

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

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

**ROOSEVELT MOORE, a Permanent Certificated Employee,  
Moving Party**

**and**

**LOS ANGELES UNIFIED SCHOOL DISTRICT, Responding Party**

**OAH No. 2019081109**

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

Administrative Law Judge (ALJ) Dena Coggins, Office of Administrative Hearings (OAH), State of California, heard this matter telephonically from Sacramento, California on September 20, 2019.

Estephania Villalpando, Attorney at Law, represented Roosevelt Moore.

Kelly Kim, Assistant General Counsel, represented Los Angeles Unified School District (School District).

## **PROCEDURAL HISTORY**

On July 30, 2019, the School District served Mr. Moore with a written Statement of Charges based on causes including, but not limited to, willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the School District.

Based upon the foregoing charge, the School District governing board immediately suspended Mr. Moore from his duties and gave notice to him of the suspension. He was placed on suspension without pay under Education Code section 44939.

On August 28, 2019, Mr. Moore filed a Motion for Immediate Reversal of Suspension with OAH, pursuant to Education Code section 44939, subdivision (c)(1), alleging that the Statement of Charges does not set forth a sufficient basis for immediate suspension because: (1) the School District failed to allege any facts that could support a finding that he acted willfully in failing to comply with oral and written directives; (2) the School District failed to plead sufficient facts to withstand Education Code section 44939's willful intent requirement; (3) the School District did not allege in the "Charges" section of the Statement of Charges that Mr. Moore acted without reasonable cause; and (4) the School District did not set forth any facts to show that Mr. Moore's purported failures were not caused by legitimate factors outside of his control or for other reasonable causes.

## Discussion

Education Code section 44939 states, 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." (Ed. Code, § 44939, subd. (b).)

Under Education Code section 44939, subdivision (c)(1), "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."

The ALJ has considered the written submissions of the parties and oral argument. Based upon a review of the Statement of Charges, the School District failed to allege facts, which, if true, are sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b).

GOOD CAUSE HAVING BEEN ESTABLISHED, the Motion for Immediate Reversal of Suspension is GRANTED. The School District shall make Mr. Moore whole for any

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lost wages, benefits, and compensation within 14 days after service of this Order. (Ed. Code, § 44939, subd. (c)(5).

DATE: September 27, 2019

DocuSigned by:  
  
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DENA COGGINS

Administrative Law Judge

Office of Administrative Hearings