

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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

CORRY HEARD, a Permanent Certificated
Employee,

Moving Party,

v.

COMPTON UNIFIED SCHOOL
DISTRICT,

Responding Party.

OAH No. 2018040404

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

(Ed. Code, § 44939, subd. (c)(4))

Administrative Law Judge Karen Reichmann, Office of Administrative Hearings,
State of California, heard this matter telephonically from Oakland, California, on May 4,
2018.

Carlos R. Perez, Attorney at Law, represented respondent Corry Heard.

Milton E. Foster, III, Attorney at Law, Fagen Friedman & Fulfroost, LLP, represented
Compton Unified School District (District).

PROCEDURAL HISTORY

A statement of charges was filed and served against respondent Corry Heard, alleging the following causes for dismissal: 1) immoral conduct; 2) evident unfitness for services; 3) 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; and 4) willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing district (willful refusal). The District placed respondent on immediate suspension without pay pursuant to Education Code section 44939, subdivision (b), based upon the charges of immoral conduct and willful refusal.

On April 10, 2018, respondent filed a timely motion for immediate reversal of his suspension without pay, pursuant to Education Code section 44939, subdivision (c)(1). Respondent argues that the District has not alleged a sufficient basis to place him on immediate unpaid status because the allegations in the statement of charges do not establish that he engaged in immoral conduct or willful refusal. Respondent requests immediate reinstatement.

DISCUSSION

Education Code section 44939, subdivision (b), provides that a school district may immediately suspend 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 School District, or with violation of [Education Code] section 51530.”

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.”

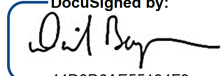
The written submissions of the parties and their oral argument have been considered. The statement of charges includes the following allegations: 1) respondent choked a student and uttered racial slurs directed at the student during class; 2) respondent was tardy to work approximately 60 times between August 18, 2015 and January 26, 2016; 3) respondent failed to complete the requirements for a clear credential in a timely manner; and 4) respondent left school early on at least 24 occasions between March 17, 2015 and May 2, 2017, to work as a softball coach at a private school.

The written submissions and oral argument of the parties have been considered. Based upon a review of the statement of charges, the District has alleged facts which, if true, are sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b), on the grounds of immoral conduct and willful refusal.

ORDER

No good cause having been established, respondent's motion for immediate reversal of suspension and request for immediate reinstatement is DENIED. The District's immediate suspension of respondent Corry Heard is upheld.

DATED: May 8, 2018

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KAREN REICHMANN
Administrative Law Judge
Office of Administrative Hearings