



Teaching
Regulation
Agency

Mr Daniel Morales- David: Professional conduct panel outcome

**Panel decision and reasons on behalf of the
Secretary of State for Education**

July 2022

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Professional conduct panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher: Mr Daniel Morales-David

Teacher ref number: 0881074

Teacher date of birth: 12 November 1981

TRA reference: 19241

Date of determination: 14 July 2022

Former employer: Downlands Community Primary School, Dorset

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened by virtual means, to consider the case of Mr Morales-David

The panel members were Mr Paul Millet (lay panellist – in the chair), Mr Paul Hawkins (lay panellist) and Ms Michelle Chappell (teacher panellist).

The legal adviser to the panel was Mrs Luisa Gibbons of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Ms Charlotte Mitchell-Dunn of Capsticks LLP.

Mr Morales-David was present and was represented by Mr Chris Sykes of Doughty Street Chambers, instructed by Thompsons Solicitors LLP.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 16 May 2022.

It was alleged that Mr Morales-David was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

Whilst employed at the Downlands Community Primary School (“the School”)

1. Between or around April 2019 and November 2019, he used inappropriate force and/or restraint in dealings with:

- a. Pupil A, on an unknown date between April and July 2019;
- b. Pupil A, on or around 22 May 2019;
- c. Pupil B, on or around 15 July 2019;
- d. Pupil C, on or around 4 October 2019;
- e. Pupil D, on or around 22 November 2019.

2. His conduct at 1e above was:

- a. instructions given to him by the Headteacher;
- b. the Pastoral Support Plan in place for Pupil D.

During the course of the hearing, the allegations were amended to read as follows:

Whilst employed at the Downlands Community Primary School (“the School”)

1. Between or around January 2019 and November 2019, he used inappropriate force and/or restraint in dealings with:

- a. Pupil A, on an unknown date between January and April 2019;
- b. Pupil A, on or around 22 May 2019;
- c. Pupil B, on or around 15 July 2019;
- d. Pupil C, on or around 4 October 2019;
- e. Pupil D, on or around 22 November 2019.

2. His conduct at 1e above was contrary to:

- a. instructions given to him by the Headteacher;

b. the Pastoral Support Plan in place for Pupil D.

Mr Morales-David admitted that restraint was used in allegations a.1a to d., but it is denied that such restraint was inappropriate. It is admitted that restraint was used in allegation 1.e. and that such restraint was inappropriate, although there is a dispute as to the detail and level of force used. Allegation 2 is denied. It is denied that Mr Morales-David is guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute in relation to allegations 1.a. to d. and 2. It is not admitted that Mr Morales-David is guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute in relation to allegation 1.e.

Preliminary applications

Application to Amend the Allegations

The presenting officer applied to amend:

1. the stem of allegation 1 to replace the words “April 2019” with the words “January 2019”;
2. allegation 1a to replace the words “April and July 2019 with “January and April 2019”;
and
3. the stem of allegation 2 by adding the words “contrary to”.

There was no objection to the amendment by Mr Morales-David’s representative.

The panel has the power to, in the interests of justice, amend an allegation or the particulars of an allegation pursuant to paragraphs 4.56 of the Teacher Misconduct – Disciplinary Procedures for the Teaching Profession April 2018 (“the Procedures”). It is clear that the amendments were of a typographical nature or reflected the evidence presented by the Teaching Regulation Agency. There is no prospect of Mr Morales-David’s case being presented differently had the amendment to the allegation been made sooner. The panel therefore decided to amend the allegation in the manner proposed.

Application regarding redaction of the hearing bundle

The teacher’s representative applied to omit the evidence of a director from Team-Teach from the hearing bundle, on the basis that it is hearsay evidence, given that the individual is not to be called to give evidence. It was also submitted that the evidence amounts to expert evidence, without being in the proper form, in that it does not conform with Rule 35 of the Civil Procedure Rules. It was therefore submitted that the director from Team-Teach ought to have provided a witness statement and be available to give oral evidence if the presenting officer wished to rely upon his evidence.

The panel decided that it would be fair and relevant for this evidence to be adduced.

