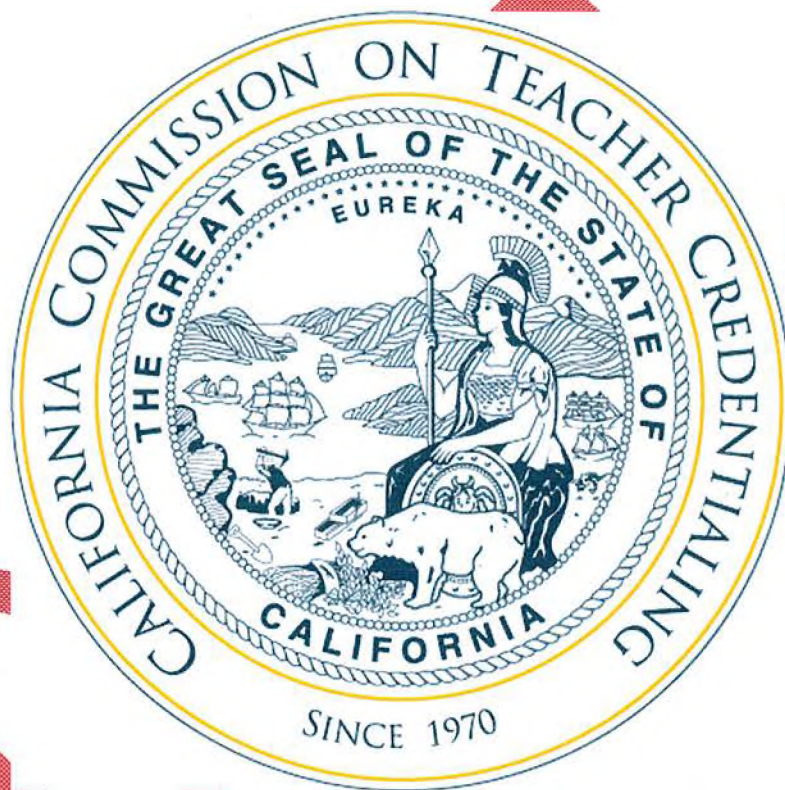
Background

Licensing agencies adopt disciplinary guidelines to provide direction to others involved in effectuating the disciplinary process. To this end, the Office of the Attorney General has recommended that the Commission adopt disciplinary guidelines. The Guidelines contain a range of adverse actions that may be imposed for specific types of conduct in violation of agency disciplinary laws, factors in aggravation and mitigation, and suggested language for standard and optional terms and conditions of probation. Guidelines are not binding. The facts of each case are unique and mitigating or aggravating circumstances in a particular case may necessitate deviation from the Guidelines. Minimum and maximum adverse actions are meant to provide assistance in determining the appropriate outcome.

Staff Recommendation

Staff recommends that the Commission approve the Proposed Disciplinary Guidelines and instruct staff to initiate the rulemaking process.

State of California
CALIFORNIA COMMISSION ON TEACHER CREDENTIALING



**GUIDELINES
FOR ADVERSE ACTION ORDERS
AND CONDITIONS OF PROBATION**

1st Edition, effective XX, 2019

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

GUIDELINES FOR ADVERSE ACTION ORDERS AND CONDITIONS OF PROBATION

1st Edition, 2019

The Commission on Teacher Credentialing (Commission) has produced these Guidelines for Adverse Action Orders and Conditions of Probation for the intended use of all those involved in the adverse action process, i.e., applicants, credential holders, defense counsel, deputy attorneys general, staff counsel, administrative law judges, members of the Committee of Credentials, as well as members of the Commission itself who review all proposed decisions and consent determinations and make final decisions. The guidelines have been developed by the Commission in a rulemaking proceeding and are incorporated by reference in **California Code of Regulations, title 5, section XXXXX.**

All are welcome to use and copy any part of these Guidelines for their own work. A copy of the Guidelines is also available on the Commission's website, www.ctc.ca.gov.

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DRAFT

INTRODUCTION

Protection of schoolchildren, the education profession and the public is the highest priority of the Commission on Teacher Credentialing. Where not inconsistent with that highest priority, adverse actions issued by the Commission are also calculated to aid in the rehabilitation of credential holders. To further these important public protection goals, the Commission has adopted these Guidelines for Adverse Action Orders and Conditions of Probation to provide the Commission's view of the appropriate adverse action for identified violations. The Commission finds that these guidelines will promote uniformity, certainty, fairness, and deterrence, all of which further public protection.

The Commission expects that administrative law judges hearing cases on behalf of the Commission will follow these guidelines. To that end, any proposed decision that deviates from these guidelines shall identify with specificity the reason for the deviation so that the Commission can evaluate the appropriateness of the proposed decision.

If at the time of hearing the administrative law judge finds that the Respondent is presently unable to perform the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession and the public, it is the Commission's view that the only appropriate adverse action is outright revocation of the credentials.

If, however, at the time of hearing, the administrative law judge finds that the Respondent can safely perform the functions authorized by Respondent's credentials, depending on the severity of the misconduct, a stayed revocation order and period of probation, along with conditions of probation calculated to aid in Respondent's rehabilitation, may be appropriate. An actual suspension of Respondent's credentials may also be appropriate to provide time for Respondent to correct any deficiencies in skills, education or personal rehabilitation, and also to serve the important purpose of deterring any future misconduct.

The Education Code¹ requires that for some offenses the Commission shall deny an application or revoke a credential, thus removing any discretion to issue any other adverse action order. These Guidelines identify only offenses for which discretion exists and the range of expected minimum and maximum adverse action for each.

¹ All citations herein are to the Education Code unless otherwise specified.

REGULATORY AUTHORITY

California Code of Regulations

Title 5, Division 8

Section XXXXX:

Guidelines for Adverse Action Orders and Conditions of Probation.

In reaching a decision on an adverse action matter, the Commission shall utilize the "Guidelines for Adverse Action Orders and Conditions of Probation **effective XXX,**" which are hereby incorporated by reference.

- (a) Deviation from the Guidelines, including the standard conditions of probation, is appropriate where the Commission, in its sole discretion, determines that the facts of the particular case warrant such a deviation—for example: the presence of mitigating or aggravating factors, the age of the case, or evidentiary problems.
- (b) It is the Commission's view that in any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that an applicant or credential holder has engaged in any act of grooming, sexual abuse, sexual misconduct, or sexual relations with a student, the only appropriate adverse action is either outright denial of the application or outright revocation of the credentials.

