

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

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

DAVID IONESCU, Moving Party

v.

**WASHINGTON UNIFIED SCHOOL DISTRICT, Responding
Party**

OAH No. 2021020636

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

Irina Tentser, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard oral argument on this matter by telephone on March 19, 2021.

Christopher O. Hammer, Attorney, Beeson, Tayer & Bodine, APC, represented moving party David Ionescu (Ionescu).

Ingrid A. Meyers, Attorney, Dannis Woliver Kelley, represented Washington Unified School District (District).

Procedural History

On January 19, 2021, the District served Ionescu with a Statement of Charges, immediately suspending him without pay and providing him with notice of its intent to dismiss him as a permanent certificated teacher. (Ed. Code¹, § 44932.) Ionescu timely filed a Demand for Hearing and Notice of Defense. The hearing has not yet been scheduled.

On February 17, 2021, Ionescu filed a Notice of Motion and Motion for Immediate Reversal of Suspension (Motion) to challenge his immediate suspension without pay. (§ 44939, subd. (c).) Ionescu contends the Statement of Charges does not set forth a sufficient basis for immediate unpaid suspension. Ionescu asserts the allegations may demonstrate conduct that was unprofessional but argues the same conduct does not rise to the level of immoral conduct justifying an immediate unpaid suspension.

On March 9, 2021, the District filed an Opposition to the Motion. Ionescu filed a Reply on March 16, 2021. Oral arguments on the Motion were heard on March 19, 2021.

Motion for Immediate Reversal of Suspension

Section 44939, subdivision (b), allows a school district to immediately suspend a permanent employee without pay who has been charged with, among other things, immoral conduct. An employee who has been placed on such suspension may,

¹ All further statutory references are to the Education Code, unless otherwise noted.

however, file a motion for immediate reversal of suspension (MIRS). (§ 44939, subd. (c)(1).) In reviewing a MIRS, the review “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 multiple instances of conduct by Ionescu in 2019 and 2020 including, but not limited to “repeatedly sending sexually suggestive and inappropriate communications to female students via electronic communications, asking students about their sexual experiences and if they will smoke marijuana with [Ionescu], attempting to be alone with a minor female student at school or [Ionescu’s] home, and being dishonest with District administration in his communications with students, . . .” (Paragraphs 1-16.)

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* (1969) 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 and *Palo Verdes 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 regards 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.)

Analysis

The allegations Ionescu engaged in misconduct in his actions towards students could support a finding of immoral conduct if proven at hearing.

The parties' written submissions and oral argument have been considered. The District alleged sufficient facts in the Statement of Charges that, if true, would

constitute a basis for immediate suspension based on immoral conduct, pursuant to section 44939, subdivision (b). Accordingly, the Motion must be denied.

ORDER

The Motion for Immediate Reversal of Suspension is DENIED.

DATE: Mar 24, 2021

Irina Tentser

IRINA TENTSER

Administrative Law Judge

Office of Administrative Hearings