

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

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

MARY JO CORMIER, a Permanent Certificated Employee,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT

OAH No. 2020100775

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

(Ed. Code, § 44939, subd. (c)(4))

Administrative Law Judge Karen Reichmann, Office of Administrative Hearings, State of California, heard this matter telephonically, on November 13, 2020.

Alejandra Gonzalez-Bedoy, Attorney at Law, represented Mary Jo Cormier, the moving party.

M. Cristina Cruz, Assistant General Counsel, represented the Los Angeles Unified School District (District).

Prior to the hearing, the moving party submitted a Request for Judicial Notice of two items. The District opposed the request. Oral argument was heard and the matter was taken under submission. The moving party's request is denied.

PROCEDURAL HISTORY

A statement of charges was filed and served against Mary Jo Cormier, pursuant to Education Code section 44932, alleging five causes for dismissal: 1) unprofessional conduct; 2) unsatisfactory performance; 3) evident unfitness for service; 4) persistent violation of or refusal to obey school laws; and 5) willful refusal to perform regular assignments without reasonable cause. The District placed her on immediate suspension without pay pursuant to Education Code section 44939, based upon the allegations of willful refusal to perform regular assignments without reasonable cause.

The moving party filed a timely motion for immediate reversal of her suspension without pay, pursuant to Education Code section 44939, subdivision (c)(1). She argues that the District has not alleged a sufficient basis to place her on immediate unpaid status because the allegations in the statement of charges do not establish that she engaged in willful refusal.

DISCUSSION

Education Code section 44939, subdivision (b), provides 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."

Pursuant to 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 written submissions and oral argument of the parties have been considered. Based upon a review of the statement of charges, the District has failed to allege facts which, if true, are sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b), on the grounds of willful refusal to perform regular assignments without reasonable cause. The facts alleged in the statement of charges may constitute grounds for discipline pursuant to Education Code section 44932, but do not reflect willful refusal.

ORDER

Good cause having been established, the motion for immediate reversal of suspension is GRANTED. The District's immediate suspension of Mary Jo Cormier is REVERSED. The District shall make her whole for any lost wages, benefits, and compensation within 14 days after service of this Order. (Ed. Code, § 44939, subd. (c)(5).)

DATE: 11/17/2020

Karen Reichmann

KAREN REICHMANN

Administrative Law Judge

Office of Administrative Hearings