AGGRAVATING FACTORS

By regulation, the Commission has identified aggravating factors, each of which, when present, is "an event or circumstance which demonstrates that a greater degree of adverse action for an act of professional misconduct is needed to adequately protect the public, schoolchildren or the profession." (Cal. Code Regs., tit. 5, § 80300, subd. (b).) Such factors include, but are not limited to, the following:

- "(1) a prior record of adverse action including the nature and extent of that record;
- "(2) that the misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct;
- "(3) that the misconduct was surrounded by or followed by bad faith, dishonesty or other violation of the laws governing educators;
- "(4) that the misconduct significantly harmed a child entrusted to the care of a credential holder or applicant, significantly harmed the public or the educational system;

“(5) that the holder or applicant demonstrated indifference toward the consequence of the misconduct, which includes failure to comply with known court orders; or

“(6) that the holder or applicant had prior notice, warnings or reprimands for similar conduct from any reliable source.”

(Cal. Code Regs., tit. 5, § 80300, subd. (b).)

In general, it is the Commission’s view that the presence of more than one aggravating factor in a given case substantially increases the necessity for an even greater degree of adverse action for an act or acts of professional misconduct in order to adequately protect schoolchildren, the education profession and the public.

MITIGATING FACTORS

By regulation, the Commission also has identified mitigating factors, each of which, when present, is “an event or circumstance which demonstrates that the public, schoolchildren and the profession would be adequately protected by a more lenient degree of adverse action or no adverse action whatsoever.” (Cal. Code Regs., tit. 5, § 80300, subd. (m).) Such factors include, but are not limited to, the following:

“(1) absence of any prior record of adverse action over many years of educational service, coupled with present misconduct which is not deemed most serious;

“(2) lack of harm to the person who is the object of the misconduct;

“(3) emotional or physical difficulties suffered by the holder or applicant which substantially contributed to the misconduct; provided that the difficulties were not the product of illegal conduct by the credential holder or applicant, such as illegal drug or substance abuse; and further provided that the credential holder or applicant has established through clear and convincing evidence that they no longer have such difficulties;

“(4) a demonstration of good character of the applicant or holder attested to by references from the educational community or the general community from individuals aware of the extent of the applicant’s or holder’s misconduct;

“(5) objective action taken by the applicant or holder, spontaneously demonstrating remorse at the time of the misconduct, and recognition of the wrongdoing which is designed to timely make amends for the consequences of the misconduct;

“(6) the proximity or remoteness in time relative to the seriousness of the misconduct; or

“(7) the nature and extent of subsequent rehabilitation.”

(Cal. Code Regs., tit. 5, § 80300, subd. (m).)

In general, it is the Commission’s view that, depending on the severity of the misconduct, the presence of more than one mitigating factor in a given case may have the effect of more clearly demonstrating that schoolchildren, the education profession and the public may be adequately protected by a more lenient degree of adverse action, or no adverse action at all.

STANDARD ADVERSE ACTION ORDERS

The following standard language should be used by administrative law judges in preparing proposed adverse action orders and by parties in preparing orders contained in consent determination documents. Note that gender-neutral language is used wherever possible in all orders.

1. For Credential Holders:

Revocation:

The (type of credential) credential issued to Respondent (name) is revoked.

Suspension:

The (type of credential) credential issued to Respondent (name) is suspended for a period of (e.g., 30, 60, 90 days, etc.) beginning on the effective date of this order.

Note: A suspension may be the sole adverse action imposed by the Commission, imposed as an optional term of probation under Optional Probation Condition 13, or may result from violation of an optional probation condition.

Probation:

The (type of credential) credential issued to Respondent (name) is revoked. However, the revocation is stayed, and Respondent is placed on probation for (period of time, e.g., five years) from the effective date of this order on the following terms and conditions:

Public Reprimand:

Respondent (name) is hereby publicly reprimanded.

Private Admonition:

Respondent (name) is privately admonished.

Note: The Commission disfavors private admonition as its imposition of adverse action. It is the Commission's view that a private admonition should only be ordered for very minor violations and where there is substantial mitigating evidence.

2. For Credential Applicants:

Granted:

The application of Respondent (name) for a (type of credential) is granted.

Denied:

The application of Respondent (name) for a (type of credential) is denied.

Granted with Probation:

The application of Respondent (name) for a (type of credential) is granted. However, the credential is immediately revoked, the revocation is stayed, and Respondent is hereby placed on probation for (period of time, e.g., five years) from the effective date of this order on the following terms and conditions:

CONDITIONS OF PROBATION

The following conditions of probation are intended to protect school children, the education profession and the public. The Commission also believes that probation conditions should allow the probationer to demonstrate rehabilitation and establish a mechanism for the Commission to monitor the rehabilitation progress of a probationer. Generally, the Commission recommends a minimum of five years probation.

For purposes of these conditions of probation, any reference to the Commission also means staff working for the Commission on Teacher Credentialing.

Probationary conditions are divided into two categories:

- A. Standard conditions that appear in all probation orders; and
- B. Optional conditions that are appropriate to the nature and circumstances of the particular violation.

STANDARD PROBATION CONDITIONS

The following 12 standard probation conditions should be included in all adverse action orders where probation is imposed.

1. Severability Clause

Each condition of probation contained herein is a separate and distinct condition. If any condition of probation, or part thereof, or any application thereof, is declared by a court of competent jurisdiction to be unenforceable in whole or in part, or to any extent, the remaining conditions of probation, and each of them, and all other applications thereof, shall not be affected. Each condition of probation herein shall be separately valid and enforceable to the fullest extent permitted by law.

2. New Credentials Subject to Order

Any new credential issued by the Commission to Respondent during the period of probation shall be subject to this order, and Respondent shall be subject to the same terms and conditions of probation with respect to any such new credentials, as set forth herein.

3. Compliance with Probation

Respondent shall fully comply with each and every term and condition of probation. During the entire period of probation, Respondent shall submit quarterly declarations under penalty of perjury, on forms provided by the Commission, stating whether there has been full compliance with the terms and conditions of probation. Respondent shall submit a full and detailed description of any violation of any term or condition of probation on the quarterly declaration.

Respondent shall submit the quarterly declarations not later than 10 days after the end of each quarter which, for purposes of this term and condition, are: March 31st, June 30th, September 30th and December 31st.

4. Cooperation with Commission

During the entire period of probation, Respondent shall fully cooperate with the Commission in its monitoring and investigation of Respondent's compliance with probation.

5. Interviews with Commission

During the entire period of probation, Respondent shall be available for interviews either in person or by telephone, with or without prior notice, with the Commission.