It is apparent that the evidence was sought by the chair of governors of the School, in response to a line of argument put forward by Mr Morales-David that he followed Team-Teach methods. Given that Team-Teach methods had been raised by Mr Morales-David, the panel considered that it was fair for evidence of those techniques to be adduced.

Whilst it is the case that the director from Team-Teach is not to be called to give evidence, it is not the sole or decisive evidence in relation to the allegation. There is no allegation that Mr Morales-David failed to follow Team-Teach principles - the allegation is that he used inappropriate force or restraint. The panel will be able to assess the merits of the allegation based upon the evidence of witnesses who observed the incident, and on the evidence of guidance and training provided by the School. The evidence of Team-Teach principles is not a key issue in the case, and the panel are well able to use its experience to inform it as to the weight to attach to such evidence.

Whilst the panel appreciates that the evidence does not comply with the requirements of Rule 35 of the Civil Procedure Rules, those rules are not strictly applicable in these proceedings, and the panel are well able to take that into account in assessing the weight it attaches to such evidence.

The teacher's representative also applied to omit any hearsay evidence concerning the emotional reactions of pupils to being restrained after the incidents in question had concluded on the basis that pupils are likely to react negatively when restrained by a teacher, even if the restraint was reasonable and proportionate, and that it would therefore be prejudicial for such evidence to be admitted without their being any evidential value to such comments. The panel decided it would be fair and relevant for this evidence to be adduced. The panel noted that the bundle contains evidence by Mr Morales-David that there had been instances when a restraint had been used and he had continued to enjoy a good relationship with the student. The panel did not consider there should be any distinction between the positive reactions of a pupil that Mr Morales-David chooses to rely upon and those that are adverse. Given that there is no objection to a witness providing evidence as to the emotional reactions of students during the incident, it would be artificial to impose a restriction of the adducing of evidence of emotional reactions after the incident had concluded. There is no obvious distinction as to where the line should be drawn. Furthermore, the panel are well able to assess the weight it should attach to such evidence.

Further Direction regarding the hearing bundle

Neither the panel, nor the teacher's representative received the latest iteration of the bundle prior to the hearing. The panel directed that the presenting officer lift any redactions from the bundle of 644 pages received by the panel that are required as a result of the panel's decisions above. Copies of the relevant pages should be produced in a supplemental bundle paginated with the original page reference but with an "A" suffix.

Summary of evidence

Documents

In advance of the hearing, the panel received a bundle of documents which included:

Section 1: Chronology, anonymised identification key and list of key people – pages 5 to 8

Section 2: Notice of referral, notice of proceedings and response – pages 9 to 20

Section 3: Teaching Regulation Agency witness statements – pages 21 to 51

Section 4: Teaching Regulation Agency documents – pages 52 to 531

Section 5: Teacher documents – pages 532 to 644

The panel agreed to lift certain redactions made to the bundle following its determination of the application referred to above. The relevant pages were reproduced in a supplementary bundle.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional reproduced pages within the supplemental bundle that the panel decided to admit.

Witnesses

The panel heard oral evidence from the headteacher of the School, a class teacher and a teaching assistant called by the presenting officer.

Mr Morales-David also gave oral evidence.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case before it and reached a decision.

Mr Morales-David was employed at the School on 1 September 2018. On 1 September 2019, a new headteacher was employed at the School, bringing a different ethos to the behaviour management of pupils at the School. Following an incident on 22 November 2019, an investigation took place. Mr Morales-David was dismissed at a disciplinary meeting on 2 March 2020 and was subsequently referred to the Teaching Regulation Agency.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegations against you proved, for these reasons:

Whilst employed at the Downlands Community Primary School (“the School”)

1. Between or around January 2019 and November 2019, you used inappropriate force and/or restraint in dealings with:

b. Pupil A, on or around 22 May 2019;

Pupil A is a pupil with a pastoral support plan.

