

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

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

**NICHOLAS TEDESCO, A Permanent Certificated Employee,
Moving Party**

v.

NAPA VALLEY UNIFIED SCHOOL DISTRICT, Responding Party

OAH No. 2022020655

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

Timothy J. Aspinwall, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter telephonically from Sacramento, California, on March 18, 2022.

Costa Kerestenzis, Attorney at Law, represented Nicholas Tedesco (Employee).

Conor Kennedy, Attorney at Law, represented Napa Valley Unified School District (NVUSD).

PROCEDURAL HISTORY

On January 5, 2022, the NVUSD assistant superintendent signed a written Statement of Charges and Recommendation for Dismissal (Statement of Charges), charging Employee with immoral conduct; unprofessional conduct; dishonesty; evident unfitness for service; and persistent violations or refusal to obey school laws or reasonable regulations. On January 21, 2022, the NVUSD assistant superintendent provided to Employee a written Notice of Immediate Suspension and Intent to Dismiss, with the Statement of Charges attached, stating that based upon the foregoing charges, the NVUSD governing board voted on January 20, 2022, to immediately suspend Employee from his duties without pay.

On February 17, 2022, Employee filed a Motion for Immediate Reversal of Suspension (Motion) with OAH, pursuant to Education Code section 44939, subdivision (c), alleging that the Statement of Charges does not set forth a sufficient basis for immediate suspension because the allegations in the Statement of Charges do not rise to the level of immoral conduct.

DISCUSSION

Education Code section 44939 states, in relevant part, that a school district may immediately suspend a permanent employee of the school district who has been charged with, among other things, immoral conduct. (Ed. Code, § 44939, subd. (b).)

Under 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 ALJ has considered the Statement of Charges, and the parties’ written and oral arguments. Based upon a review of the Statement of Charges, the NVUSD has alleged facts which, if true, are sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b).

GOOD CAUSE NOT HAVING BEEN ESTABLISHED, the Motion for Immediate Reversal of Suspension is DENIED.

DATE: March 21, 2022

Timothy Aspinwall

TIMOTHY J. ASPINWALL

Administrative Law Judge

Office of Administrative Hearings