

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

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

MINNIE JOHNSON, Moving Party

And

INGLEWOOD UNIFIED SCHOOL DISTRICT, Responding Party

OAH No. 2020120858

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

Erin R. Koch-Goodman, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard oral argument on this matter by telephone on January 29, 2021.

Carlos Perez and Alejandra Gonzalez-Bedoy, Attorneys at Law, Law Offices of Carlos Perez, represented moving party Minnie Johnson (Johnson).

Jeff C. Marderosian, Attorney at Law, Law Offices of Jeff C. Marderosian, represented responding party Inglewood Unified School District (District).

The matter was submitted for decision on January 29, 2021.

Procedural History

On November 23, 2020, the District served Johnson with a Statement of Charges, immediately suspending her without pay and providing her notice of its intent to dismiss her as a permanent certificated teacher. (Ed. Code¹, § 44932.) Johnson timely filed a Demand for Hearing and Notice of Defense. The hearing is set in May and June 2021.

On December 23, 2020, Johnson filed a Notice of Motion and Motion for Immediate Reversal of Suspension (Motion) to challenge her immediate suspension without pay. (§ 44939, subd. (c).) Johnson contends the Statement of Charges does not set forth a sufficient basis for immediate unpaid suspension. Johnson concedes the allegations may demonstrate conduct that was unprofessional or insubordinate but argues the same conduct does not rise to the level of immoral conduct justifying an immediate unpaid suspension. The District filed an Opposition to the Motion on January 5, 2021. Johnson filed a Reply on January 12, 2021. Oral argument was scheduled for January 15, 2021, but was continued to January 29, 2021, to allow the parties to further discuss settlement. With no settlement, oral arguments on the Motion were heard on January 29, 2021.

Motion For Immediate Reversal Of Suspension

Section 44939 allows a school district to immediately suspend a permanent employee without pay who has been charged with, among other things, immoral

¹ All further statutory references are to the Education Code, unless otherwise specified.

conduct. (subd. (b).) However, an employee who has been placed on such suspension may file a motion for immediate reversal of suspension. (§ 44939, subd. (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." (*Ibid.*)

STATEMENT OF CHARGES

The District alleges 89 incidents of misconduct by Johnson, occurring from 2016 to 2020. The allegations can be divided into two broad categories: misconduct in her words and actions toward District and school site administration, including refusals to attend required meetings and/or perform job duties as requested; and misconduct in her words and actions toward students, colleagues, and parents. Examples of the first include Johnson: (1) writing emails to Principal Cain referring to her as a "bully" and "incompetent" (Para. 92), alleging "you have a mental health issue, and you are displacing it on me" (Para. 70), stating "it is difficult to work with someone who does not understand how to be a teacher" (Para. 46), and "you are not qualified" (Para. 45); (2) telling students she hates Principal Cain (Para. 61); and (3) failing to participate at Back to School Night (Para. 88) or attend a full day staff development training, stating "I don't give a damn about the folks at the District. You better go ahead and write me up" (Para. 16). Examples of the second category include Johnson: targeting student M■■■ A., calling her a "loser" (Para. 34) and a "stupid bitch" and repeatedly telling her to "shut up" (Para. 47), calling her grandmother "an old ass bitch" and saying "[I] would wipe you off the floor" (Para. 50); targeting student J■■■ H., calling him a "big boy," complimenting his voice, telling him he "would make pretty babies" and moaning his name when he turned in an assignment (Para. 35); and targeting student E■■■ L.,

telling her “you’re weird” and “your Mom’s a bitch” and stating “[she] would not be calling me a bitch if she wasn’t in school” (Para. 68).

IMMORAL CONDUCT

“[T]he term ‘immoral conduct’ in section 44932, subdivision (a)(1) ‘stretch[es] over so wide a range’ of conduct that it ‘embrace[s] an unlimited area of conduct.’” (*Crawford v. Commission on Professional Competence* (2020) 53 Cal.App.5th 327, 337, quoting *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 224-225.)

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 willful, 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.

(*Board of Education v. Weiland* (1960) 179 Cal.App.2d 808, 811, quoting *Orloff v. Los Angeles Turf Club* (1951) 36 Cal.2d 734, 740 and *Palo Verde Unified School District of Riverside v. Hensey* (1970) 9 Cal.App.3d 967, 972.)

Moreover, the definition of immoral or unprofessional conduct must be considered in conjunction with the unique position of public school teachers, upon whom are imposed “responsibilities and limitations on freedom of action which do not exist in regard to other callings.”

(*San Diego Unified School Dist. v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, 1466, quoting *Board of Trustees v. Stubblefield* (1971) 16 Cal.App.3d 820, 824.) "Thus, the term must be 'considered in the context in which the Legislature considered it, as conduct which is hostile to the welfare of the general public . . . more specifically in this case, conduct which is hostile to the welfare of the school community.'" (*Crawford, supra*, 53 Cal.App.5th at p. 337, quoting *Morrison, supra*, 1 Cal.3d at p. 224.)

Analysis

If proven at hearing, the allegations Johnson engaged in misconduct, in her words and actions toward District and school site administration, including refusals to attend required meetings and/or perform job duties as requested, could support a finding of immoral conduct.

If proven at hearing, the allegations Johnson engaged in misconduct in her words and actions toward students, colleagues, and parents, could support a finding of immoral conduct.

The parties' written submissions 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, subdivision (b). As such, the Motion must be denied.

//

//

ORDER

The Motion for Immediate Reversal of Suspension is DENIED.

DATE: February 4, 2021

A handwritten signature in black ink, appearing to read "Erin R. Koch-Goodman".

ERIN R. KOCH-GOODMAN

Administrative Law Judge

Office of Administrative Hearings