

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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

LISA SALYER, a Permanent Certificated
Employee,

Moving Party,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT,

Responding Party.

OAH No. 2018100454

Related to OAH No. 2018000876

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

(Ed. Code, § 44939, subd. (c)(4))

Administrative Law Judge (ALJ) Danette C. Brown, Office of Administrative Hearings (OAH), State of California, heard this matter telephonically from Sacramento, California, on November 2, 2018.

Attorney Deborah Eshaghian, with Eshaghian Law Group, represented Lisa Salyer.

Attorney Lynn I. Ibara, with the Office of the General Counsel, Los Angeles Unified School District (District), represented the District.

PROCEDURAL HISTORY

On or about August 24, 2018, the Governing Board of the District (Governing Board) approved the Statement of Charges and Recommendation for Dismissal and Immediate Unpaid Suspension of Ms. Salyer, based on causes including, but not limited to: (1) immoral conduct; (2) unprofessional conduct; (3) unsatisfactory performance; (4) evident unfitness for service; (5) 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 her; and (6) willful refusal to perform regular assignments without reasonable cause, as prescribed by the reasonable rules and regulations of the employing district. (Ed. Code, §§ 44932, subds. (a)(1), (2), (5), (6), & (8); 44939, subd. (b).) On or after August 24, 2018, the Governing

Board gave notice to Ms. Salyer of its decision and placed her on immediate suspension without pay pursuant to Education Code section 44939. On or about October 2, 2018, the Governing Board received Ms. Salyer's demand for a hearing.

On October 8, 2018, Ms. Salyer filed a Motion for Immediate Reversal of Suspension (Motion), pursuant to Education Code section 44939, subdivision (c)(1), contending that the Statement of Charges does not set forth a sufficient basis for immediate suspension because the allegations therein do not rise to the level of immoral conduct or willful refusal to perform regular assignments without reasonable cause.

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 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 District has alleged facts which, if true, are sufficient to constitute a basis for immediate suspension under Education Code section 44939, subdivision (b).

ORDER

GOOD CAUSE NOT HAVING BEEN ESTABLISHED, the Motion is DENIED.

DATED: November 19, 2018

DocuSigned by:
Danette C. Brown
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DANETTE C. BROWN
Administrative Law Judge
Office of Administrative Hearings