

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

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

JULIE HARGROVE,

a Permanent Certificated Employee, Moving Party,

and

BAKERSFIELD CITY SCHOOL DISTRICT, Responding Party.

OAH No. 2020060870

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

(Ed. Code, § 44939, subd. (c)(4))

Administrative Law Judge Holly M. Baldwin, State of California, Office of
Administrative Hearings, heard this matter telephonically on July 24, 2020.

Ernest H. Tuttle III, Tuttle & McCloskey, represented moving party Julie
Hargrove.

Ellen C. Wu, Dannis Woliver Kelley, represented responding party Bakersfield City School District (District).

Procedural History

On May 26, 2020, the District filed a statement of charges against moving party Julie Hargrove,¹ alleging multiple causes for dismissal, including immoral conduct and willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing school district (willful refusal). The District placed Hargrove on immediate suspension without pay pending hearing, pursuant to Education Code section 44939, based upon the charges of immoral conduct and willful refusal.

On June 24, 2020, Hargrove timely filed a motion for immediate reversal of her suspension without pay pursuant to Education Code section 44939, subdivision (c), arguing that the District has not alleged a sufficient basis to put her on immediate unpaid status because the allegations in the statement of charges do not state sufficient facts to constitute immoral conduct or willful refusal. In her motion, Hargrove requests an order reversing her 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

¹ The statement of charges was served on Hargrove on May 27, 2020.

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. . . .”

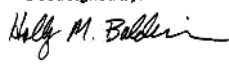
Education Code section 44939, subdivision (c)(1), authorizes the permanent employee to seek review of the order of suspension by motion to the Office of Administrative Hearings. This section limits the review of a motion to immediately reverse a suspension to “a determination as to whether the facts as alleged in the statement of charges, if true, are sufficient to constitute a basis for immediate suspension under this section.”

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 and willful refusal.

ORDER

The motion for immediate reversal of the suspension of Julie Hargrove by Bakersfield City School District is denied.

DATE: July 27, 2020

DocuSigned by:

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HOLLY M. BALDWIN

Administrative Law Judge

Office of Administrative Hearings