6. Notification

Within five days of the effective date of this order, Respondent shall provide a true and correct copy of this decision, together with a true and correct copy of the accusation (or statement of issues), which forms the basis for the decision, to Respondent's employer as defined by the California Code of Regulations, title 5, section 80300, subdivision (j), and to Respondent's immediate supervisor. Within five days of complying with this notification requirement, Respondent shall submit proof of compliance to the Commission.

If Respondent changes employment at any time during probation, Respondent shall again comply with this notification requirement within seven days of accepting new employment and shall again submit proof of compliance to the Commission, as required herein, within five days of complying with this notification requirement. Respondent shall comply with this notification requirement, and proof of compliance, as described herein, each and every time Respondent changes employment during the probationary period.

Within seven days of this order, Respondent shall also notify the Commission in writing of the name and address of the current employer with whom Respondent has contracted or is otherwise engaged to perform education services. Respondent shall provide this same information to the Commission within seven days of any change in employment and, in addition, shall also provide a full and complete explanation of the facts and circumstances surrounding the cessation of employment with the former employer.

7. Maintain Active, Current Credentials

During the entire period of probation, Respondent shall maintain active, current credentials with the Commission, including during any period of suspension.

8. Maintain Current Contact Information

Within seven days of the effective date of this order, Respondent shall notify the Commission of current mailing address, current email address, and current telephone number where voicemail or text messages may be left. Within 72 hours of any change of mailing address, email address, and telephone number, Respondent shall notify the Commission of the new mailing address, email address, and telephone number.

9. Obey All Laws

Respondent shall obey all federal, state and local laws, including all laws governing the education profession in California, and shall remain in full compliance with all court orders, criminal probation or parole, and shall make all court-ordered payments.

Except for minor traffic infractions, within 72 hours of any incident resulting in Respondent's arrest, the filing of any criminal charges, or citation issued, Respondent shall submit a full and detailed description of the incident to the Commission. For purposes of this condition, a "minor traffic infraction" includes only traffic violations which are punishable by a maximum fine of \$250.00, and do not subject the offender to incarceration or probation. (See Veh. Code, § 42001; Pen. Code, §§ 17, subd. (d), 19.6 and 19.8.)

Within 72 hours of receiving notice of any violation of any court order, criminal probation or parole, or failure to make any court-ordered payment, Respondent shall submit a full and detailed description of the incident to the Commission.

To permit monitoring of Respondent's compliance with this condition, Respondent shall ensure that fingerprints are on file with the Commission. Respondents residing outside of California can also comply with this fingerprint requirement by submitting, within 30 days of the effective date of this order, two fingerprint cards (FD-258) and payment of the additional applicable fingerprint fee.

10. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring, as designated by the Commission, for each year of probation. Probation monitoring costs shall be made payable to the California Commission on Teacher Credentialing. Within 30 days of the effective date of this order, Respondent shall pay the Commission the prorated probation monitoring costs for the number of months remaining in the calendar year. Beginning with the second year of probation, the full year of probation monitoring costs shall be paid to the Commission on or before January 31st of each calendar year. The total probation monitoring costs for each calendar year may be adjusted by the Commission on an annual basis.

11. Violation of Probation

Failure to fully comply with any term or condition of probation, or any part thereof, shall constitute a violation of probation. If Respondent violates any term or condition of probation, or any part thereof, in any respect, the matter will be referred to the Office of the Attorney General for preparation of a Petition to Revoke Probation. After giving Respondent notice and an opportunity to be heard, the Commission may revoke probation and impose the order that was stayed, i.e., revocation of Respondent's credentials. If a Petition to Revoke Probation is filed against Respondent during probation, or the Attorney General's Office has been asked to prepare a Petition to Revoke Probation against Respondent, the Commission shall have continuing jurisdiction until the matter is final, and the period of probation shall be automatically extended until the matter is final.

Respondent's credentials may also be subject to immediate suspension for any specified violation of probation as provided in this order. If Respondent does not comply with any part of a probation condition that includes a consequence of suspension for failure to comply, the Commission will notify Respondent in writing that Respondent's credentials are immediately suspended. Thereafter, the suspension of Respondent's credentials shall not be lifted until the effective date of a final decision of the Commission on a Petition to Revoke Probation to be filed against Respondent.

If a Petition to Revoke Probation is not filed against Respondent within 30 days of issuance of the written notification from the Commission to Respondent that Respondent's credentials are immediately suspended, or Respondent is not provided with an administrative hearing within 30 days of a written request for a hearing, unless Respondent stipulates to a later hearing, the suspension shall be dissolved. The deadlines established herein shall be computed pursuant to the provisions of sections 12 through 12c of the Code of Civil Procedure. Where an original suspension has dissolved, nothing shall prohibit issuance of another suspension for any additional or subsequent violation by Respondent of a condition of probation.

12. Completion of Probation

Respondent shall submit full payment of all remaining probation monitoring costs not later than 60 days prior to the completion of probation. Upon completion of probation, Respondent's credentials shall be fully restored, and this decision will continue to remain a matter of public record thereafter.

OPTIONAL PROBATION CONDITIONS

The following optional conditions should be included when appropriate to the nature and circumstances of the particular violation.

13. Actual Suspension

As part of probation, Respondent's (type of credential) credential is suspended for a period of (e.g., 30, 60, 90 days, etc.) beginning on the effective date of this order.

14. Abstention from the Possession and Use of Mood-Altering Substances

For purposes of this term and condition of probation, banned substances include alcohol, marijuana and any of its derivatives, all controlled substances and dangerous drugs, and all other mood-altering drugs or substances.

During the period of probation, Respondent shall completely abstain from the possession or use of all banned substances.

CAUTION: Respondent shall not ingest or use any products that contain any trace amount of any banned substance such as cold/flu medications, cough syrups, diet pills and products, mouthwash, skin care or hygiene products perfumes, poppy seeds, or certain foods and desserts, etc.

This probationary term does not apply to controlled substances or dangerous drugs lawfully prescribed to Respondent by a licensed health care professional legally authorized to do so as part of documented medical treatment for a bona fide illness or condition. Respondent shall

provide information regarding any current or former treating physician, counselor, or any other treating healthcare professionals as requested by the Commission.

Within five days of receiving any prescription for any controlled substance or dangerous drug, Respondent shall provide written notification of the following information to the Commission: (1) the licensed health care professional who issued the prescription including address and telephone number; (2) the name of the prescribed controlled substance or dangerous drug, and the strength and quantity of the prescribed controlled substance or dangerous drug; and (3) the name, address, and telephone number of the pharmacy that filled the prescription.

