

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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

PATTY LA,
a Permanent Certificated Employee,

Moving Party,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT,

Responding Party.

OAH No. 2019060957

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

(Ed. Code, § 44939, subd. (c)(1))

Administrative Law Judge Debra D. Nye-Perkins, Office of Administrative Hearings (OAH), State of California, heard this matter telephonically from San Diego, California, on July 19, 2019.

Alejandra Gonzales-Bedoy, Attorney at Law, represented Patty La.

Cristina Cruz, Assistant General Counsel, represented Los Angeles Unified School District.

PROCEDURAL HISTORY

On April 26, 2019, the district signed a statement of charges against Ms. La alleging several grounds as cause for dismissal: Education Code section 44932, subdivision (a)(1) (immoral conduct, including egregious conduct); subdivision (a)(2) (unprofessional conduct); subdivision (a)(5) (unsatisfactory performance); subdivision (a)(6) (evident unfitness for service); and persistent violation of or refusal to obey state laws or district regulations (subdivision (a)(8)); and Education Code section 44939 (willful failure to perform assignments) and (immoral conduct). The alleged grounds for dismissal were based upon Ms. La's alleged conduct between November 2017 and February 2019. The district also suspended Ms. La without pay pending a hearing before a Commission on Professional Competence.

On June 21, 2019, Ms. La filed a motion for immediate reversal of suspension. OAH set the matter for oral argument and established a briefing schedule. On July 19, 2019, the parties orally argued their positions. Having read the pleadings and considered the oral argument, the following order is issued.

DISCUSSION

Ms. La asserts that the allegations, assuming them to be true, do not establish that she willfully refused to perform regular assignments, or that she engaged in immoral conduct. The district asserts grounds exist for the immediate suspension. Education Code section 44939, subdivision (b), permits a school district to 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 employing school district, or with violation of [Education Code] Section 51530.”

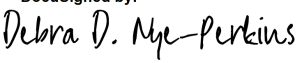
Education Code section 44939, subdivision (c)(1), provides that the employee may file a motion for immediate reversal of suspension. OAH’s “[r]eview of a motion filed pursuant to this section shall be limited to a determination as to whether the facts as alleged in the statement of charges, if true, are sufficient to constitute a basis for immediate suspension under this section.”

Having considered the pleadings, written submissions of the parties, and oral argument, the district failed to allege facts which, if true, are sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b).

ORDER

Good cause having been established, the Motion is GRANTED. The district’s immediate suspension of Ms. La is REVERSED. The district shall immediately return Ms. La to paid status. The district shall make Ms. La whole for any lost wages, benefits, and compensation within 14 days after service of this Order. (Ed. Code, § 44939, subd. (c)(5).)

DATED: July 22, 2019

DocuSigned by:

73AD8C62D0DE42D...

DEBRA D. NYE-PERKINS
Administrative Law Judge
Office of Administrative Hearings