A fellow teacher gave evidence that Pupil A had become agitated, was crying, angry and was moving around the room. A teaching assistant, and an emotional literacy support assistant (ELSA) were present, and Mr Morales-David was called to assist. The teacher stated that when Mr Morales-David arrived, he talked to Pupil A and explained that Pupil A needed to go to the Rainbow Room, a safe space where pupils could go to calm down. She stated that, within 5 minutes, Mr Morales-David had restrained the child, holding Pupil A around the torso, with Pupil A’s back to Mr Morales-David’s chest. She stated that Pupil A was struggling and lifted off the ground. She stated that the teaching assistant had supported his feet to protect him, and the ELSA had supported his head to prevent it banging on the door. Pupil A was then taken to the Rainbow Room. She stated that other pupils had been due to return to the classroom from assembly but that this had not been a good reason to move Pupil A. The other class pupils could have been asked to go outside while Pupil A was given the chance to calm down.

The teaching assistant who gave evidence could not remember having concerns about the incident, and it was not an incident that she could fully recall.

Mr Morales-David prepared an incident log that stated the length of restraint was 12 to 14 minutes. After 10 minutes of holding, Mr Morales-David recorded that he could feel Pupil A relax, although this was more to do with tiredness than compliance.

Mr Morales-David accepted in evidence that he would be “silly to say that there was nothing else” he could have done, that there were probably other avenues he could have taken, but at the time he felt he was doing the best he could.

The panel considered the restraint of Pupil A to be inappropriate. There were other options available in terms of directing those pupils returning from assembly away from the classroom to give Pupil A the time and space to calm down. Instead, Pupil A, [redacted], was restrained for a period of 12 to 14 minutes until he became so tired, he

could struggle no more. The panel did not consider the restraint to have been appropriate in the circumstances.

c. Pupil B, on or around 15 July 2019;

Pupil B is a child with an [redacted].

A fellow teacher at the school gave evidence that she had been asked to attend the classroom by Mr Morales-David, who wanted her to come with him as a witness. She stated that when she arrived, Pupil B had been sat with his iPad. She stated that Mr Morales-David had gone straight to the pupil, and asked the pupil to go with him, or that he would take him to the headteacher's office. She stated that Mr Morales-David then went behind Pupil B who was sat down, pulled him up from the chair and took him out of the classroom. She stated that Mr Morales-David had his arms on Pupil B's torso and Pupil B had his back to Mr Morales-David's chest and that he then took Pupil B down a corridor and up a set of stairs to the headteacher's office.

Mr Morales-David gave evidence that he had been called to assist another teacher as Pupil B had been disrupting the class and was not following instructions. He confirmed that his training on the handling of pupils had involved 2 adults lifting a child from a seating position in unison. However, he had attempted this on his own as there were no other adults available to support him, the fellow teacher who he had invited to witness the incident had been stood in the doorway. He confirmed that he had continued to hold Pupil B when moving up the flight of stairs, but that Pupil B had remained on his feet. They moved more slowly and deliberately than usual with Pupil B moving under his own steam.

The panel considered Mr Morales-David to have acted inappropriately. It was not clear to the panel if other pupils were in the classroom at the time. If there were, those pupils could have been moved out of the classroom. If there were not, Pupil B would not have been disturbing them, or posing any risk to them. In either event, there was no need to have moved Pupil B from a seated position, and there were other options available to Mr Morales-David to de-escalate the situation. On Mr Morales-David's own evidence, it would have been usual for 2 adults to move a pupil from a seated position and there was at least one other adult present, as the fellow teacher had accompanied Mr Morales-David to the classroom.

It is not disputed that Mr Morales-David then moved Pupil B up a flight of stairs with Pupil B remaining in the hold. The panel considered that this was dangerous given the risk of falling. Moving Pupil B, [redacted], up a flight of stairs whilst maintaining the restraint, was unnecessary and therefore inappropriate.

e. Pupil D, on or around 22 November 2019.

Mr Morales-David has admitted both that he used restraint against Pupil D and that this was inappropriate. However, he denies that he had his hands around Pupil D's neck, that he dragged Pupil D across the floor and being angry at the time.

The teaching assistant saw Mr Morales-David moving Pupil D along the corridor to the double doors, that led to a flight of stairs. A fellow teacher saw him on the stairs with Pupil D and stated that Pupil D was struggling to keep his feet on the stairs and did not have stable footing. She described Pupil D's top being pulled up, and the waist band of his trousers being around his thighs so you could see Pupil D's pants and back. The headteacher described having heard a pupil screaming and saw Mr Morales-David struggling with a pupil at the top of the stairs.