Respondent shall also execute a release authorizing the release to the Commission of physical health medical records, mental health medical records, prescribing records and pharmacy records. The release shall remain valid and in full force and effect for the entirety of Respondent's probationary period. If Respondent, for any reason, rescinds the release during his or her period of probation, the rescission shall constitute a violation of probation and Respondent's credentials are immediately suspended upon written notice from the Commission.

15. Banned Substances Testing

Respondent shall participate in random testing for the detection of banned substances, which include alcohol, marijuana and any of its derivatives, all controlled substances and dangerous drugs, and all other mood-altering drugs or substances, at a laboratory previously approved by the Commission. Such testing shall include, but not be limited to, biological fluid testing (i.e., urine, blood, or saliva testing), hair, fingernail, or breath testing, and/or participation in a daily drug screening program previously approved by the Commission. Respondent shall bear the expense of such testing.

Respondent shall not perform any service authorized by Respondent's credentials until Respondent has signed up for and is presently participating in banned substances testing, and has submitted documentation to the Commission evidencing that participation, as required herein.

Respondent shall make daily contact, each and every day of the probationary period, including weekends, holidays, and vacations both inside and outside of California, with a laboratory previously approved by the Commission to determine if Respondent is required to submit a specimen or specimens for testing on that day.

During probation, Respondent shall also promptly submit to testing for the detection of banned substances at the direction of Respondent's employer, immediate supervisor, and/or law enforcement.

Respondent shall fully cooperate with the Commission and shall, when directed, personally appear and provide a specimen or specimens for testing to detect the use of any banned substances. All specimen collections shall be observed.

Any alternative testing site proposed by Respondent due to an anticipated vacation or travel outside of California must first be approved by the Commission at least 30 days prior to Respondent's anticipated vacation or travel. As part of the approval process, Respondent shall provide any and all information about the proposed alternative testing site requested by the Commission. Unless previously approved by the Commission, Respondent shall not utilize an alternative testing site and any test results from an alternative testing site which has not been previously approved by the Commission shall not be accepted as valid test results.

If Respondent fails to participate in random testing for the detection of banned substances, fails to make daily contact with a laboratory previously approved by the Commission, fails to personally appear when directed to do so, fails to provide a specimen or specimens for the detection of banned substances, tests positive for any banned substance, or otherwise violates this condition of probation in any respect, Respondent's credentials are immediately suspended upon written notice from the Commission.

Any test result registering over the established laboratory cutoff level for any banned substance, even that which could result from Respondent's incidental contact with any banned substance, shall be considered a positive test result and, therefore, a violation of probation. If Respondent has a positive test result for any banned substance Respondent's credentials are immediately suspended upon written notice from the Commission.

If Respondent has a negative diluted test result, Respondent shall submit to blood, saliva, hair, fingernail, or breath testing at Respondent's own expense as directed by the Commission.

If the Commission determines, for any reason, that a previously reported positive test is not evidence of prohibited use, the Commission shall so inform Respondent and Respondent's employer that the positive test will not be treated as a violation of probation and that Respondent's credentials are no longer suspended. In making this determination, the Commission may, but is not required to, consult with the specimen collector, laboratory testing facility, Respondent, any treating physician or other healthcare provider, or any support group facilitator, to determine whether the positive test is evidence of Respondent's prohibited use of a banned substance.

16. Alcohol and Drug Treatment

Respondent, at Respondent's expense, shall successfully complete an alcohol and drug treatment program of at least six months duration at a recognized and established program in

California which has been previously approved by the Commission. The treatment program shall be successfully completed within the first nine months of probation.

Respondent shall not perform any service authorized by Respondent's credentials until Respondent has signed up for and is presently participating in an alcohol and drug treatment program, and has submitted documentation to the Commission evidencing that participation, as required herein.

Respondent shall inform the program director, psychiatrist or psychologist, of the probationary status with the Commission, and shall cause that individual to submit monthly reports to the Commission providing information concerning Respondent's progress and prognosis. Such reports shall include the results of any and all biological fluid testing. Any and all positive test results shall be immediately reported to the Commission and may be used in any subsequent adverse action or probation revocation proceeding.

The program director, psychiatrist or psychologist shall confirm that Respondent has complied with the requirements of this order and shall notify the Commission immediately if they believe the Respondent cannot safely perform the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession and the public.

Respondent shall execute a release authorizing the release of all of the foregoing information to the Commission. The release shall remain valid and in full force and effect for the entirety of Respondent's probationary period. If Respondent, for any reason, rescinds the release during the period of probation, the rescission shall constitute a violation of probation and Respondent's credentials are immediately suspended upon written notice from the Commission.

17. Psychiatric Evaluation

Within 30 days of the effective date of this order, and on whatever periodic basis thereafter as may be required by the Commission, Respondent, at Respondent's expense, shall undergo and complete a psychiatric evaluation, including psychological testing if deemed necessary, by a board-certified psychiatrist approved by the Commission. The designated board-certified psychiatrist approved by the Commission may be located anywhere in the State of California and Respondent shall pay all travel costs and expenses required to attend, undergo and complete the psychiatric evaluation. Psychiatric evaluations conducted prior to the effective date of this order shall not be accepted as compliance with this requirement.

The psychiatrist shall consider any information provided by the Commission, and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the

Commission. Respondent shall cooperate in providing the psychiatrist any information and documents that the psychiatrist deems pertinent and requests.

The written evaluation report prepared by the evaluating psychiatrist shall clearly state if Respondent is presently mentally fit to perform the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession and the public.

Following completion of the evaluation, Respondent shall fully comply with all restrictions and conditions recommended by the evaluating psychiatrist within seven days after being notified to do so by the Commission.

If Respondent refuses or fails to attend, pay for, or undergo the required psychiatric evaluation, including submitting to psychological testing if deemed necessary, refuses or fails to cooperate with an examiner or, following completion of the evaluation, is found to be presently mentally unfit to perform the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession, and the public, Respondent's credentials are immediately suspended upon written notice from the Commission.

If prior to the completion of probation Respondent is found to be mentally unfit to perform the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession and the public, the Commission shall retain continuing jurisdiction over Respondent's credentials and the period of probation shall be extended until the Commission determines that Respondent is mentally fit to perform them.

Optional Condition Precedent:

Respondent shall not perform any service authorized by Respondent's credentials until the psychiatric evaluation has been completed, the psychiatrist has concluded that Respondent is mentally fit to safely perform the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession and the public, and Respondent has been so notified by the Commission.

