

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

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

**BRON HANTZIS, a Permanent Certificated Employee, Moving
Party**

and

SAN MATEO-FOSTER CITY SCHOOL DISTRICT,

Responding Party

OAH Case No. 2024051116

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

On June 14, 2024, Wim van Rooyen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard oral argument by videoconference on the instant motion for immediate reversal of suspension.

Holly Latz, Attorney at Law, Beeson, Tayer & Bodine, APC, represented the moving party, Bron Hantzis (Hantzis).

Georgelle Cuevas, Attorney at Law, Atkinson, Andelson, Loya, Ruud & Romo, APC, represented the responding party San Mateo-Foster City School District (District).

On June 14, 2024, the motion was submitted for decision.

Procedural Background

On March 29, 2024, Diana L. Tavares, in her official capacity as the District's Assistant Superintendent for Human Resources, signed and later filed with the District's Governing Board a "Statement of Charges that There Exists Cause to Immediately Suspend Without Pay and to Dismiss a Permanent Certificated Employee" (Statement of Charges).

The Statement of Charges states the following charges against Hantzis, a permanent certificated employee: evident unfitness for service (Ed. Code, § 44932, subd. (a)(6)) and persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the state board or by the governing board of the school district employing him (*Id.*, subd. (a)(8)). Specifically, the Statement of Charges alleges that Hantzis engaged in bullying, harassing, and/or retaliatory behavior towards students, imposed improper and overly harsh discipline, gave inappropriate assignments, disclosed confidential student information, violated the principal's direction not to have contact with a particular student, threatened to physically remove a student, and created an uncomfortable and hostile working environment for other employees.

On April 25, 2024, the District's Governing Board passed and adopted a resolution of intent to immediately suspend without pay and dismiss Hantzis. On April 27, 2024, the District served Hantzis with a notice of immediate suspension without

pay, pending a dismissal hearing before a Commission on Professional Competence (CPC).

On May 24, 2024, Hantzis filed a motion for immediate reversal of suspension pursuant to Education Code section 44939, subdivision (c), on grounds that the Statement of Charges does not set forth a sufficient basis for an immediate unpaid suspension. On June 4, 2024, the District filed its opposition to the motion. On June 11, 2024, Hantzis filed a reply brief.

Analysis

Education Code section 44939 states, in relevant part, that a school district may immediately suspend without pay 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 employing school district, or with violation of Section 51530. . . .” (Ed. Code, § 44939, subd. (b).)

An employee who has been placed on such suspension may file a motion for immediate reversal of suspension. (Ed. Code, § 44939, subd. (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.” (*Ibid.*) “The grant or denial of the motion shall be without prejudice to consideration by the [CPC], based upon the full evidentiary record before it, of the validity of the grounds for dismissal. The ruling shall not be considered by the [CPC] in determining the validity of the grounds for

dismissal, and shall not have any bearing on the [CPC's] determination regarding the grounds for dismissal." (Ed. Code, § 44939, subd. (c)(4).)

Here, the District does not contend that it has sufficiently alleged immoral conduct, conviction of a felony or of any crime involving moral turpitude, incompetency due to mental disability, or a violation of Education Code section 51530. The District argues that Hantzis's immediate unpaid suspension is supported solely by his alleged "willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing school district."

However, even liberally construed, the Statement of Charges does not allege a willful refusal to perform regular assignments. There is no allegation that Hantzis refused to teach his fourth grade class, attend faculty meetings, or perform other regular duties. Instead, the Statement of Charges targets the *manner* in which Hantzis performed his regular assignments. It primarily alleges that Hantzis violated several District policies and/or principal's directives in his interactions with students and staff in the course of his regular duties as a teacher.

If those serious allegations are true, a CPC may ultimately find cause to dismiss Hantzis for evident unfitness for service under Education Code section 44932, subdivision (a)(6), and/or persistent violation of or refusal to obey school laws and regulations under Education Code section 44932, subdivision (a)(8). However, those charges cannot support an immediate unpaid suspension, which must be based on one or more of the specific grounds outlined in Education Code section 44939.

In sum, the District has pled insufficient facts to support Hantzis's immediate unpaid suspension. Accordingly, the motion must be granted.

ORDER

The Motion for Immediate Reversal of Suspension is GRANTED. Hantzis's immediate suspension without pay is REVERSED. The District shall immediately return Hantzis to paid status. The District shall make Hantzis whole for any lost wages, benefits, and compensation within 14 days after service of this Order.

DATE: June 18, 2024

Wim vanRooyen

WIM VAN ROOYEN

Administrative Law Judge

Office of Administrative Hearings