

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

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

**DANIEL DE LA CRUZ, a Permanent Certificated Employee,
Moving Party,**

and

CALAVERAS UNIFIED SCHOOL DISTRICT, Responding Party.

OAH No. 2024070211

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

(Ed. Code, § 44939, subd. (c)(4))

Administrative Law Judge Holly M. Baldwin, State of California, Office of Administrative Hearings, heard this matter on July 26, 2024, by videoconference.

Attorney Eric Lindstrom represented moving party Daniel De La Cruz.

Attorneys Gabriela D. Flowers and Sinead M. McDonough represented responding party Calaveras Unified School District (District).

Procedural History

On June 25, 2024, the District filed a statement of charges against moving party Daniel De La Cruz,¹ alleging multiple causes for dismissal, including immoral conduct. The District placed De La Cruz on immediate suspension without pay pending hearing, pursuant to Education Code section 44939, based on the charges of immoral conduct.

On June 27, 2024, De La Cruz timely filed a motion for immediate reversal of his suspension without pay, pursuant to Education Code section 44939, subdivision (c), arguing that the District has not alleged a sufficient cause to put him on immediate unpaid status because the allegations in the statement of charges do not state sufficient facts to constitute immoral conduct. De La Cruz requests an order reversing his suspension without pay.

Discussion

Education Code section 44939, subdivision (b), provides, in relevant part, that a school district may 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), authorizes the permanent employee to seek review of the order of suspension by motion to the Office of

¹ The statement of charges was served on De La Cruz on June 26, 2024.

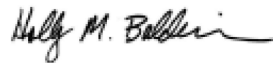
Administrative Hearings. This section limits the review of a motion to immediately reverse a suspension to "a determination as to whether the facts as alleged in the statement of charges, if true, are sufficient to constitute a basis for immediate suspension under this section." (*Ibid.*)

The written submissions of the parties and their oral argument have been considered. Based upon a review of the charges, the District has alleged facts which, if true, are sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b), on the grounds of immoral conduct.

ORDER

Daniel De La Cruz's motion for immediate reversal of the suspension by Calaveras Unified School District is denied.

DATE: 08/01/2024



HOLLY M. BALDWIN

Administrative Law Judge

Office of Administrative Hearings