Mr Morales-David accepted that Pupil D had been trying to get out of the hold, and that there were occasions when Pupil D had lifted his feet; he stated that he paused so Pupil D could re-establish contact with the floor.

The panel considered that it was unnecessary to resolve the conflict of evidence as to whether Mr Morales-David had his hands around Pupil D's neck or whether Mr Morales-David had been angry and lost control.

Once Pupil D had been moved into a corridor, away from other pupils, there was no legitimate reason for Pupil D to continue to be moved in a restraint up the stairs. The panel considered that this was dangerous given the risk of falling, particularly whilst Pupil D was lifting his feet off the floor, which indicated Pupil D was being forcibly moved by Mr Morales-David. As referred to above, by moving Pupil D, [redacted], up a flight of stairs whilst maintaining the restraint, was unnecessary and therefore inappropriate. Pupil D's pastoral support plan may have envisaged Pupil D being taken to the headteacher's office, but this did not necessarily mean he should have been taken there by the use of force, with the obvious risk that this entailed.

2. Your conduct at 1e above was contrary to:

a. instructions given to you by the Headteacher;

The facts found proven as stated in allegation 1.e. took place after a new headteacher was in post, who brought with him a new ethos that the use of restraint was to be avoided within the School. Mr Morales-David accepted that this ideology had been made clear to him by the headteacher. The fellow teacher and teaching assistant that gave evidence confirmed their awareness of the shift that had taken place against the use of restraint after the new headteacher joined the school. The panel considered this to be an instruction, albeit Mr Morales-David remained entitled to rely upon the power of members of staff to use such force as is reasonable in the circumstances for the stated purposes set out in section 93 Education and Inspections Act 2006. In acting in the manner found proven in allegation 1.e., Mr Morales-David acted contrary to the instructions given to him by the headteacher.

The panel found the following particulars of the allegations against you not proved, for these reasons:

1. Between or around January 2019 and November 2019, you used inappropriate force and/or restraint in dealings with:

a. Pupil A, on an unknown date between January and April 2019;

A fellow teacher at the School described an incident that took place at the end of the school day, prior to Pupil A attending hockey club. She described her teaching assistant [redacted], so she asked her to fetch another adult, as Pupil A was crying, angry and kept trying to leave the room. Mr Morales-David arrived, by which time Pupil A was running around the room, trying to leave to go to hockey club. It was the teacher's evidence that Pupil A then became quiet and still but continued to cry. She described that Pupil A was facing a wall, refusing to move, but in the process of calming down when Mr Morales-David grabbed him around the chest/upper body and held him. She stated that it was correct that they did not want Pupil A to go to the hockey club whilst he was angry as there was a risk that he would gain access to hockey equipment and cause injury to himself and others. However, at the time when Mr Morales-David held Pupil A, the fellow teacher did not consider Pupil A to be a danger as the other pupils in the classroom had left and Pupil A had been in the process of calming down.

Mr Morales-David gave evidence that Pupil A had been running around the room when he arrived, and his recollection was that it was when Pupil A tried to bolt out of a door, that he used an improvised, instinctive grab to prevent Pupil A going through the door, that he then adjusted into a hold. He explained that he had done this to prevent Pupil A from leaving the room, going towards the hockey equipment and to prevent Pupil A hurting himself, others or causing a disturbance.

The fellow teacher spoke with the headteacher at the time, and prepared a witness statement, which was more contemporaneous to the events than the statement prepared for the purpose of the present proceedings. There is no reference in this earlier witness statement to Pupil A having begun the process of calming down or facing the wall. It states "*A was moving around the room trying to get out to hockey club. Mr Morales grabbed A around the torso and held him, A was screaming to get off me, I hate you and Mr Morales struggled to hold him. Eventually, A went quiet and still but continued to cry.*" The panel considered that there was therefore insufficient evidence that Pupil A had begun the process of calming down, given that there was no reference to this in the earlier witness statement. Furthermore, it was plain that A had presented a risk, as the fellow teacher had called for assistance as she was concerned about the possibility of Pupil A leaving the room.

