

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

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

CARLENE RANZIERI, Moving Party

and

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

OAH No. 2022100143

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

Erin R. Koch-Goodman, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard oral argument on this matter by telephone on October 28, 2022.

Matthew Chevedden, Attorney at Law, Langenkamp, Curtis, Price, Lindstrom and Chevedden, represented moving party Carlene Ranzieri (Ranzieri).

Gabriela Flowers and Andrew Blan, Attorneys at Law, Lozano Smith, represented responding party Sacramento City Unified School District (District).

The matter was submitted for decision on October 28, 2022.

Procedural History

On September 28, 2022, the District served Ranzieri with a Statement of Charges (Charges), immediately suspending her without pay and providing her notice of its intent to dismiss her as a permanent certificated teacher. (Ed. Code¹, § 44932.) On October 6, 2022, Ranzieri timely filed a Demand for Hearing and Notice of Defense. The hearing is set for March 6 through 10, 2023.

On October 6, 2022, Ranzieri filed a Notice of Motion and Motion for Immediate Reversal of Suspension (Motion) to challenge her immediate suspension without pay, along with a Memorandum of Points and Authorities and exhibits. (§ 44939, subd. (c).) Ranzieri alleges her Motion should be granted because:

(1) there is no evidence the school board approved the Charges by majority vote, as required by section 44939, subdivision (b);

(2) the allegations, if taken as true, do not set forth a sufficient basis to prove immoral conduct, pursuant to sections 44932, subdivision (a)(1) and 44939; and

(3) there have been no new findings made against her by the District after she was warned about her unprofessional conduct or unsatisfactory performance in February 2022, only an unfounded allegation made in a Sacramento Employment and

¹ All further statutory references are to the Education Code, unless otherwise specified.

Training Agency (SETA) letter to the District, making the charges unsupported under section 44938, subdivision (a).

The District filed an Opposition to the Motion on October 17, 2022, along with a declaration and exhibits in support thereof. Ranzieri filed a Reply on October 24, 2022. Oral argument on the Motion was heard on October 28, 2022.

Motion For Immediate Reversal Of Suspension

Section 44939 allows a school district to immediately suspend a permanent employee without pay who has been charged with, among other things, immoral conduct. (subd. (b).) However, an employee who has been placed on such suspension may file a motion for immediate reversal of suspension. (§ 44939, subd. (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." (*Ibid.*)

STATEMENT OF CHARGES

The Charges allege, on October 21, 2021, Ranzieri, a child development teacher at Parkway Preschool, pushed a child, failed to ensure a child was properly clothed (by not meeting the child's diapering needs), deprived at least one child of drinking water, threw a child's food away before they finished eating, and raised her voice to students and staff. Thereafter, the District provided Ranzieri with a Notice of Unprofessional Conduct and Unsatisfactory Performance on February 23, 2022, documenting her October 21, 2021 conduct and directing her to, among other things, "a. Follow Department Policies and Procedures and State Licensing regulations regarding supervision of children; b. Treat all students and staff with respect; [and] c. Refrain

from pushing students.” However, on May 23, 2022, the District alleges Ranzieri pushed another student.

IMMORAL CONDUCT

“[T]he 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. Comm. Prof. Competence* (2020) 53 Cal.App.5th 327, 337, quoting *Morrison v. State Bd. of Education* (1969) 1 Cal.3d 214, 224–225.)

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 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 Dist. 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. Comm. on Prof. 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.)

Analysis

Causing harm to a child, especially by one charged to protect the same, is hostile to the welfare of the child and the school community. Pushing a child, failing to ensure a child is properly clothed (by not meeting the child's diapering needs), depriving at least one child of drinking water, throwing a child's food away before they have finished eating, and raising a voice to students and staff can each be considered immoral conduct. As such, if proven at hearing, the allegations of misconduct contained in the Charges could support a finding of immoral conduct.

The parties' written submissions and oral argument have been considered. The District alleged sufficient facts in the Charges that, if true, would constitute a basis for immediate suspension based on immoral conduct under section 44939, subdivision (c)(1). As such, the Motion must be denied.

All other arguments not specifically mentioned herein have been considered and rejected.

//

//

ORDER

The Motion for Immediate Reversal of Suspension is DENIED.

DATE: November 8, 2022

A handwritten signature in black ink, appearing to read "Erin R. Koch-Goodman". The signature is fluid and cursive, with the first name "Erin" and last name "Koch-Goodman" clearly distinguishable.

ERIN R. KOCH-GOODMAN

Administrative Law Judge

Office of Administrative Hearings