

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

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

OAH No. 2019020159

JASON AGAN,

A Permanent Certificated Employee,

Employee,

FAIRFIELD-SUISUN UNIFIED SCHOOL  
DISTRICT,

School District.

**ORDER DENYING MOTION FOR  
IMMEDIATE REVERSAL OF  
SUSPENSION  
(Ed. Code, § 44939, subd. (c)(4))**

Christopher Hammer, Attorney at Law with Beeson, Tayer & Bodine APC, represents Jason Agan.

Matthew P. Juhl-Darlington, Attorney at Law with Dannis Woliver Kelley, represents Fairfield-Suisun Unified School District.

On or about December 27, 2018, the district served Mr. Agan with a written Statement of Charges, charging him with immoral conduct, evident unfitness for service, and persistent violation of or refusal to obey the rules governing his employment.

Based on the foregoing charges, the district's governing board immediately suspended Mr. Agan from his duties and gave notice to him of the suspension.

On February 5, 2019, Mr. Agan filed a Motion for Immediate Reversal of Suspension with the Office of Administrative Hearings (OAH), pursuant to Education Code section 44939, subdivision (c)(1), alleging that the Statement of Charges does not set forth facts sufficient to support an allegation that he engaged in immoral conduct, which is necessary in this case to sustain the suspension. OAH set the matter for oral argument and established a briefing schedule. The district's opposition to the motion, and rebuttal brief by Mr. Agan, were timely received. On February 22, 2019, a telephonic conference was held, during which the parties were invited to present any additional oral arguments.


Education Code section 44939, subdivision (b), states that a school district, upon the filing of written charges, may immediately suspend a permanent employee of the school district who has been charged with among other things, immoral conduct.

Education Code section 44939, subdivision (c)(1), permits an employee who has been placed on suspension to file a motion for immediate reversal of suspension with OAH. "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." (Ed. Code, § 44939, subd. (c)(1).)

Based on a review of the Statement of Charges, and the arguments presented by both parties, it is determined that the district has alleged facts that, if true, are sufficient to constitute immoral conduct, which is 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.

DATED: February 25, 2019

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ADAM L. BERG  
Administrative Law Judge  
Office of Administrative Hearings