The panel therefore did not consider Mr Morales-David to have acted inappropriately, as his action to restrain Pupil A would have been justified in the circumstances.

d. Pupil C, on or around 4 October 2019;

The fellow teacher gave evidence that there had been an incident involving Pupil C, that he ran into an outdoor area, but that she knew not to run after him, because Pupil C does not run very far, but that she should keep him in her line of sight. She noted that she could no longer see Pupil C so went outside, to see him entering through a fire door back into the building. She then stated that she saw Mr Morales-David appear, grab Pupil C and pin him by his top half to a wall. She stated that Pupil C's back was against the wall and Mr Morales-David's hands were on Pupil C's torso holding him against the wall. She stated that she started banging on the glass door from outside and shouted, "*do not try to restrain him, get off him,*" or words to that effect. She stated that another pupil, opened the door for her, and Mr Morales-David let Pupil C go, but that he had pinned Pupil C against the wall for approximately 30 seconds to one minute.

The fellow teacher raised the incident with the headteacher who had joined the School, a month previously. She prepared a statement which referred to having seen Mr Morales with his arms outstretched '*herding*' Pupil C, that she had banged on the door, and could see Mr Morales "*holding C with his arms around his torso.*"

Mr Morales-David stated that he had touched Pupil C on the shoulders to reassure him. There is no incident log completed by Mr Morales-David in respect of this incident. This lends support to Mr Morales-David having not construed this incident as one in which he exercised a restraint, since it appears to have been Mr Morales-David's practice to prepare an incident log after restraint had been used by him.

The panel noted that it is the case that Pupil C was moving around the School immediately prior to meeting Mr Morales-David and that he had been shouting and screaming.

The panel was unable to resolve the conflict of evidence as to the exact force exercised by Mr Morales-David in relation to Pupil C. It found the fellow teacher to be a credible witness, although there hadn't been a reference to pinning Pupil C against a wall in her earlier statement. The panel considered that some restraint of Pupil C was a matter within Mr Morales-David's professional judgment in the circumstances where the pupil was running in and out of the School building. The panel did not consider there was sufficient evidence to demonstrate that Mr Morales-David had acted inappropriately.

2. His conduct at 1e above was contrary to:

b. the Pastoral Support Plan in place for Pupil D

The panel had regard to the pastoral support plan in place for Pupil D. This made reference to a script to be adopted if Pupil D displayed dangerous or harmful behaviours, examples of which are contained in the plan. In those circumstances, the script envisages the pupil being told that he would need to go to his safe space or the headteacher's office. It also states that escalation should be considered, and there

should be a possible phone call home if Pupil D did not reflect and calm down “*within 45 minutes*”. Since the plan did not refer to escalation after 45 minutes, and attendance at the headteacher’s office was envisaged as a response to the behaviours, the panel did not find it proven that Mr Morales-David acted contrary to the plan.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found allegations 1.b., 1.c., 1.e. and 2.a. proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as “the Advice.”

The panel was satisfied that the conduct of Mr Morales-David in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Morales-David was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

In relation to allegation 1.e. specifically, this conduct took place after a new headteacher was in post, who brought with him a new ethos that the use of restraint was inappropriate as a routine strategy within the School. Mr Morales-David remained entitled to rely upon the power of members of staff to use such force as is reasonable in the circumstances for the stated purposes set out in section 93 Education and Inspections Act 2006. However, the panel has found that the force used by Mr Morales-David was not reasonable in the circumstances of the allegations found proven, and in respect of allegation 1.e., also ran contrary to the ethos of the School, of which he was aware.

The panel was satisfied that the conduct of Mr Morales-David, in relation to the facts found proved, involved breaches of Keeping Children Safe In Education (“KCSIE”)

applicable at the time. The panel considered that Mr Morales-David was in breach of his duty to provide a safe environment in which children can learn.

The panel was satisfied that the conduct of Mr Morales-David fell significantly short of the standard of behaviour expected of a teacher.

The panel also considered whether Mr Morales-David's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The panel found that none of these offences was relevant. Nonetheless, the Advice is not intended to be exhaustive, and the conduct displayed by Mr Morales-David is amongst the behaviours that the panel considers to be unacceptable professional conduct, it falling short of the standard expected of a teacher.

Accordingly, the panel was satisfied that Mr Morales-David was guilty of unacceptable professional conduct.

