

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

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

**CONNIE STEINMAN, Moving Party,

A Permanent Certificated Employee**

v.

**SACRAMENTO CITY UNIFIED SCHOOL DISTRICT, Responding
Party**

OAH No. 2024101047

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

Robert Walker, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard oral argument in this matter by Zoom videoconference on November 22, 2024.

Katrina Gould, Attorney at Law, represented the moving party, Connie Steinman.

Seth Eckstein, Attorney at Law, and Komathy Vishakan, Attorney at Law, represented the responding party, Sacramento City Unified School District (district).

The matter was submitted for decision on November 22, 2024.

On or about October 29, 2024, the district filed a request to set a hearing. The request to set contained a Notice of Intent to Dismiss; Placement on Unpaid Suspension Pending Outcome of Disciplinary Proceedings; and Statement of Charges (Statement of Charges), seeking the immediate suspension without pay and dismissal of Ms. Steinman, a permanent certificated employee. The Statement of Charges alleges the following causes for dismissal: immoral conduct; dishonesty; evident unfitness for service; and persistent violation of or refusal to obey state school laws or regulations prescribed by the district's governing board (willful refusal). (Ed. Code, §§ 44932, subd. (a)(1), (a)(4), (a)(6) & (a)(8).)¹ The district also alleges cause to immediately suspend Ms. Steinman without pay for immoral conduct. (§ 44939.)

The October 29, 2024, request to set also contained Ms. Steinman's Motion for Immediate Reversal of Suspension, pursuant to Section 44939, subdivision (c), alleging that the Statement of Charges does not set forth facts sufficient to support the allegations of immoral conduct or willful refusal.

On November 12, 2024, the district filed an Opposition to Motion for Immediate Reversal of Suspension, arguing that the district has sufficiently pled allegations that, if true, are sufficient to support suspension without pay.

On November 19, 2024, Ms. Steinman filed a Reply in Support of Motion for Immediate Reversal of Suspension.

¹ All further statutory references are to the Education Code.

Section 44939, subdivision (b), authorizes the district to suspend an employee without pay pending the outcome of a hearing based on immoral conduct or refusal to perform regular assignments without reasonable cause. Subdivision (c)(1), allows the employee to file a motion for relief from the suspension and requires review of this motion to 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."

There is broad discretion in determining what constitutes immoral conduct in the context of teacher disciplinary matters. (*California Teachers Association v. State of California* (1999) 20 Cal.4th 327.) Immoral conduct has been defined by the courts as follows:

[T]hat 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 wilful, 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.

(*Palo Verde etc. School Dist. v. Hensey* (1970) 9 Cal.App.3d 967, 972, citing *Bd. of Education of San Francisco Unified School Dist. v. Weiland*, 179 Cal. App 2d 808, 811.)

Immoral conduct cannot serve as a basis to terminate a teacher unless the conduct also indicates the teacher is unfit to teach. (*Palo Verde, supra*, at p. 972.) The

definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, on whom are imposed "responsibilities and limitations on freedom of action which do not exist in regard to other callings." (*Board of Trustees v. Stubblefield* (1971) 16 Cal.App.3d 820, 824.)

In *Crawford v. Comm. on Professional Competence* (2020) 53 Cal.App.5th 327, 337, the court rejected Ms. Crawford's contention that there are three fixed categories of conduct that constitute "immoral conduct" as a matter of law. Instead, the court held that the term "immoral conduct" as used in Section 44932, "stretch[es] over so wide a range" of conduct that it "embrace[s] an unlimited area of conduct." (*Ibid.*, citing *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 224-225.) Citing *Morrison, supra*, at p. 224, the court added, 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*.'" [citations] (*Crawford*, at p. 337). "A teacher's conduct is therefore "immoral" under section 44932, subdivision (a)(1), when it negatively affects the school community in a way that demonstrates the teacher is 'unfit to teach.'" (*Ibid.* [footnote omitted].) The court then addressed Ms. Crawford's argument that the term should be given a colloquial interpretation that includes only conduct that would be deemed "immoral" in an everyday sense, such as criminal activity and using profanity or racial epithets. (*Id.* at p. 338.) The court wrote,

We disagree. Immoral conduct "stretch[es] over so wide a range that [it] embrace[s] an unlimited area of conduct."
(*Morrison, supra*, at pp. 224-225.) Thus, "the proper criteria is fitness to teach" because the term "immoral conduct" is

"so broad and vague" that it is "constitutionally infirm."
(citation.)

(Ibid.)

In the present case, the written submissions and oral arguments have been considered. It is determined that the district alleged facts in the Statement of Charges that, if true, support a finding of immoral conduct and support immediate suspension under section 44939, subdivision (b).

ORDER

The motion for immediate reversal of suspension is denied.

DATE: November 27, 2024

ROBERT WALKER
ROBERT WALKER (Nov 27, 2024 13:46 PST)
ROBERT WALKER

Administrative Law Judge

Office of Administrative Hearings