

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

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

**BRYAN NOON, a Permanent Certificated Employee,**

**Moving Party**

**and**

**TEMECULA VALLEY UNIFIED SCHOOL DISTRICT,**

**Responding Party**

**OAH Case No. 2024080650**

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

Matthew S. Block, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference and teleconference from Sacramento, California, on September 6, 2024.

Fern M. Steiner, Attorney at Law, represented Bryan Noon (Noon), who appeared telephonically.

Laurie Kamerrer, Attorney at Adams, Silva & McNally, LLP, represented Temecula Valley Unified School District (District).

## **Procedural History**

At all relevant times, Noon served as a permanent certificated employee assigned as a high school mathematics teacher at Temecula Valley High School. On May 23, 2024, the District served Noon with a Notice of Intent to Immediately Suspend Without Pay and Dismiss (Notice). The Notice was based on a Statement of Charges, dated May 23, 2024, and alleged cause to dismiss based on immoral conduct (Ed. Code, § 44932, subd. (a)(1))<sup>1</sup>; dishonesty (*id.*, subd. (a)(4)); evident unfitness for service (*id.*, subd. (a)(6)); and 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 or by the governing board of the school district employing him (*id.*, subd. (a)(8)). The Notice also alleged cause to immediately suspend Noon without pay based on immoral conduct. (§ 44939, subd. (b).) Noon timely filed a Request for Hearing.

On August 19, 2024, Noon also filed a Notice of Motion and Motion for Immediate Reversal of Suspension (Motion) pursuant to section 44939, subdivision (c). He contends that the Statement of Charges does not adequately allege immoral conduct sufficient to support an immediate unpaid suspension. On August 27, 2024, the District filed its opposition to the Motion. On August 29, 2024, Noon filed a reply brief. Oral arguments on the Motion were heard on September 6, 2024.

---

<sup>1</sup> All further statutory references are to the Education Code, unless otherwise specified.

## **Motion for Immediate Reversal of Suspension**

Section 44939 states, in relevant part, that a school district may immediately suspend without pay 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 section 51530. . . ." (§ 44939, subd. (b).)

An employee who has been placed on such suspension may file a motion for immediate reversal of suspension. (§ 44339, subd. (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." (*Ibid.*)

### **STATEMENT OF CHARGES**

The District alleges that Noon engaged in immoral conduct on multiple occasions between 2021 and 2024. During the 2021-2022 school year, the District alleges Noon constantly used YouTube to stream music in the classroom, much of which featured explicit sexual lyrics. Next, the District alleges that he publicly displayed a private email sent by a student's parent for other students to see. Finally, the District alleges Noon made multiple disparaging comments to students, including "you don't know what you're doing," "this kid isn't smart enough to copy," "you fucks are so offended by me saying fat or skinny," and referring to students as "dumb."

During the 2023-2024 school year, the District alleges Noon engaged in inappropriate conversation with two students. Specifically, he was overheard asking

the students “are you gay?”; “are you a fag?”; and “do you like giving head?” Moreover, Noon spoke with the same two students about their personal lives and the people they were dating, and while referring to their academic history, commented “look what happens when you discover boys.”

The District also alleges Noon shared inappropriate personal information with students during the 2023-2024 school year. Specifically, it is alleged that Noon told students he stole cigarettes when he was seven years old and stole a car as a young man. Finally, the District alleges Noon discussed the negative academic performance and behavior of students in front of other students.

The District contends that immediate suspension without pay is warranted because Noon’s behavior constitutes immoral conduct.

### **IMMORAL CONDUCT**

“[T]he term ‘immoral conduct’ in section 44932, subdivision (a)(1) ‘stretch[es] over so wide a range’ of conduct that it ‘embrace[s] an unlimited area of conduct.’” (*Crawford v. Commission on Professional Competence* (2020) 53 Cal.App.5th 327, 337, quoting *Morrison v. State Board of Education* (1960) 1 Cal.3d 214, 224-225.)

The term “immoral” has been defined generally as that which is hostile to the welfare of the general public and contrary to good morals. Immorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity; dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable

members of the community, and as an inconsiderate attitude toward good order and the public welfare.

*(Board of Education v. Weiland* (1960) 179 Cal.App.2d 808, 811, quoting *Orloff v. Los Angeles Turf Club* (1951) 36 Cal.2d 734, 740 & *Palo Verde Unified School District of Riverside v. Hensey* (1970) 9 Cal.App.3d 967, 972.)

Moreover, the definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers; upon whom are imposed "responsibilities and limitations on freedom of action which do not exist in regard to other callings.

*(San Diego Unified School Dist. v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1466, quoting *Board of Trustees v. Stubblefield* (1971) 16 Cal.App.3d 820, 824.) "Thus, the term must be 'considered in the context in which the Legislature considered it, as conduct which is hostile to the welfare of the general public . . . more specifically in this case, conduct which is hostile to the welfare of the school community.'" (*Crawford, supra*, 53 Cal.App.5th at p. 337, quoting *Morrison, supra*, 1 Cal.3d at p. 224.)

The parties' written submissions and oral arguments have been considered. The District alleged sufficient facts in the Statement of Charges that, if true, would constitute immoral conduct and support immediate suspension under section 44939, subdivision (b). Accordingly, the Motion must be denied.

//

//

## ORDER

The Motion for Immediate Reversal of Suspension is DENIED.

DATE: September 13, 2024

*Matthew Block*

MATTHEW S. BLOCK

Administrative Law Judge

Office of Administrative Hearings