

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of the Motion for Immediate  
Reversal of Suspension Filed by:

JARED BELL, a Permanent Certificated  
Employee,

Moving Party,

v.

MONTEREY PENINSULA UNIFIED  
SCHOOL DISTRICT,

Responding Party.

OAH No. 2019040021

ORDER DENYING MOTION FOR  
IMMEDIATE REVERSAL OF  
SUSPENSION (Ed. Code, § 44939,  
subd. (c)(4))

Administrative Law Judge Diane Schneider, Office of Administrative Hearings, State of California, heard this matter telephonically from Oakland, California, on April 19, 2019.

Lawrence E. Biegel and Joseph Cisneros, Attorneys at Law, The Biegel Law Firm, represented respondent Jared Bell.

Sarah Kaatz, Steve Ngo, and Michele R. Lyons, Attorneys at Law, Lozano Smith, represented Monterey Peninsula Unified School District.

PROCEDURAL HISTORY

A statement of charges and notice of recommendation for immediate suspension without pay and dismissal, was served on respondent on March 4, 2019. The statement of charges alleges the following grounds in support of respondent's dismissal and immediate suspension without pay under Education Code section 44939<sup>1</sup>: immoral conduct, evident unfitness for service, and persistent violation of or refusal to obey the school laws of the state

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<sup>1</sup> The District contends that the statement of issues also charges respondent with a "willful refusal to perform regular assignments without cause" as a basis for his immediate suspension without pay under Education Code section 44939, subdivision (b). This is incorrect. The statement of charges does not so allege.

or reasonable regulations prescribed for the government of public schools. The District placed respondent on immediate suspension without pay under Education Code section 44939.

On April 1, 2019, respondent timely filed a motion with the Office of Administrative Hearings for immediate reversal of his suspension without pay pursuant to Education Code section 44939, subdivision (c)(1), arguing that the District has not alleged a sufficient basis to put him on immediate unpaid status because the allegations in the accusation do not rise to the level of immoral conduct. Respondent also requests that the District reimburse him for all accrued and unpaid pay and benefits. On April 9, 2019, the District filed an opposition to respondent's motion, and on April 12, 2019, respondent filed a reply to the District's opposition.

## DISCUSSION

Education Code section 44939 states, 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 refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the School District, or with violation of [Education Code] section 51530." (Ed. Code, § 44939, subd. (b).)

Under Education Code section 44939, subdivision (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."

The written submissions of the parties and oral argument have been fully considered. Based upon a review of the statement of charges, the District has alleged facts which, if true, are sufficient to constitute a basis for immediate suspension, pursuant to Education Code section 44939, subdivision (b), for immoral conduct.

## ORDER

Respondent's motion for immediate reversal of suspension and his request for reinstatement to paid status are DENIED. The District's immediate suspension of respondent Jared Bell is upheld.

DATED: April 22, 2019

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*Diane Schneider*  
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DIANE SCHNEIDER  
Administrative Law Judge  
Office of Administrative Hearings