

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

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

SARA THORN, Moving Party

vs.

NATOMAS UNIFIED SCHOOL DISTRICT, Responding Party

OAH No. 2021090127

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

Administrative Law Judge Coren D. Wong, Office of Administrative Hearings, State of California, heard this matter by telephone on September 24, 2021, from Sacramento, California.

Roman J. Munoz of the law firm Lozano Smith represented the Natomas Unified School District (District).

Eric Lindstrom of the law firm Langenkamp, Curtis & Price, LLP, represented Sara Thorn.

Procedural Background

Angela Herrera, the District's Chief Academic Officer, signed the Statement of Charges for Dismissal and Immediate Suspension Without Pay against Ms. Thorn seeking her immediate suspension without pay and dismissal pursuant to Education Code sections 44932, subdivision (a)(1), and 44939. Specifically, the Statement of Charges alleged that cause exists to immediately suspend without pay and dismiss Ms. Thorn based on her immoral conduct.¹ Ms. Thorn filed a notice of defense and requested a hearing on the allegations.

Ms. Thorn filed a motion for immediate reversal of her suspension without pay. The District filed an opposition, and Ms. Thorn filed a reply to the opposition. The parties presented oral argument.

Applicable Law

AUTHORITY FOR IMMEDIATE SUSPENSION AND MOTION FOR IMMEDIATE REVERSAL

The District's Board of Trustees may immediately suspend without pay a permanent certificated employee charged with immoral conduct. (Ed. Code, § 44939, subd. (b).) An employee who has been suspended may file a motion for immediate reversal of suspension. (*Id.*, subd. (c).) "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

¹ The Statement of Charges alleges additional grounds for dismissal that do not constitute grounds for immediate suspension.

suspension under this section." (*Ibid.*) In other words, the standard for reviewing a motion for immediate reversal of suspension is the same as that which is applicable to ruling on a demurrer in a civil action.

Only the legal sufficiency of the complaint is tested on demurrer, and the truth of the allegations is irrelevant. (*Berg & Berg Enterprises, LLC v. Boyle* (2009) 178 Cal.App.4th 1020, 1034.) Potential problems with proof are also irrelevant. (*Committee on Children's Television, Inc. v. General Foods Corporation* (1983) 35 Cal.3d 197, 213-214, superseded by statute on different grounds as stated in *Branick v. Downey Savings and Loan Association* (2006) 39 Cal.4th 235, 242.) "The reviewing court gives the complaint a reasonable interpretation, and treats the demurrer as admitting all material facts properly pleaded." (*Aubry v. Tri-City Hospital District* (1992) 2 Cal.4th 962, 967-968.)

IMMORAL CONDUCT

In describing what constitutes "immoral conduct" within the context of the Education Code, the court in *Board of Education of San Francisco Unified School District v. Weiland* (1960) 179 Cal.App.2d 808, said:

In *Orloff v. Los Angeles Turf Club*, 36 Cal.2d 734, at page 740 [227 P.2d 449], the Supreme Court quotes with approval the following statement from Words and Phrases, permanent edition, volume 20, pages 159-160: "The term 'immoral' has been defined generally 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 of San Francisco Unified School District v. Weiland*, *supra*, 179 Cal.App.2d at p. 811.)

The court in *San Diego Unified School District v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, said that the meaning of immoral 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.' [Citation.]" (*Id.* at p. 1466.) The role teachers play in students' lives must be considered:

[T]he teacher is entrusted with the custody of children and their high preparation for useful life. His habits, his speech, his good name, his cleanliness, the wisdom and propriety of his unofficial utterances, his associations, all are involved. His ability to inspire children and to govern them, his power as a teacher, and the character for which he stands are matters of major concern in a teacher's selection and retention.

(*Goldsmith v. Board of Education of Sacramento City High School District* (1924) 66 Cal.App.3d 157, 168.)

Analysis

The Statement of Charges alleged that Ms. Thorn's most recent teaching assignment was teaching English and social science at Natomas High School during the 2019-2020 school year. The alleged misconduct included: (1) several instances of inappropriate interactions with students in the classroom, including using inappropriate language and profanity, disclosing confidential information about a student, and using derogatory and demeaning terms to refer to students; and (2) her decision to self-revoke her Introductory to English Supplemental Credential to avoid teaching Introductory English and bypass the District's transfer and reassignment procedures for certificated employees.

Analyzing the allegations in the Statement of Charges in accordance with the rules discussed above, "the facts as alleged in the statement of charges, if true, are sufficient to constitute a basis for immediate suspension" of Ms. Thorn pursuant to Education Code section 44939, subdivision (b). Therefore, her motion for immediate reversal of suspension is DENIED, and the District's immediate suspension of Ms. Thorn is AFFIRMED.

DATE: September 28, 2021


Corey D. Wong (Sep 28, 2021 16:10 PDT)
Administrative Law Judge
Office of Administrative Hearings