

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

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

**ALICSUN BULLICER, a Permanent Certificated Employee,
Moving Party**

and

OXNARD UNION HIGH SCHOOL DISTRICT, Responding Party

OAH No. 2022060361

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

On July 8, 2022, Jessica Wall, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard telephonic argument on the instant motion for immediate reversal of suspension from Sacramento, California.

Daniel J. Kolodziej, Attorney at Law at the law firm of Trygstad, Schwab & Trygstad, represented movant Alicsun Bullicer (Ms. Bullicer).

Eleanor M. Welke, Attorney at Law at the law firm of Lozano Smith, represented the Oxnard Union High School District (the District).

On July 8, 2022, the hearing concluded, and the record was held open for submission of additional briefing. On July 13, 2022, Ms. Bullicer submitted her brief. On July 15, 2022, the District submitted a reply brief. The record closed and was submitted for decision on July 15, 2022.

Procedural Background

On May 12, 2022, Thomas McCoy, the District's Superintendent, signed and thereafter served the Final Notice of Intent to Dismiss; Placement on Immediate Unpaid Suspension Pending Outcome of Disciplinary Proceedings; and Statement of Charges (Statement of Charges) against Ms. Bullicer. The Statement of Charges alleged that Ms. Bullicer engaged in immoral conduct, dishonesty, evident unfitness for service, and persistent violation of laws and rules during the 2020–21 school year. Ms. Bullicer filed a notice of defense and requested a hearing on the allegations.

On June 13, 2022, Ms. Bullicer filed a Motion for Immediate Reversal of Suspension (Motion) with OAH, pursuant to Education Code section 44939, subdivision (c), alleging that the Statement of Charges does not set forth a sufficient basis for immediate suspension because the allegations in the Statement of Charges do not rise to the level of immoral conduct or willful refusal to perform regular assignments.

The Record

Before turning to the specific charges at issue, the court addresses Ms. Bullicer's Request for Judicial Notice of five OAH orders on motions for immediate reversal of suspension. Ms. Bullicer's request is granted. Official notice will be taken of these orders under Government Code section 11515. The District did not object, and the parties are aware that the orders do not set precedent in the instant matter.

Analysis

The District's governing board may immediately suspend without pay a permanent certificated employee charged with immoral conduct or the willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing school district. (Ed. Code, § 44939, subd. (b).) An employee who has been suspended may file a motion for immediate reversal of suspension. (*Id.*, at subd. (c).) "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.*)

IMMORAL CONDUCT

In describing what constitutes "immoral conduct" within the context of the Education Code, the court in *Board of Education of San Francisco Unified School District v. Weiland* (1960) 179 Cal.App.2d 808 (*Weiland*), said:

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 wil[l]ful, 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.

(*Id.* at p. 811, quoting *Orloff v. Los Angeles Turf Club* (1951) 36 Cal.2d 734, 740.) The term includes “conduct which is hostile to the welfare of the school community.” (*Crawford v. Com. on Professional Competence* (2020) 53 Cal.App.5th 327, 337.)

Here, the Statement of Charges alleges that Ms. Bullicer worked as a Counselor at Oxnard High School during the 2020–21 school year and her son (“ABC”) attended the school as a student. In her role, Ms. Bullicer had access to the school’s digital system for changing student schedules. Allegedly, Ms. Bullicer used her access to remove ABC from his regular classes during the third and fourth quarters of the school year so that he could pursue an excessive number of online courses through Edgenuity, an online learning system. Ms. Bullicer was not ABC’s counselor and removed him from the three-class minimum set for students. Students who sought to take fewer than three courses were required to take part in a Student Study Team (SST) meeting or be authorized by the principal or another administrator. Ms. Bullicer did not request an SST or complete an SST form.

ABC had access to 34 Edgenuity courses during his junior year, 26 of which he completed at five credits per course. This was nearly twice the number of courses authorized for other students. The Statement of Charges further allege that Ms. Bullicer directly enrolled ABC in 15 of his Edgenuity courses without seeking prior approval from ABC’s counselor or notifying the Registrar. When the school’s assistant principal began investigating the issue, he froze ABC’s access to Edgenuity and directed Ms. Bullicer not to take any action regarding Edgenuity, including actions regarding ABC’s courses. Despite that directive, Ms. Bullicer allegedly contacted ABC’s Edgenuity teacher to unfreeze ABC’s course access.

The parties’ written briefs 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 upon "immoral conduct" under section 44939. At a minimum, the District alleged sufficient supporting facts to reasonably infer that Ms. Bullicer violated District policies and abused District resources for personal benefit when she helped her son grossly inflate his academic standing. Such conduct, if proven, could undermine the integrity of the District's merit-based academic system, damage the public's trust in the District, and accordingly be adjudged "hostile to the welfare of the school community" and "contrary to good morals."

WILLFUL REFUSAL

Given that conclusion, it is unnecessary to consider the claim of willful refusal to perform regular assignments without reasonable cause.

ORDER

The Motion for Immediate Reversal of Suspension is DENIED.

DATE: July 20, 2022


Jessica Wall (Jul 20, 2022 09:18 PDT)

JESSICA WALL

Administrative Law Judge

Office of Administrative Hearings