

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

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

**MICHAEL COHEN, Moving Party,**

**v.**

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

**OAH No. 2024091069**

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

**(Ed. Code, § 44939, subd. (c)(4))**

Administrative Law Judge Karen Reichmann, State of California, Office of  
Administrative Hearings, heard this matter by videoconference on October 18, 2024.

Attorney Jason Wojciechowski represented Michael Cohen, the moving party.

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

## **PROCEDURAL HISTORY**

A statement of charges was filed and served against Michael Cohen, pursuant to Education Code section 44932, alleging a total of five causes for dismissal, including immoral conduct and willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the School District (willful refusal). The District placed Cohen on immediate suspension without pay, pursuant to Education Code section 44939, based upon the allegations of immoral conduct and willful refusal.

Cohen filed a timely motion for immediate reversal of his suspension without pay, pursuant to Education Code section 44939, subdivision (c)(1). He argues that the District has not alleged a sufficient basis to place him on immediate unpaid status because the factual allegations in the statement of charges do not establish that he engaged in immoral conduct or willful refusal. The District opposes the motion.

## **DISCUSSION**

Education Code section 44939, subdivision (b), provides that a school district may immediately suspend a permanent certificated employee 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."

Immoral conduct is defined as conduct that is "hostile to the welfare of the general public and contrary to good morals" and includes conduct "inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of

respectable members of the community." (*Board of Education v. Weiland* (1960) 197 Cal.App.2d 808, 811.)

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."

Cohen was employed as an English teacher at a high school for pregnant and parenting students. The statement of charges alleges that between August 2020 and October 2022, Cohen engaged in misconduct including: allowing a student to remain in his classroom while she skipped other classes; making statements about students' bodies to students and others; making shaming statements to a student about her weight; making a disparaging statement to a student about her cleavage; discussing personal information with students; asking a student for hugs and holding her hand when she had panic attacks; sharing confidential information about students with other students; giving a gift (a baking tray) to a student; and interacting with students by phone and text during non-instructional time.

The District alleges that these actions constitute immoral conduct and willful refusal by Cohen to perform regular assignments, as prescribed by rules and regulations of the District, in that he violated administrative directives and District policies and procedures.

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 sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b), on the grounds of immoral conduct or willful refusal. The facts

alleged in the statement of charges may constitute grounds for dismissal pursuant to Education Code section 44932, but without further context do not necessarily reflect immoral conduct or willful refusal to perform regular assignments without reasonable cause.

## **ORDER**

Michael Cohen's motion for immediate reversal of suspension is GRANTED. The District's immediate suspension of Michael Cohen is REVERSED. The District shall make him whole for any lost wages, benefits, and compensation within 14 days after service of this Order. (Ed. Code, § 44939, subd. (c)(5).)

DATE: **10/28/2024**

*Karen Reichmann*

KAREN REICHMANN

Administrative Law Judge

Office of Administrative Hearings