Note: If at the time of hearing the administrative law judge finds that Respondent is presently mentally unable to perform the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession, and the public, it is the Commission's view that the only appropriate adverse action is an indefinite suspension of Respondent's credentials until such time as Respondent, after submitting to an examination by a designated board certified licensed psychiatrist, at Respondent's expense, has been found to be able to safely perform the duties authorized by Respondent's credentials.

18. Psychotherapy

Within 60 days of the effective date of this order, Respondent shall submit to the Commission for prior approval the name and qualifications of a California-licensed board-certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders who will provide psychotherapy to Respondent. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the psychotherapist has determined that no further psychotherapy is necessary, and Respondent has been so notified in writing by the Commission. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist deems pertinent and requests. Respondent shall pay all cost of psychotherapy treatment.

The psychotherapist shall consider any information provided by the Commission and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Commission. Respondent shall also have the treating psychotherapist submit quarterly status reports to the Commission.

Respondent shall fully comply with all restrictions and conditions recommended by the psychotherapist within seven days of being notified to do so by the Commission. If, prior to the completion of probation, the psychotherapist finds Respondent to be mentally unfit to perform the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession and the public, the psychotherapist shall immediately inform the Commission of this finding in writing. Respondent shall thereafter receive written notification from the Commission that Respondent's credentials are immediately suspended, the Commission shall retain continuing jurisdiction over Respondent's credentials, and the period of probation shall be extended until the Commission determines that Respondent is mentally fit to perform such services.

Respondent shall execute a release authorizing the release of all information regarding psychotherapy treatments, including any psychiatric evaluation and psychological testing, to the Commission. The release shall remain valid and in full force and effect for the entirety of Respondent's probationary period. If Respondent, for any reason, rescinds the release during the period of probation, the rescission shall constitute a violation of probation and Respondent's credentials are immediately suspended upon written notice from the Commission.

Note: This condition is for those cases where the evidence demonstrates that Respondent has an impairment because of mental illness, alcohol abuse and/or drug abuse related to Respondent's

unprofessional conduct but is not a present danger to schoolchildren, the education profession or the public.

19. Medical Evaluation and Treatment

Within 30 days of the effective date of this order, and on a periodic basis thereafter as may be required by the Commission, Respondent shall attend and undergo a medical evaluation by a California-licensed board-certified physician, approved by the Commission. The designated board-certified physician approved by the Commission may be located anywhere in the State of California and Respondent shall pay all travel costs and expenses required to attend, undergo and complete the medical evaluation. Respondent shall pay all costs for medical evaluations, including all costs for any testing ordered by the evaluating physician.

The evaluating physician shall consider any information provided by the Commission and any other information the evaluating physician deems relevant. Respondent shall provide the evaluating physician with any and all information and documents that the evaluating physician deems necessary and requests.

Following the completion of the medical evaluation, the evaluating physician shall submit a medical report to the Commission which shall include a complete medical description of Respondent's present physical health, including the evaluating physician's opinion whether Respondent can perform the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession and the public. Respondent shall comply with all restrictions and conditions recommended by the evaluating physician within seven days of being notified to do so by the Commission.

If the evaluating physician determines that Respondent is required to undergo medical treatment, Respondent shall submit the name and qualifications of a California-licensed treating physician of Respondent's choice. Respondent shall submit this information to the Commission within 15 days of being notified that they are required to undergo medical treatment. Within 15 days of receiving approval of the proposed treating physician by the Commission, Respondent shall begin receiving medical treatment and shall continue receiving such treatment until the treating physician determines it is no longer necessary and has so notified the Commission in writing. Respondent shall pay all costs of the medical treatment.

The treating physician shall consider any information provided by the Commission and any other information the treating physician deems relevant prior to the commencement of treatment. Respondent shall provide the treating physician with any and all information and documents that the treating physician deems necessary and requests.

Respondent shall have the treating physician submit quarterly reports to the Commission indicating whether Respondent is capable of performing the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession and the public.

The treating physician shall provide the Commission with any and all medical records pertaining to Respondent's treatment at the request of the Commission. Respondent shall execute a release authorizing the release of all information regarding medical treatment, medical evaluation and all testing ordered by the evaluating physician, to the Commission. The release shall remain valid and in full force and effect for the entirety of Respondent's probationary period. If Respondent, for any reason, rescinds the release during the period of probation, the rescission shall constitute a violation of probation and Respondent's credentials are immediately suspended upon written notice from the Commission.

If, prior to the completion of probation, Respondent is found to be physically incapable of performing the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession and the public, the Commission shall retain continuing jurisdiction over Respondent's credentials, and the period of probation shall be extended until the Commission determines that Respondent is physically capable of performing such services.

Optional Condition Precedent:

Respondent shall not perform any services authorized by Respondent's credentials until the medical evaluation has been completed, the evaluating physician has concluded that Respondent is physically capable of performing the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession and the public, and Respondent has been so notified by the Commission.

Note: If, at the time of hearing, the administrative law judge finds that Respondent is presently physically unable, even with restrictions and conditions, to perform the services authorized by Respondent's credentials with complete safety to schoolchildren, the education profession or the public, it is the Commission's view that the only appropriate adverse action is an indefinite suspension of the credentials until such time as Respondent, after submitting to an examination by a designated board certified physician, at Respondent's expense, has been found to be able to safely perform the duties authorized by Respondent's credentials.

20. Attendance and Participation in Group Support Meetings

Within 10 days of the effective date of this order, Respondent shall begin attendance at an addictive behavior support group (e.g., Alcoholics Anonymous, Narcotics Anonymous, or other similar support group), which has been previously approved by the Commission. Respondent

shall attend at least one meeting of the approved support group per week for (period of time, e.g., the entire period of probation, or the first 12 months of probation, etc.). Verified documentation confirming Respondent's attendance shall be submitted by Respondent with each of the Quarterly Declarations to the Commission.

21. Education Course

Within 60 days of the effective date of this order, Respondent shall enroll in a course in (e.g., child abuse mandated reporter training, classroom management, etc.) approved in advance by the Commission. Respondent shall pay all costs to attend and complete the required course. Respondent shall complete the required course during the first year of probation. Within five days of successfully completing the course, Respondent shall submit a certificate of completion to the Commission.

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RECOMMENDED RANGE OF ADVERSE ACTION FOR SPECIFIED VIOLATIONS

FAILURE TO REPORT (Ed. Code, § 44030.5(c).)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

VIOLATION OF OATH (Ed. Code, § 44334.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

GROUND FOR DENIAL OF APPLICATION:

LACKS QUALIFICATIONS PRESCRIBED BY LAW OR REGULATIONS ADOPTED BY COMMISSION (Ed. Code, § 44345(a).)