The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

In considering the matter of disrepute, the panel also considered whether Mr Morales-David's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. As referred to above, the panel found that none of these offences was relevant. Nevertheless, the panel noted that the advice is not intended to be exhaustive and there may be other behaviours that panels consider to be "conduct that may bring the profession into disrepute." Pupils A, B and D were pupils [redacted]. Those entrusting Mr Morales-David with the care of those pupils would have expected him to act in an appropriate manner towards them, and his failure to do so erodes the trust that is placed in the teaching profession.

The panel therefore found that Mr Morales-David's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1.b., 1.c., 1.e. and 2.a. proved, the panel further found that Mr Morales-David's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it was necessary for the panel to go on to

consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order is appropriate, the panel had to consider the public interest, the seriousness of the behaviour, any mitigation offered by Mr Morales-David and whether a prohibition order is necessary and proportionate. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have a punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and having done so, found a number of them to be relevant in this case, namely, the safeguarding and wellbeing of pupils; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and the interest of retaining the teacher in the profession.

In the light of the panel's findings against Mr Morales-David which involved the use of inappropriate restraint on 3 occasions in 2019 there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Morales-David were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Morales-David was outside that which could reasonably be tolerated.

There is evidence that Mr Morales-David had ability as an educator. The panel has been provided with examples of email exchanges concerning Pupil D that demonstrated a real commitment to securing positive outcomes for Pupil D, engaging colleagues and Pupil D's family in the learning journey. The panel also saw an example of work that Mr Morales-David had designed for Pupil D, responding to his needs on a particular day and seeking to engage Pupil D in an imaginative way. Nevertheless, the panel considered that the adverse public interest considerations above outweighed the interest in retaining Mr Morales-David in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher. Mr Morales-David was the deputy headteacher and deputy designated safeguarding lead at the School, yet he restrained three vulnerable pupils in an inappropriate manner, placing 2 of those pupils in a situation that the panel found to be dangerous.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils)
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE)
- violation of the rights of pupils;
- a deep-seated attitude that leads to harmful behaviour;

With regard to the deep-seated attitude, the panel considered that, at the time, Mr Morales-David had displayed arrogance in his handling of the pupils, there being 3 instances in the course of 2019, when Mr Morales-David had used restraint in a manner that was inappropriate, and continued to do so, even after the ethos of the School had changed to one in which restraint was to be avoided.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider the mitigation offered by the teacher and whether there were mitigating circumstances.

There was no evidence Mr Morales-David's actions were not deliberate.

There was no evidence to suggest that Mr Morales-David was acting under extreme duress. Although Mr Morales-David explained that Pupil D had kicked and slapped him, the restraint continued for longer than was required and entailed Mr Morales-David taking the decision to ascend the stairs with Pupil D in the hold.

Mr Morales-David has a previously good history and clearly had abilities as a teacher given the evidence the panel has seen of the manner in which he was supporting Pupil D's learning. The panel has seen testimonial evidence from the designated safeguarding lead at the School at which Mr Morales-David was formerly employed, a colleague at a former school, a parent of a former pupil and the preschool manager/ deputy safeguarding officer at the School. These evidence Mr Morales-David's relationship with children and parents, his efficacy as a member of the senior leadership team and the former colleagues speak positively about working with him. The panel has also seen

testimonial evidence from 2 friends who speak of his passion for teaching, his nurturing of his own children and his integrity.

The panel considered that Mr Morales-David demonstrated significant insight and remorse. He became very emotional whilst giving evidence, appreciating the impact that his actions had had on his colleagues who had witnessed the incidents and on pupils who had been in the vicinity. He gave convincing evidence that he had reflected on and learned from his mistakes.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Morales-David of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Morales-David. Mr Morales-David was a deputy headteacher, holding a safeguarding role in the School, and yet restrained 3 children in an inappropriate manner, putting 2 of those pupils in the way of harm. This was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period or offering a longer review period. This is not one of those cases.

