

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

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

JULIE PEACOCK, a Permanent Certificated Employee,

Moving Party,

v.

PERRIS UNION SCHOOL DISTRICT,

Responding Party.

OAH No. 2023100973

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

Irina Tentser, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard oral argument on this matter on November 27, 2023.

Carlos R. Perez, Attorney, Law Office of Carol R. Perez, represented moving party Julie Peacock (Peacock).

Amanda S. Georgino, Attorney, Fagen Friedman & Fulfrost, LLP, represented Perris Union School District (District).

Procedural History

On September 28, 2023, the District served Peacock with a Statement of Charges, immediately suspending her without pay and providing her with notice of its intent to dismiss her as a permanent certificated teacher. (Ed. Code, § 44932.) (All further statutory references are to the Education Code, unless otherwise noted.) Peacock timely filed a Demand for Hearing and Notice of Defense. The hearing has not yet been scheduled.

On October 31, 2023, Peacock filed a Notice of Motion and Motion for Immediate Reversal of Suspension (Motion) to challenge her immediate suspension without pay. (§ 44939, subd. (c).) Peacock contends the Statement of Charges does not set forth a sufficient basis for immediate unpaid suspension. Specifically, Peacock asserts the allegations do not rise to the level of “immoral conduct” and therefore do not justify an immediate unpaid suspension. (§ 44939, subd. (b).)

On November 13, 2023, the District filed an Opposition to the Motion. No Reply was filed by Peacock. On November 21, 2023, the District filed a Notice of Errata re District Opposition and a Corrected Opposition to the Motion. Oral argument on the Motion was originally scheduled for November 22, 2023. Oral argument was continued to November 27, 2023, to provide Respondent sufficient time to review and respond to the District’s November 21, 2023, Corrected Opposition to the Motion. No Reply to the District’s Corrected Opposition was filed by Peacock. The hearing on the Motion occurred on November 27, 2023. The parties submitted on the filed papers.

Based on the reasoning set forth below, the Motion is denied because the facts alleged in the Statement of Charges are sufficient to support a charge of immoral conduct. Peacock's immediate unpaid suspension shall, therefore, remain in effect.

Motion for Immediate Reversal of Suspension

Section 44939, subdivision (b), allows a school district to immediately suspend a permanent employee without pay who has been charged with, among other things, immoral conduct. An employee who has been placed on such suspension may, however, file a motion for immediate reversal of suspension (MIRS). (§ 44939, subd. (c)(1).) In reviewing a MIRS, the review "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

Peacock was assigned as an English Language Arts teacher at Heritage High School. The District alleges multiple instances of conduct by Peacock between January 2020 and December 2022 including, but not limited to: calling students "turds;" regularly telling students to "[S]hut up" and/or "Shut up, idiots"; telling a student, " . . .I'll punch you in the throat" if the student gave their notes to another student; using profanity in front of students on multiple occasions; and simulating "suicide and self-harm in front of your students by pretending to place a lanyard around your neck and pretending to stab yourself with your keys." (Statement of Charges, ¶¶ 17-18.)

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. 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.)

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 Verdes 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 regards 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.)

Analysis – Immoral Conduct

The allegations Peacock engaged in misconduct in her actions towards students could support a finding of immoral conduct if proven at hearing. (Accordingly, the remaining allegations, such as Peacock's actions at a January 27, 2020 English department meeting and September 10, 2020 video posting to Peacock's then-public Instagram account, are not relevant to this analysis.)

The parties' written submissions have been considered. The District alleged sufficient facts in the Statement of Charges that, if true, would constitute a basis for immediate suspension based on immoral conduct, pursuant to section 44939, subdivision (b). The Motion is therefore denied.

ORDER

The Motion for Immediate Reversal of Suspension is denied. The immediate suspension without pay shall remain in effect.

DATE: 12/11/2023

Irina Tentser

IRINA TENTSER

Administrative Law Judge

Office of Administrative Hearings