

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE GOVERNING BOARD OF
WALNUT VALLEY UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA**

In the Matter of the Dismissal of:

WILLIAM MONTE,

A Permanent Certificated Employee,

Respondent.

OAH No. 2023031025

DECISION

Carmen D. Snuggs-Spraggins, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on July 21, 2023.

The Walnut Valley Unified School District (District) was represented by Alexandria M. Davidson, Attorney at Law, Atkinson, Andelson, Loya, Ruud & Romo.

Respondent William Monte was represented by Tamra M. Smith, Equality Law LLP.

Documents were received into evidence. The record closed and the matter was submitted for decision on July 21, 2023.

FACTUAL FINDINGS

1. Respondent is a permanent certified employee of the District.
2. On December 1, 2022, the District issued a Statement of Charges pursuant to Education Code sections 44932 and 44939 seeking respondent's immediate suspension without pay and dismissal for alleged causes.
3. On May 9, 2023, respondent submitted a Request for Hearing and Notice of Defense to the Statement of Charges.
4. On May 9, 2023, the District filed a Notice of Withdrawal of Charges and Request for Dismissal of Action (Request), stating it determined withdrawal of the charges against respondent and dismissal of the matter is in the District's best interests, and requesting the matter be dismissed, without prejudice. (Ex. A.)
5. On May 9, 2023, respondent requested, pursuant to Education Code section 44944, subdivision (d)(1)(C), and the holding in *Boliou v. Stockton Unified School District* (2012) 207 Cal.App.4th 170, 177-179 (Education Codes provides no mechanism by which administrative proceedings can be extinguished when charges are rescinded), the Office of Administrative Hearings (OAH) issue a written determination respondent should not be dismissed. (Ex. B.)
6. On June 1, 2023, the District filed the parties' joint stipulation regarding the school district's withdrawal of the dismissal action. (Ex. C.) Pursuant to the parties' joint stipulation, the parties have waived the right to convene a Commission on Professional Competence and have stipulated to having the hearing conducted by a single administrative law judge pursuant to Education Code section 44944, subdivision (c)(1). The parties' joint stipulation further provides that the administrative law judge

conducting the hearing shall have all the powers provided under Education Code section 44944, subdivision (c)(1), shall decide the matter, and shall prepare a written decision pursuant to Education Code section 44944, subdivision (d)(1). Through the joint stipulation, the parties agree and request that the decision contain a disposition finding respondent should not be dismissed.

7. On July 11, 2023, the undersigned ALJ issued an order denying the District's request for a dismissal of the action, vacating the prehearing conference and mandatory settlement conference scheduled for July 21, 2023, and converting the prehearing conference to a videoconference hearing.

8. The joint stipulation is the basis for the following conclusions and order.

LEGAL CONCLUSIONS

1. Based on the school district's rescission of the dismissal action against respondent and the parties' joint stipulation, cause does not exist for respondent's dismissal under either Education Code section 44932 or Education Code section 44939.

2. Based on the joint stipulation and the ruling in *Boliou v. Stockton Unified School District* (2012) 207 Cal.App.4th 170,177-179, respondent is entitled to a finding that he should not be dismissed.

///

ORDER

The Statement of Charges is dismissed. Respondent William Monte should not be dismissed from his employment with the Walnut Valley Unified School District.

DATE: 08/18/2023

Carmen Snuggs-Spraggins

CARMEN D. SNUGGS-SPRAGGINS

Administrative Law Judge

Office of Administrative Hearings