As referred to above the panel was satisfied that Mr Morales-David has now demonstrated significant insight and remorse for the impact of his actions.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provision for a review period after 3 years. This reflected that Mr Morales-David had a senior leadership and safeguarding role in the School and ought to have recognised the inappropriateness of his behaviour. The public would expect that given the seriousness of the conduct found

proven that Mr Morales-David should have a period away from the profession. However, the panel was satisfied that Mr Morales-David should have the opportunity to apply to return to the teaching profession after a period of 3 years, given the level of insight he has demonstrated and the value that Mr Morales-David could contribute to the teaching profession.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In particular the panel has found allegations 1.b., 1.c., 1.e., and 2.a. proven. In this case, as the panel has found some of the allegations not proven, I have therefore put all those matters unproven entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr Morales-David should be the subject of a prohibition order, with a review period of 3 years.

In particular, the panel has found that Mr Morales-David is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also found that, "In relation to allegation 1.e. specifically, this conduct took place after a new headteacher was in post, who brought with him a new ethos that the use of restraint was inappropriate as a routine strategy within the School. Mr Morales-

David remained entitled to rely upon the power of members of staff to use such force as is reasonable in the circumstances for the stated purposes set out in section 93 Education and Inspections Act 2006. However, the panel has found that the force used by Mr Morales-David was not reasonable in the circumstances of the allegations found proven, and in respect of allegation 1.e., also ran contrary to the ethos of the School, of which he was aware.”

The panel was also, “satisfied that the conduct of Mr Morales-David, in relation to the facts found proved, involved breaches of Keeping Children Safe In Education (“KCSIE”) applicable at the time. The panel considered that Mr Morales-David was in breach of his duty to provide a safe environment in which children can learn.”

Finally, the panel, “was satisfied that the conduct of Mr Morales-David fell significantly short of the standard of behaviour expected of a teacher.”

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Morales-David, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, “The panel considered that Mr Morales-David was in breach of his duty to provide a safe environment in which children can learn.” A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “The panel considered that Mr Morales-David demonstrated significant insight and remorse. He became very emotional whilst giving evidence, appreciating the impact that his actions had had on his colleagues who had witnessed the incidents and on pupils who had been in the vicinity. He gave convincing evidence that he had reflected on and learned from his mistakes.” I have given this element considerable weight in reaching my overall decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils and considered the influence that

teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave."

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an "ordinary intelligent and well-informed citizen."

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Morales-David himself. The panel comment "Mr Morales-David has a previously good history and clearly had abilities as a teacher given the evidence the panel has seen of the manner in which he was supporting Pupil D's learning. The panel has seen testimonial evidence from the designated safeguarding lead at the School at which Mr Morales-David was formerly employed, a colleague at a former school, a parent of a former pupil and the preschool manager/deputy safeguarding officer at the School."

A prohibition order would prevent Mr Morales-David from teaching and would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel's comments, "The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Morales-David. Mr Morales-David was a deputy headteacher, holding a safeguarding role in the School, and yet restrained 3 children in an inappropriate manner, putting 2 of those pupils in the way of harm.

I have given less weight in my consideration of overall sanction therefore, to the contribution that Mr Morales-David has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 3 year review period.

I have considered the panel's comments "The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it

would be proportionate, in all the circumstances, for the prohibition order to be recommended with provision for a review period after 3 years. This reflected that Mr Morales-David had a senior leadership and safeguarding role in the School and ought to have recognised the inappropriateness of his behaviour. The public would expect that given the seriousness of the conduct found proven that Mr Morales-David should have a period away from the profession. However, the panel was satisfied that Mr Morales-David should have the opportunity to apply to return to the teaching profession after a period of 3 years, given the level of insight he has demonstrated and the value that Mr Morales-David could contribute to the teaching profession.”

I have considered whether a 3 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, the factors set out above mean that allowing a 2 year review period is not sufficient to achieve the aim of maintaining public confidence in the profession.

I consider therefore that a 3 year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Daniel Morales-David is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. He may apply for the prohibition order to be set aside, but not until 28 July 2025, 3 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Morales-David remains prohibited from teaching indefinitely.

This order takes effect from the date on which it is served on the teacher.

Mr Morales-David has a right of appeal to the Queen’s Bench Division of the High Court within 28 days from the date he is given notice of this order.



Decision maker: Alan Meyrick

Date: 18 July 2022

This decision is taken by the decision maker named above on behalf of the Secretary of State.