

**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA**

**In the Matter of the Motion for Immediate Reversal of  
Suspension of:**

**VJ HIRSCH, Moving Party**

**v.**

**LOS ANGELES UNIFIED SCHOOL DISTRICT, Responding Party**

**OAH No. 2024041067**

**ORDER DENYING MOTION FOR IMMEDIATE REVERSAL OF  
SUSPENSION**

Adam L. Berg, Presiding Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard oral argument on this matter by Zoom videoconference on May 10, 2024.

VJ Hirsch, moving party, appeared on his own behalf.

Kelly Kim, Associate General Counsel I, represented Los Angeles Unified School District.

The matter was submitted for decision on May 10, 2024.

On or about March 26, 2024, the district's Interim Chief Human Resources Officer served Mr. Hirsch with a Statement of Charges seeking the immediate suspension without pay and dismissal of Mr. Hirsch, a permanent certificated employee. The statement of charges alleges the following causes for dismissal: immoral conduct; unprofessional conduct; evident unfitness for service; and persistent violation of or refusal to obey state school laws or regulations prescribed by the district's governing board. (Ed. Code, §§ 44932, subd. (a)(1), (a)(2), (a)(6) & (a)(8).)<sup>1</sup> The district also alleges cause to immediately suspend Mr. Hirsch without pay for immoral conduct. (§ 44939, subd. (b).)

On April 26, 2024, Mr. Hirsch filed a Motion for Immediate Reversal of Suspension with OAH, pursuant to Section 44939, subdivision (c)(1). Mr. Hirsch makes multiple arguments including: a November 15, 2022, "Unsatisfactory Act and Suspension" is awaiting a grievance/appeal, which precludes the district from taking action, and the allegations are vague and ambiguous. Mr. Hirsch attached a declaration refuting the allegations contained in the Statement of Charges.

The district filed an opposition to the motion on April 30, 2024, arguing that the Statement of Charges provides Mr. Hirsch of sufficient notice of the allegations such that he can prepare a defense, and the district has sufficiently pled allegations, that if true, are sufficient to support suspension without pay for immoral conduct. The district also argues that Mr. Hirsch's motion is untimely under Section 44939, subdivision (c), as he failed to file his motion within 30 days of service of the Statement of Charges.

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<sup>1</sup> All further statutory references are to the Education Code.

On May 1, 2024, Mr. Hirsch filed a supplemental declaration. On May 10, 2024, the parties presented additional oral arguments. Following the conclusion of oral arguments, Mr. Hirsch was granted leave to file a supplemental declaration, which was received later that day.

Section 44939, subdivision (b), authorizes the district to suspend an employee without pay pending the outcome of the hearing based on immoral conduct. Subdivision (c)(1) allows the employee to file a motion for relief from the suspension and requires review of this motion to be "limited to a determination as to whether the facts as alleged in the statement of charges, if true, are sufficient to constitute a basis for immediate suspension under this section."

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

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

(*Palo Verde etc. School Dist. v. Hensey* (1970) 9 Cal.App.3d 967, 972, citing *Bd. of Education of San Francisco Unified School Dist. v. Weiland*, 179 Cal. App 2d 808, 811.)

Immoral conduct alone cannot serve as a basis to terminate a teacher unless the conduct indicates the teacher is also unfit to teach. (*Palo Verde, supra*, at p. 972.) The definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, upon whom are imposed "responsibilities and limitations on freedom of action which do not exist in regard to other callings." (*Board of Trustees v. Stubblefield* (1971) 16 Cal.App.3d 820, 824.)

In *Crawford v. Comm. on Professional Competence* (2020) 53 Cal.App.5th 339, 337, the court rejected Ms. Crawford's contention that there are three fixed categories of conduct that constitute "immoral conduct" as a matter of law. Instead, the court held the term "immoral conduct" in Section 44932, "stretch[es] over so wide a range" of conduct that it "embrace[s] an unlimited area of conduct." (*Ibid.*, citing *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 224-225.) Citing *Morrison, supra*, at p. 224, the court added, the term must be "'considered in the context in which the Legislature considered it, as conduct which is hostile to the welfare of the general public . . . more specifically in this case, *conduct which is hostile to the welfare of the school community.*'" [Citations.] (*Crawford*, at p. 337 [italics in original].) "A teacher's conduct is therefore "immoral" under section 44932, subdivision (a)(1), when it negatively affects the school community in a way that demonstrates the teacher is 'unfit to teach.'" (*Ibid.* [footnote omitted].) The court then addressed Ms. Crawford's argument that the term should be given a colloquial interpretation that includes only conduct that would be deemed "immoral" in an everyday sense, such as criminal activity and using profanity or racial epithets. (*Id.* at p. 338.) The court wrote,

We disagree. Immoral conduct "stretch[es] over so wide a range that [it] embrace[s] an unlimited area of conduct." ([*Morrison, supra*, at pp. 224-225].) Thus, "the proper criteria is fitness to teach" because the term "immoral conduct" is "so broad and vague" that it is "constitutionally infirm." ([Citation].)


(*Ibid.*)

The parties' written submissions and oral arguments having been considered, the district alleged sufficient facts in the Statement of Charges that, if true, could constitute immoral conduct and support immediate suspension under section 44939, subdivision (b).

Based on the above conclusion, the district's argument that Mr. Hirsch's motion was not timely filed need not be addressed.

The motion for immediate reversal of suspension is DENIED.

DATE: May 16, 2024

  
[Adam Berg \(May 16, 2024 14:55 PDT\)](#)

ADAM L. BERG

Presiding Administrative Law Judge  
Office of Administrative Hearings