

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

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

**ANDREA SHAPPEE-SPIDELL, a Permanent Certificated  
Employee, Moving Party**

**and**

**ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT,  
Responding Party**

**OAH No. 2022060581**

**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.

Hannah Weinstein, Attorney at Law with the law firm of Rothner, Segall & Greenstone, represented movant Andrea Shappee-Spidell (Ms. Shappee).

Matthew C. Vance, Attorney at Law with the law firm of Fagen, Friedman & Fulfroft, LLP, represented the Antelope Valley Union High School District (District).

On July 8, 2022, the motion was submitted for decision.

## **Procedural Background**

In May 2022, Brett Neal, the District's Assistant Superintendent of Personnel, signed the Notice of Intent to Dismiss and Immediately Suspend and Statement of Charges (Statement of Charges) against Ms. Shappee under Education Code sections 44932, 44934, and 44939. Specifically, the Statement of Charges alleges that cause exists to immediately suspend without pay and dismiss Ms. Shappee based on immoral conduct. Ms. Shappee filed a notice of defense and requested a hearing on the allegations.

On June 17, 2022, Ms. Shappee filed a motion for immediate reversal of her suspension without pay. The District filed an opposition, and Ms. Shappee filed a reply to the opposition. The parties presented oral argument on July 8, 2022.

## **Analysis**

The District's governing board may immediately suspend without pay a permanent certificated employee charged with immoral conduct. (Ed. Code, § 44939, subd. (b).) An employee who has been suspended may file a motion for immediate reversal of suspension. (*Id.*, 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

Here, the District relies on the charge of immoral conduct to support the immediate suspension without pay. 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, 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.)

Even conduct in teachers’ private lives may inadvertently affect their public, professional lives. In *San Diego Unified School District v. Commission on Professional Competence* (2011) 194 Cal.App.4th 1454, a teacher posted an online advertisement for sex, including graphic photographs, vulgar language, and racial preferences. (*Id.* at p. 1458.) Nothing in the advertisement involved the teacher’s name or profession, and the teacher expected the listing to “be adult and private.” (*Id.* at pp. 1458–1459.) Nevertheless, once a parent and educator saw and subsequently complained about the advertisement, it interfered with the teacher’s ability to serve as a role model for students and constituted indecency and moral indifference. (*Id.* at pp. 1463, 1466.)

## CONDUCT AT ISSUE

Here, Ms. Shappee worked as a math teacher at Highland High School (Highland) during the relevant period. The Statement of Charges alleges that, on March 23, 2022, Ms. Shappee was subject to a prank call at her home phone number. The caller recorded the following part of Ms. Shappee's response:

fuck ass n\*\*\*\*r, doesn't understand the difference between white person and a n\*\*\*\*r ... they're obviously the n\*\*\*\*r themselves ... and a real n\*\*\*\*r, not you know, hey buddy n\*\*\*a ... you know, the total real n\*\*\*a, like as in a total asshole, jerkish, stupid ass, obviously has no intelligence n\*\*\*a.<sup>1</sup>

On March 28, 2022, an audio recording of Ms. Shappee's response was posted on social media with a photograph of her face, "shocked face emojis," and the caption, "Ms. Shappee Caught 4K." The social media post "went viral,"<sup>2</sup> and was brought to the attention of Highland administrators. Ms. Shappee admitted she was the voice in the recording and acknowledged the recording had spread around campus quickly. Highland immediately placed Ms. Shappee on paid administrative leave.

While Ms. Shappee did not make these statements in front of a classroom, Highland students were exposed to her statements on social media when the

---

<sup>1</sup> The racial epithets in Ms. Shappee's response are censored in this order.

<sup>2</sup> If a video, image, or story goes viral, it spreads quickly and widely on the internet through social media, text messages, and email.

recording “went around campus really quick.” Indeed, the District alleged that the “viral” recording gained sufficient notoriety such that it was reported to administrators and adversely impacted the learning environment at Highland.

The parties’ written briefs and oral argument have been considered. The District alleged sufficient facts in the Statement of Charges that, if true, could constitute a basis for immediate suspension based upon “immoral conduct” under section 44939.

## **ORDER**

The Motion for Immediate Reversal of Suspension is DENIED.

DATE: July 15, 2022

  
Jessica Wall (Jul 15, 2022 15:52 PDT)

JESSICA WALL

Administrative Law Judge

Office of Administrative Hearings