

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of the Motion for Immediate
Reversal of Suspension Filed by:

OAH No. 2018080347

KRISTA OLSON,

A Permanent Certificated Employee,

Moving party,

v.

FONTANA UNIFIED SCHOOL DISTRICT,

Responding party.

**ORDER GRANTING MOTION FOR
IMMEDIATE REVERSAL OF
SUSPENSION
(Ed. Code, § 44939, subd. (c)(4))**

Administrative Law Judge (ALJ) Dena Coggins, Office of Administrative Hearings (OAH), State of California, heard this matter telephonically from Sacramento, California, on September 7, 2018.

Attorney Carlos Perez represented Krista Olson.

Attorney Margaret Chidester represented Fontana Unified School District (School District).

PROCEDURAL HISTORY

On July 11, 2018, the Board of Education for the School District approved charges for dismissal against Ms. Olson based on causes that included, but were not limited to, immoral conduct and willful refusal to perform regular assignments without reasonable cause under Education Code section 44939. On July 12, 2018, the School District served Ms. Olson with a Notice of Statement of Written Charges and Intention to Dismiss and placed her on immediate suspension without pay pursuant to Education Code section 44939. On July 16, 2018, Ms. Olson requested a hearing to contest the suspension and dismissal charges.

On August 9, 2018, Ms. Olson filed a Motion for Immediate Reversal of Suspension (Motion) with OAH, pursuant to Education Code section 44939, subdivision (c)(1), alleging

that the Statement of Charges does not set forth a sufficient basis for immediate suspension because the allegations do not establish immoral conduct or willful refusal to perform a regular assignment without reasonable cause.

DISCUSSION

Education Code section 44939 states, in relevant part, that a school district may immediately suspend a permanent employee of the school district who has been charged “with immoral conduct, conviction of a felony or of any crime involving moral turpitude, with incompetency due to mental disability, with willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the school district, or with violation of [Education Code] section 51530.” (Ed. Code, § 44939, subd. (b).)

Under Education Code section 44939, subdivision (c)(1), “review of a motion filed pursuant to this section shall 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.”


The ALJ has considered the written submissions of the parties and oral argument. Based upon a review of the Statement of Written Charges, the District failed to allege facts which, if true, are sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b).

ORDER

GOOD CAUSE HAVING BEEN ESTABLISHED, the Motion for Immediate Reversal of Suspension is GRANTED.

The School District shall make the employee whole for any lost wages, benefits, and compensation within 14 days after service of this Order. (Ed. Code, § 44939, subd. (c)(5).)

DATED: September 13, 2018

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DENA COGGINS
Administrative Law Judge
Office of Administrative Hearings