

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

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

**BRAD GRIPENSTRAW, a Permanent Certificated Employee**

**v.**

**CHICO UNIFIED SCHOOL DISTRICT, Responding Party**

**OAH No. 2023030297**

**ORDER DENYING RESPONDENT'S MOTION FOR IMMEDIATE  
REVERSAL OF SUSPENSION**

Kimberly J. Belvedere, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard oral argument telephonically on April 7, 2023.

Matthew Chevedden, Langenkamp, Curtis, Price, Lindstrom & Chevedden LLP represented respondent Brad Gripenstraw.

Lindsay K. Moore, Kingsley Bogard, LLP, represented Chico Unified School District (the district).

Respondent is a permanent certificated teacher with the district, and has been so employed since 1995. Respondent holds a single subject teaching credential in Life Science. Respondent's current assignment is a science teacher at Chico High School.

On February 16, 2023, the district served respondent with a letter indicating its intent to dismiss him from employment, along with the Statement of Charges alleging respondent should be dismissed from employment for immoral conduct, dishonesty, evident unfitness for service, 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 of Education or by the governing board of the school district employing him. The Statement of Charges contained 10 paragraphs detailing respondent's alleged misconduct, generally classified as verbally abusive, hostile, and disrespectful behavior towards supervisors and staff on multiple occasions and destructive behavior, vandalism, and/or tampering with property, which included placing a maggot-infested/decomposing rat into the classroom of the Science Department Head, who was also one of the individuals respondent was alleged to have subjected to verbal abuse. Attached to the Statement of Charges were 13 attachments containing, among other things, the district policies referenced in the Statement of Charges (requiring professional conduct, indicating what constitutes inappropriate conduct, etc.), photos, and still shots of video surveillance.

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, among other things, immoral conduct. (Ed. Code, § 44939, subd. (b).) The district availed itself of this provision and placed respondent on immediate suspension stemming from the alleged misconduct in the Statement of Charges.

On March 10, 2023, respondent filed a Motion for Immediate Reversal of Suspension (Motion) with OAH pursuant to Education Code section 44939, subdivision (c)(1), arguing, among other things, that the Statement of Charges does not set forth facts sufficient to support an allegation that respondent engaged in immoral conduct for various reasons (charges not specific, charges overbroad, charges not falling with a discrete type of conduct that has been found to be immoral conduct, etc.) The district filed an opposition contending that the Statement of Charges did contain sufficient factual allegations to sustain the charge of immoral conduct.

Under Education Code section 44939, subdivision (c)(1), review of a motion for immediate reversal of suspension is "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." Thus, the issue to be resolved is whether the district plead sufficient facts which, if taken as true, could constitute immoral conduct.

The term "immoral conduct" is not limited in scope. Indeed, "the term 'immoral conduct' in section 44932, subdivision (a)(1) 'stretch[es] over so wide a range' of conduct that it 'embrace[s] an unlimited area of conduct.'" (*Crawford v. Commission on Professional Competence* (2020) 53 Cal.App.5th 327, 337, quoting *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 224-225.) Further, "immoral conduct" has generally been defined as:

that which is hostile to the welfare of the general public and contrary to good morals. Immorality has not been confined to sexual matters, but 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, and as an inconsiderate attitude toward good order and the public welfare.

(*Board of Education v. Weiland* (1960) 179 Cal.App.2d 808, 811, quoting *Orloff v. Los Angeles Turf Club* (1951) 36 Cal.2d 734, 740 and *Palo Verde Unified School District of Riverside v. Hensey* (1970) 9 Cal.App.3d 967, 972.) Moreover, the definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, upon whom are imposed "responsibilities and limitations on freedom of action which do not exist in regard to other callings." (*San Diego Unified School Dist. v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1466, quoting *Board of Trustees v. Stubblefield* (1971) 16 Cal.App.3d 820, 824.) "Thus, the term must be 'considered in the context in which the Legislature considered it, as conduct which is hostile to the welfare of the general public . . . more specifically in this case, conduct which is hostile to the welfare of the school community.'" (*Crawford, supra*, 53 Cal.App.5th at p. 337, quoting *Morrison, supra*, 1 Cal.3d at p. 224.)

The ALJ has considered the written submissions of the parties, their respective oral arguments, and reviewed the applicable charges. It is concluded that the district alleged sufficient facts when, taken as true, could be considered hostile to the welfare of the general public, contrary to good morals, indicative of a moral indifference to respectable members of the community, and hostile to the welfare of the school community (by way of verbally abusive, hostile, and disrespectful behavior towards supervisors and staff on multiple occasions and destructive behavior, vandalism, and/or tampering with property, etc.). Thus, the charges are sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b), and respondent's arguments are rejected.

Accordingly, respondent's motion must be denied.

**ORDER**

Respondent's Motion for Immediate Reversal of Suspension is denied.

DATE: April 17, 2023

*Kimberly J. Belvedere*

KIMBERLY J. BELVEDERE

Administrative Law Judge

Office of Administrative Hearings