Minimum Adverse Action: Denial.

Maximum Adverse Action: Denial.

PHYSICALLY OR MENTALLY DISABLED AS TO BE RENDERED UNFIT TO PERFORM THE DUTIES AUTHORIZED BY THE CREDENTIAL FOR WHICH THEY HAVE APPLIED. (Ed. Code, §§ 44345(b) and 44336.)

Minimum Adverse Action: Denial for duration of the period of actual disability, with application to be granted upon Respondent's showing, after submitting to an examination by a designated board certified licensed psychiatrist, at Respondent's expense, that Respondent is able to safely perform the duties authorized by the credentials applied for.

Maximum Adverse Action: Denial for duration of the period of actual disability, with application to be granted upon Respondent's showing, after submitting to an examination by a designated board certified licensed psychiatrist, at Respondent's expense, that Respondent is able to safely perform the duties authorized by the credentials applied for.

Note: In all cases where the Committee of Credentials has conducted its formal review of the matter pursuant to California Code of Regulations, title 5, section 80309, "[a]ny denial, suspension, or revocation of a credential pursuant to this section shall be limited in duration to the period of actual disability; and the credential shall be granted or reissued upon presentation

of satisfactory evidence that such disability no longer exists.” (Cal. Code Regs., tit. 5, § 80309, subd. (b).)

ADDICTED TO THE USE OF INTOXICATING BEVERAGES TO EXCESS (Ed. Code, § 44345(c).)

Minimum Adverse Action: Granted, with credentials immediately revoked, revocation stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Abstention from Possession and Use of Mood-Altering Substances. [14]
3. Banned Substances Testing [15]
4. Alcohol and Drug Treatment. [16]
5. Psychiatric Evaluation, as Condition Precedent [17]
6. Psychotherapy [18]
7. Medical Evaluation and Treatment, as Condition Precedent [19]
8. Attendance and Participation in Group Support Meetings [20]
9. All Standard Conditions [1-12]

Maximum Adverse Action: Denial.

ADDICTED TO THE USE OF CONTROLLED SUBSTANCES (Ed. Code, § 44345(d).)

Minimum Adverse Action: Granted, with credentials immediately revoked, revocation stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Abstention from Possession and Use of Mood-Altering Substances. [14]
3. Banned Substances Testing [15]
4. Alcohol and Drug Treatment. [16]
5. Psychiatric Evaluation, as Condition Precedent [17]
6. Psychotherapy [18]
7. Medical Evaluation and Treatment, as Condition Precedent [19]
8. Attendance and Participation in Group Support Meetings [20]
9. All Standard Conditions [1-12]

Maximum Adverse Action: Denial.

COMMITTED ANY ACT INVOLVING MORAL TURPITUDE (Ed. Code, § 44345(e).)

Minimum Adverse Action: Granted, with credentials immediately revoked, revocation stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Denial.

Note: Whenever any act of grooming, sexual abuse, sexual misconduct or sexual relations with a student has been established at hearing by a preponderance of the evidence, it is the Commission's view that the only appropriate adverse action is outright denial of the application.

HAS HAD A CERTIFICATION DOCUMENT REVOKED (Ed. Code, § 44345(f).)

Minimum Adverse Action: Same for similar violation under these Guidelines.

Maximum Adverse Action: Denial.

HAS INTENTIONALLY PRACTICED OR ATTEMPTED TO PRACTICE ANY MATERIAL DECEPTION OR FRAUD IN APPLICATION (Ed. Code, § 44345(g).)

Minimum Adverse Action: Granted, with credentials immediately revoked, revocation stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Denial.

FAILS OR REFUSES TO FURNISH REASONABLE EVIDENCE OF IDENTIFICATION OR GOOD MORAL CHARACTER (Ed. Code, § 44345(h).)

Minimum Adverse Action: Denial.

Maximum Adverse Action: Denial.

CONVICTED OF ANY FELONY SEX OFFENSE DEFINED BY SECTION 44010, BUT HAS OBTAINED CERTIFICATE OF REHABILITATION AND PARDON, PROBATION HAS BEEN TERMINATED, AND INFORMATION OR ACCUSATION HAS BEEN DISMISSED PURSUANT TO SECTION 1203.4 OF PENAL CODE (Ed. Code, § 44346(a)(2) and (b)(1).)

Minimum Adverse Action: Granted, with credentials immediately revoked, revocation stayed, seven years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Psychiatric Evaluation, as Condition Precedent [17]
3. Psychotherapy [18]
4. Medical Evaluation and Treatment, as Condition Precedent [19]
5. Attendance and Participation in Group Support Meetings [20]
6. Education Course [21]
7. All Standard Conditions [1-12]

Maximum Adverse Action: Denial.

CONVICTED OF CONTROLLED SUBSTANCE OFFENSE DEFINED BY SECTION 44011, WHERE COMMISSION HAS DETERMINED FROM THE EVIDENCE THAT RESPONDENT HAS BEEN REHABILITATED FOR AT LEAST FIVE YEARS, OR HAS RECEIVED A CERTIFICATE OF REHABILITATION AND PARDON, OR IF ACCUSATION OR INFORMATION AGAINST RESPONDENT HAS BEEN DISMISSED AND THEY HAS BEEN RELEASED FROM ALL DISABILITIES AND PENALTIES RESULTING FROM THE OFFENSE PURSUANT TO SECTION 1203.4 OF THE PENAL CODE (Ed. Code, § 44346(a)(3) and (b)(1).)

Minimum Adverse Action: Granted, with credentials immediately revoked, revocation stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Abstention from Possession and Use of Mood-Altering Substances. [14]
3. Banned Substances Testing [15]
4. Alcohol and Drug Treatment. [16]
5. Psychiatric Evaluation, as Condition Precedent [17]
6. Psychotherapy [18]
7. Medical Evaluation and Treatment, as Condition Precedent [19]
8. Attendance and Participation in Group Support Meetings [20]
9. All Standard Conditions [1-12]

Maximum Adverse Action: Denial.

FOUND TO BE INSANE IN CRIMINAL PROCEEDING IN FEDERAL COURT OR A COURT OF THIS STATE OR ANY OTHER STATE, AND COMMISSION DETERMINES FROM THE EVIDENCE PRESENTED THAT RESPONDENT HAS BEEN REHABILITATED FOR AT LEAST FIVE YEARS (Ed. Code, § 44346(a)(4) and (d).)

