

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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

NATHAN WILLESS,
A Permanent Certificated Employee,

Moving Party,

v.

FALLBROOK UNION HIGH SCHOOL
DISTRICT,

Responding Party.

OAH No. 2019010671
(Related Case No. 2019010461)

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

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter telephonically on February 15, 2019, from Oakland, California.

Attorney Jon Cadieux represented respondent and moving party Nathan Willess.

Attorney Ellen C. Wu represented the Fallbrook Union High School District (District).

PROCEDURAL HISTORY

On December 18, 2018, a District representative served a statement of charges alleging cause to dismiss Nathan Willess from employment with the District as a mathematics teacher. The charges include immoral conduct. In reliance on this charge, the District has suspended respondent from employment without pay.

On January 17, 2019, respondent timely filed a motion seeking immediate reversal of his suspension and reinstating his salary and benefits pending resolution of the charges against him. Respondent argues that the District has not alleged an adequate basis to suspend him from employment without pay before resolution of these charges, because the allegations do not describe immoral conduct. The District opposes respondent's motion.

APPLICABLE STATUTES

Education Code section 44939 permits the District to suspend immediately, without pay, a permanent employee who the District alleges to have committed “immoral conduct.” (Ed. Code, § 44939, subd. (b).) Administrative review of an order for immediate suspension is available, but such review “shall be limited to a determination as to whether the facts alleged in the statement of charges, if true, are sufficient to constitute a basis for immediate suspension under this section.” (*Id.*, subd. (c)(1).)

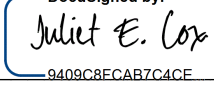
CONCLUSION

The statement of charges has been considered in light of the parties’ written and oral arguments. The District has alleged facts which, if true, would establish immoral conduct. These allegations are sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b).

ORDER

The motion by respondent and moving party Nathan Willess for immediate reversal of suspension and for reimbursement of pay and benefits during the period of suspension is denied.

DATED: February 19, 2019

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JULIET E. COX
Administrative Law Judge
Office of Administrative Hearings