

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

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

GREGORY JENKINS,

A Permanent Certificated Employee,

Employee,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT,

School District.

OAH No. 2019060806

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

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.

Garrett McCoy, Attorney at Law at Bush Gottlieb, represented Gregory Jenkins.

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

PROCEDURAL HISTORY

In May 2019, the district served Mr. Jenkins with a written Statement of Charges, charging him with immoral conduct, including egregious misconduct, unprofessional conduct, unsatisfactory performance, evident unfitness for service, persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing him, and willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing district, based upon Mr. Jenkin's alleged conduct between June 2016 and November 2018.

Based upon the foregoing charges, the district governing board immediately suspended Mr. Jenkins from his duties and gave notice to him of the suspension.

On June 19, 2019, Mr. Jenkins filed a Motion for Immediate Reversal of Suspension with OAH, under Education Code section 44939, subdivision (c)(1), arguing that the Statement of Charges does not set forth facts sufficient to support an allegation that Mr. Jenkins engaged in immoral conduct, or that he willfully refused to perform regular assignments without reasonable cause, which is necessary in this case to sustain the suspension. OAH set the matter for oral argument and established a briefing schedule. On July 19, 2019, the parties orally argued their positions.

### DISCUSSION

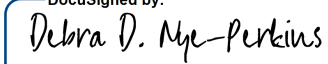
Mr. Jenkins asserts that the allegations, assuming them to be true, do not establish that he willfully refused to perform regular assignments. Mr. Jenkins also asserts that the allegations, assuming them to be true, do not establish that he engaged in immoral conduct. The district asserts grounds exist 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.”

The ALJ has considered the written submissions of the parties and oral argument. Based on a review of the Statement of 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).

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

DATED: July 19, 2019

DocuSigned by:  
  
73AD8C62D0DE42D...  
DEBRA D. NYE-PERKINS  
Administrative Law Judge  
Office of Administrative Hearings