Minimum Adverse Action: Granted, with credentials immediately revoked, revocation stayed, seven years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Psychiatric Evaluation, as Condition Precedent. [17]
3. Psychotherapy [18]
4. Medical Evaluation and Treatment, as Condition Precedent. [19]
5. All Standard Conditions. [1-12]

Maximum Adverse Action: Denial.

CONVICTED OF VIOLENT OR SERIOUS FELONY OR CRIME SET FORTH IN SUBDIVISION (a) of SECTION 44242 OR WHOSE EMPLOYMENT HAS BEEN DENIED OR TERMINATED PURSUANT TO SECTION 44830.1 WHERE RESPONDENT IS ELIGIBLE FOR, AND HAS OBTAINED, A CERTIFICATE OF REHABILITATION AND PARDON (Ed. Code, § 44346.1(a) and (d).)

Minimum Adverse Action: Granted, with credentials immediately revoked, revocation

stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Psychiatric Evaluation, as Condition Precedent. [17]
3. Psychotherapy. [18]
4. Medical Evaluation and Treatment, as Condition Precedent. [19]
5. All Standard Conditions. [1-12]

Maximum Adverse Action: Denial.

CONVICTED OF SPECIFIED NON-VIOLENT OR NON-SERIOUS FELONY WHERE RESPONDENT IS ELIGIBLE FOR, AND HAS OBTAINED, A CERTIFICATE OF REHABILITATION (Ed. Code, §§ 44346.1(a) and 44424(a).)

Minimum Adverse Action: Granted, with credentials immediately revoked, revocation stayed, seven years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Psychiatric Evaluation, as Condition Precedent. [17]
3. Psychotherapy. [18]
4. Medical Evaluation and Treatment, as Condition Precedent. [19]
5. All Standard Conditions. [1-12]

Maximum Adverse Action: Denial.

Note: Education Code section 44346.1(a) states: "The commission shall deny any application for the issuance of a credential made by an applicant who has been convicted of a violent or serious felony or a crime set forth in subdivision (a) of Section 44424 or whose employment has been denied or terminated pursuant to Section 44430.1." This recommended range is intended to cover all of the non-violent or non-serious felonies listed in section 44424, subdivision (a).

APPLICANT SUBVERTED, OR ATTEMPTED TO SUBVERT, LICENSING EXAMINATION OR ADMINISTRATION OF EXAMINATION (Ed. Code, § 44439.)

Minimum Adverse Action: Granted, with credentials immediately revoked, revocation stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Denial.

GROUND FOR REVOCATION AND SUSPENSION OF CERTIFICATION DOCUMENTS:

FAILURE TO FULFILL CONTRACT (Ed. Code, § 44420.)

Minimum Adverse Action: Public Reprimand.

Maximum Adverse Action: Actual suspension for up to, but not more than, one year. If credentials become subject to suspension under this section a second time, actual suspension for up to, but not more than, two years. [13]

Note: Education Code section 44420 states, in pertinent part, that: "(a) If any person employed by a school district in a position requiring certification qualifications refuses, without good cause, to fulfill a valid contract of employment with the district or leave the service of the district without the consent of the superintendent, if any, or the governing board, of the district except in the manner provided for by law, the commission may, after proof of this fact is made to it, take an adverse action on the credential holder but may not suspend the credential for more than one year or revoke the credential. [11] (b) If the credentials issued to the person by the commission have been subject to adverse action pursuant to subdivision (a), the commission may, if the credentials again become subject to suspension under this section, suspend the credentials for not more than two years."

IMMORAL CONDUCT (Ed. Code, § 44421.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 90 days or more. [18]
2. Psychiatric Evaluation, as Condition Precedent. [17]
3. Psychotherapy. [18]
4. Medical Evaluation and Treatment, as Condition Precedent. [19]
5. Education Course. [21]
6. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

Note: Whenever any act of grooming, sexual abuse, sexual misconduct or sexual relations with a student has been established at hearing by clear and convincing evidence, it is the Commission's view that the only appropriate adverse action is outright revocation of the credentials.

UNPROFESSIONAL CONDUCT (Ed. Code, § 44421.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 60 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

PERSISTENT DEFIANCE OF, AND REFUSAL TO OBEY, LAWS REGULATING DUTIES OF PERSONS SERVING IN PUBLIC SCHOOL SYSTEM (Ed. Code, § 44421.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Psychiatric Evaluation, as Condition Precedent. [17]
3. Psychotherapy. [18]
4. Medical Evaluation and Treatment, as Condition Precedent. [19]
5. Education Course. [21]
6. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

CAUSES THAT WOULD WARRANT DENIAL OF APPLICATION OR RENEWAL (AS BASIS FOR ADVERSE ACTION AGAINST EXISTING CREDENTIAL HOLDER) (Ed. Code, § 44421.)

Minimum Adverse Action: Revocation, stayed, with same years of probation and conditions, as set forth above, for same causes as basis for denial of application.

Maximum Adverse Action: Revocation.

Note: For physical or mental disability rendering a credential holder unfit to perform duties authorized by Respondent's credentials, the minimum adverse action and maximum adverse action that should be ordered is the same, i.e., an indefinite suspension of the credentials until such time as Respondent, after submitting to an examination by a designated board-certified licensed physician or psychiatrist, at Respondent's expense, has been found to be able to safely perform the duties authorized by the credentials.

EVIDENT UNFITNESS FOR SERVICE (Ed. Code, § 44421.)

Minimum Adverse Action: Revocation.

Maximum Adverse Action: Revocation.

Definition: "In the context of a teacher, 'evident unfitness for service' ... means 'clearly not fit, not adapted to or unsuitable for teaching, 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 Dist. v. Commission on Professional Competence (1992) 2 Cal.App.4th 1429, 1444, fn. omitted.)" (San Diego Unified School District v. Commission on Professional Competence (2011) 194 Cal.App.4th 1454, 1462; emphasis added.)

Note: Whenever "evident unfitness for service" has been established at hearing by clear and convincing evidence, it is the Commission's view that the only appropriate adverse action is outright revocation of the credentials.

RECRUITING PUPILS AS CUSTOMERS FOR CERTIFICATED PERSON'S BUSINESS (Ed. Code, § 44421.1.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 60 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

KNOWINGLY AND WILLFULLY REPORTING FALSE FISCAL EXPENDITURE DATA RELATIVE TO THE CONDUCT OF ANY EDUCATIONAL PROGRAM. (Ed. Code, § 44421.5.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 60 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

ADVERSE ACTION BASED ON FINDINGS, SUMMARY OF EVIDENCE, AND RECOMMENDATION OF COUNTY BOARD OF EDUCATION FOLLOWING HEARING (Ed. Code, § 44422.)

