

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

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

**KAREN EHRHARDT, a Permanent Certificated Employee,
Moving Party,**

and

**MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT,
Responding Party.**

OAH No. 2024050362

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

(Ed. Code, § 44939, subd. (c)(4))

Administrative Law Judge Michelle Dylan, State of California, Office of
Administrative Hearings, heard this matter on May 31, 2024, by videoconference.

Joseph Cisneros, Attorney at Law, Biegel Law Firm, represented moving party
Karen Ehrhardt.

Ricardo Rodriguez, Attorney at Law, Lozano Smith, represented responding party Monterey Peninsula Unified School District (District).

PROCEDURAL HISTORY

On April 9, 2024, the District filed a statement of charges against moving party Ehrhardt¹ pursuant to Education Code section 44932, alleging three causes for dismissal: 1) immoral conduct; 2) unprofessional conduct; and 3) evident unfitness for service. The District placed Ehrhardt on immediate suspension without pay pursuant to Education Code section 44939, based upon the charge of immoral conduct.

On May 9, 2024, Ehrhardt filed a timely motion for immediate reversal of her suspension without pay, pursuant to Education Code section 44939, subdivision (c)(1). She argues that the District has not alleged a sufficient basis to place her on immediate unpaid status because the allegations in the statement of charges do not state sufficient facts to constitute immoral conduct. In her motion, Ehrhardt requests an order reinstating her pay and benefits and reimbursing her for lost compensation from the date of suspension through the present, with interest.

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

¹ The statement of charges was served on Ehrhardt on April 11, 2024.

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 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." Although well-pleaded facts must be accepted as true for purposes of this motion, the administrative law judge need not accept "contentions, deductions or conclusions of fact or law." (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

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

The motion for immediate reversal of the suspension of Karen Ehrhardt by Monterey Peninsula School District is denied.

DATE: 06/07/2024

Michelle Dylan

MICHELLE DYLAN

Administrative Law Judge

Office of Administrative Hearings