

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

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

VERNE SCATLIFFE,

Moving Party

A Permanent Certificated Employee,

and

MORENO VALLEY SCHOOL DISTRICT,

Responding Party

OAH No. 2020070674

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

Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter telephonically from Los Angeles, California on August 14, 2020.

Alejandra Gonzalez-Bedoy, Attorney at Law, represented moving party Verne Scatliffe (Respondent or Respondent Scatliffe).

Laurie Kamerrer, Attorney at Law, represented responding party Moreno Valley School District (District).

BACKGROUND

1. On June 16, 2020, the District Board of Education (Board) determined that Respondent had engaged in (1) immoral conduct, (2) evident unfitness for service, and (3) 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 him, based upon conduct that occurred between October 9, 2019 and February 12, 2020. A Statement of Charges (SOC) and notice of immediate suspension was signed on April 24, 2020, approved on June 16, 2020 and served on Respondent on June 22, 2020.

Allegations

2. The SOC contains several grounds for dismissal, as follows: (1) immoral conduct, (2) evident unfitness for service, and (3) 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. (Ed. Code §§ 44932, 44939.)

3. The District served Respondent with a Notice of Immediate Unpaid Suspension, pursuant to Education Code section 44939, for immoral conduct and

persistent violation 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. Respondent demanded a hearing on the dismissal and filed a motion for immediate reversal of the suspension (MIRS) under Education Code section 44939, subdivision (c)(1). The District filed an opposition to the motion, and counsel for both parties presented oral argument at the motion hearing.

4. The SOC against Respondent alleges that Respondent is a permanent certificated employee of the District most recently assigned as a Head Start/State Pre-School classroom teacher. (SOC ¶1.) As a teacher of Head Start/State Pre-School pupils ages three to five years old. Respondent is required, among other duties, to provide care and supervision to the students. (. (SOC ¶1.) Board policies prohibit corporal punishment and require professional adult/student boundaries (SOC ¶¶14, 15.) More specifically, the SOC alleges:

A. On October 9, 2019, Respondent acted in a rude and hostile manner toward a Professional Development Specialist who visited his classroom to provide support.

B. On October 17, 2019, Respondent told a student "Crazy [name], get your gun and rifle and start shooting."

C. On January 13, 2020, one of Respondent's students, a four-year-old boy, eloped, wandered into a school parking lot, and was nearly struck by a car. Respondent had already counted his students and did not notice the student was missing.

D. On February 12, 2020, during an unannounced visit to Respondent's classroom, an administrator from the county office of education, made an

unannounced visit to Respondent's classroom and found that he was in his office with the door closed and one instructional aide had been left with 16 napping children when two adults were required.

E. On February 12, 2020, Respondent held a 4-year-old student by both ear lobes and said words to the effect of "I don't like it when you don't listen to me."

F. On February 12, 2020, Respondent held student A.W. upside down by her ankles, swung her around, and tickled her back at the end of nap time.

G. During the 2018-2019 and 2019-2020 school years, Respondent frequently pulled on multiple students' ears when they failed to listen to him and repeatedly picked students A.W. and J.P. up by their ankles, held them upside down, and swung them.

Respondent's Contentions

5. Respondent asserts that the facts as alleged in the SOC, even if true, are insufficient to constitute a basis for immediate suspension without pay and merely establish unprofessional conduct or unsatisfactory performance, which are not grounds for immediate suspension without pay.

The District's Contentions

6. The District asserts that its SOC alleges sufficient facts constituting immoral conduct as cause for dismissal and immediate suspension, pursuant to Education Code section 44939. The District contends that it pled sufficient facts and nexus of Respondent's conduct to the field of teaching and the facts, as alleged, constitute immoral conduct and willful refusal to perform regular assignments without

reasonable cause, as prescribed by reasonable rules and regulations of the employing school district sufficient to establish a basis for his immediate suspension without pay.

LEGAL STANDARDS

1. A school district may immediately suspend a permanent certificated employee 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." (Ed. Code, § 44939, subd. (b).) A suspended employee may file a motion for immediate reversal of the suspension with the Office of Administrative Hearings. (Ed. Code, § 44939, subd. (c)(1).) An administrative law judge reviews the motion, and the review "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.*) Although well-pleaded facts must be accepted as true, the administrative law judge need not accept contentions, deductions, or conclusions of fact or law. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

2. Immoral conduct is conduct 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* 179 Cal. App. 2d, 808, at 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.)

3. The allegations that Respondent engaged in corporal punishment by pulling the earlobes of young children and holding them upside down by their ankles and swinging them around state facts sufficient to establish immoral conduct as it is willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable members of the community and constitutes an inconsiderate attitude toward good order and the public welfare. Additionally, those allegations set forth sufficient facts to establish 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 him as the conduct violates Board policies and state law prohibiting corporal punishment.

4. Accordingly, Respondent Verne Scatliffe failed to establish good cause to reverse the immediate suspension.

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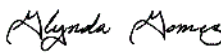
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ORDER

The motion for immediate reversal of suspension is denied.

DATE: August 21, 2020

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GLYNDA B. GOMEZ

Administrative Law Judge

Office of Administrative Hearings