Minimum Adverse Action: Same for similar violations under these Guidelines.

Maximum Adverse Action: Revocation.

Note: Education Code section 44422 states, in pertinent part, that: "Upon receipt of a copy of the findings, summary of evidence, and recommendation, the commission may privately admonish the holder of the credential, or suspend or revoke the credential for the causes stated, or order the charges dismissed."

FINAL ACTION BY ANOTHER STATE REVOKING CREDENTIAL OR LICENSE AUTHORIZING HOLDER TO PERFORM ANY DUTY IN PUBLIC SCHOOLS OF ANOTHER STATE (Ed. Code, § 44423.5.)

Minimum Adverse Action: Same for similar violations under these Guidelines.

Maximum Adverse Action: Revocation.

Note: Education Code section 44423.5 states that: "(a) The commission shall suspend the credential of a holder when it receives notice that another state has taken final action to revoke a credential or license authorizing the holder of the credential to perform any duty in the public schools of another state. The suspension shall not take effect until the commission verifies by reviewing documents as set forth in paragraph (4) of subdivision (d) of Section 44242.5 that the underlying acts of misconduct in the other state could result in a revocation of a credential in

this state. The suspension shall remain in effect until the commission takes final action on a recommendation of the Committee of Credentials following a review in accordance with Sections 44242.5, 44242.7, 44244, 44244.1, and 44245. [¶] (b) Nothing in this section is intended to require the commission to revoke the credential of an individual whose credential has been suspended pursuant to subdivision (a). The commission shall exercise its independent judgment in making a decision in each case."

CONVICTED OF SPECIFIED CRIME UPON PLEA OF NOLO CONTENDERE AS A MISDEMEANOR (Ed. Code, § 44424(b).)

Minimum Adverse Action: Revocation, stayed, seven years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Psychiatric Evaluation, as Condition Precedent. [17]
3. Psychotherapy. [18]
4. Medical Evaluation and Treatment, as Condition Precedent. [19]
5. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

Note: Education Code section 44424, subdivision (b), states that: "(b) Upon a plea of nolo contendere as a misdemeanor to one or more of the crimes set forth in subdivision (a), all credentials held by the Respondent shall be suspended until a final disposition regarding those credentials is made by the commission. Any action that the commission is permitted to take following a conviction may be taken after the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

CONVICTED OF VIOLATION OF PENAL CODE SECTION 647, SUBDIVISION (D), UPON PLEA OF NOLO CONTENDERE (Ed. Code, § 44425(b).)

Minimum Adverse Action: Revocation, stayed, seven years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Psychiatric Evaluation, as Condition Precedent [17]
3. Psychotherapy [18]
4. Medical Evaluation and Treatment, as Condition Precedent [19]
5. Attendance and Participation in Group Support Meetings [20]
6. Education Course [21]
7. All Standard Conditions [1-12]

Maximum Adverse Action: Revocation.

CREDENTIAL HOLDER SUBVERTED, OR ATTEMPTED TO SUBVERT, LICENSING EXAMINATION OR ADMINISTRATION OF EXAMINATION (Ed. Code, § 44439.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

VIOLATION OF PROBATION

Minimum Adverse Action: Revocation, stayed, same number of years of probation as contained in original decision, with:

1. Actual suspension of at least 30 days or more. [13]
2. Same terms and conditions as contained in original decision.

Maximum Adverse Action: Revocation.

Note: It is the Commission's view that whenever a Petition to Revoke Probation has been filed and, at hearing, a violation of the "Abstention from Possession and Use of Mood-Altering Substances" condition, "Banned Substances Testing" condition or "Alcohol and Drug Treatment" condition has been established by a preponderance of the evidence, the only appropriate adverse action is outright revocation of the credentials.

Note: The maximum adverse action of outright revocation should also be imposed whenever Respondent, while on probation, has engaged in the same unprofessional conduct which originally subjected him or her to adverse action, and also for violations of probation which demonstrate an indifferent, cavalier or recalcitrant attitude.

VIOLATION OF RULES OF CONDUCT FOR PROFESSIONAL EDUCATORS

The Rules of Conduct for Professional Educators (Cal. Code of Regs., tit. 5, § 80331 through 80339.6.) are binding on every person holding a credential or any license to perform education services under the jurisdiction of the Commission on Teacher Credentialing. The consequences of any willful breach may be revocation or suspension of the credential, or license, or private admonition of the holder. (See Cal. Code Regs., tit. 5, § 80331, subd. (a), (c) and (e).)

Note: It is the Commission's view that a private admonition should only be ordered for a violation of the Rules of Conduct for Professional Educators where there is substantial mitigating evidence.

LACK OF CANDOR OR DISHONESTY IN EMPLOYMENT RECOMMENDATION LETTERS OR MEMORANDA, OR AS CONDITION OF RESIGNATION OR WITHDRAWAL OF ACTION AGAINST EMPLOYING AGENCY (Cal. Code Regs., tit. 5, § 80332.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

UNAUTHORIZED PRIVATE GAIN OR ADVANTAGE (Cal. Code Regs., tit. 5, § 80334.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

PERSONALLY PERFORMING SERVICES WITH IMPAIRED FACULTIES (Cal. Code Regs., tit. 5, § 80336(a)(1).)

Minimum Adverse Action: Revocation, stayed, with same years of probation and conditions, as set forth above, for cases brought under Education Code sections 44345(b), (c) or (d), depending on reason for substantial impairment.

Maximum Adverse Action: Revocation.

ASSIGNING, REQUIRING OR PERMITTING SUBORDINATE CERTIFICATED PERSON TO PERFORM SERVICES WITH IMPAIRED FACULTIES (Cal. Code Regs., tit. 5, § 80336(a)(2).)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

HARASSMENT AND RETALIATION (Cal. Code Regs., tit. 5, § 80337.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

DISCRIMINATION (Cal. Code Regs., tit. 5, § 80338.)

Minimum Adverse Action: Revocation, stayed, five years probation, with:

1. Actual suspension of 90 days or more. [13]
2. Education Course. [21]
3. All Standard Conditions. [1-12]

Maximum Adverse Action: Revocation.

FAILING TO FILE PRESENT MAILING ADDRESS WITH THE COMMISSION (Cal. Code Regs., tit. 5, § 80412.)

Minimum Adverse Action: Public Reprimand.

Maximum Adverse Action: Public Reprimand.

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