

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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

ALEX BASCHOFF, a Permanent
Certificated Employee,

Moving Party,

v.

VICTOR VALLEY UNION HIGH
SCHOOL DISTRICT,

Responding Party.

OAH No. 2019120322

ORDER DENYING MOTION FOR
IMMEDIATE REVERSAL OF
SUSPENSION
(Ed. Code, § 44939, subd. (c))

Administrative Law Judge Michael C. Starkey, State of California, Office of
Administrative Hearings, heard this matter telephonically from Oakland, California, on
January 3, 2020.

Justin M. Crane, Attorney at Law, represented moving party Alex Baschoff
(Baschoff).

Kara Walton, Attorney at Law, represented Victor Valley Union High School District
(District).

PROCEDURAL HISTORY

On November 8, 2019, the District filed and served a statement of charges against
moving party Baschoff, alleging multiple causes for dismissal, including immoral conduct,
pursuant to Education Code section 44932, subdivision (a)(1). The District placed
respondent on immediate suspension without pay pending hearing, pursuant to Education
Code section 44939, based upon the charge of immoral conduct.

On December 9, 2019, Baschoff timely filed a motion for immediate reversal of his
suspension without pay pursuant to Education Code section 44939, subdivision (c), arguing
that the District has not alleged a sufficient basis to put him on immediate unpaid status

because the allegations in the statement of charges do not state sufficient facts to constitute immoral conduct. In his motion, Baschoff requests an order reversing his suspension without pay.

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 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”

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.”

The Administrative Law Judge has considered the written submissions of the parties and their oral argument. 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 Alex Baschoff by Victor Valley Union High School District is denied.

DATED: January 9, 2020

DocuSigned by:
Michael C. Starkey
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MICHAEL C. STARKEY
Administrative Law Judge
Office of Administrative Hearings