

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the Suspension)

of the Educator Certificate of)

James M. Parker,)

Certificate 237039)
_____)

ORDER OF SUSPENSION

(BREACH OF CONTRACT)

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on June 9, 2011. On January 19, 2011, the South Carolina Department of Education (SCDE) sent James M. Parker a notice of his right to a hearing regarding the possible suspension of his South Carolina educator certificate, by regular and certified mail, return receipt requested, delivery restricted to addressee. On February 9, 2011, the notice was returned to the SCDE marked unclaimed. On April 28, 2011, a second notice letter was sent to Mr. Parker. Mr. Parker received the notice as evidenced by the proof of service dated May 4, 2011, from the Berkeley County Sheriff's Office. Mr. Parker did not contact the SCDE to request a hearing within the time specified in the notice and is now in default.

After considering the evidence presented, the State Board voted to suspend Mr. Parker's educator certificate for a period of one year, commencing on June 9, 2011, and ending on June 8, 2012.

FINDINGS OF FACT

This case concerns a formal complaint by the Berkeley County School District (District) seeking the suspension of the educator certificate of James M. Parker for breach of contract. The State Board has jurisdiction in this matter, pursuant to S.C. Code Ann. § 59-25-150 (2004) and S.C. Code Ann § 59-25-530 (2004).

Mr. Parker holds a valid South Carolina educator certificate and has over three years of teaching experience. On April 26, 2010, Mr. Parker signed a Contractual Agreement with the District for the 2010-2011 school year to work as a teacher at Hanahan High School. On September 27, 2010, Mr. Parker sent a letter to the District stating that he was requesting to be released from his teaching contract effective, October 12, 2010. Mr. Parker did not provide thirty days of notice to the District and was told that he would not be released from his contract until a suitable replacement could be found. Mr. Parker

failed to report to work on October 11, 2010. His unauthorized absences caused his students to be without a certified teacher. On October 15, 2010, the Superintendent informed Mr. Parker in a letter that he was recommending to the Berkeley County School District Board (District Board) that his employment with the District be terminated and advised him of his right to request an informal hearing before the Superintendent pursuant to S.C. Code § 59-26-40 (Supp. 2010). The Superintendent stated in the letter that Mr. Parker had been informed that the provisions of Board Policy GBO must be followed in order for him to be released from the contract and that Mr. Parker had failed to comply with the Board Policy GBO requirements. The Superintendent found that Mr. Parker had abandoned his position and breached his employment contract with the District. After receiving the Superintendent's letter, Mr. Parker did not request a hearing within the fifteen day time period provided by law.

On November 9, 2010, the Berkeley County School District Board (District Board) adopted an order upholding the recommendation of the Superintendent and voted to report Mr. Parker's breach of contract to the State Board for appropriate action, pursuant to S.C. Code Ann. § 59-25-530 (2004). On November 10, 2010, the Superintendent notified Mr. Parker of the District Board's action to terminate his employment.

On January 19, 2011, the SCDE sent Mr. Parker a notice of his right to a hearing regarding the possible suspension of his South Carolina educator certificate for breach of contract, by regular and certified mail, return receipt requested, delivery restricted to addressee. On February 9, 2011, the notice was returned to the SCDE marked unclaimed. On April 28, 2011, a second notice letter was sent to Mr. Parker. Mr. Parker received the notice as evidenced by the proof of service dated May 4, 2011, from the Berkeley County Sheriff's Office. The notice was received by Mr. James Parker, Sr., a person of age and discretion living in the household. Mr. Parker did not contact the SCDE to request a hearing within the time specified in the notice and is now in default.

After considering the evidence presented, the State Board finds that the evidence presented demonstrates that Mr. Parker breached his contract with the District, and that just cause exists to suspend Mr. Parker's educator certificate for a period of one year, commencing on June 9, 2011, and ending on June 8, 2012.

CONCLUSIONS OF LAW

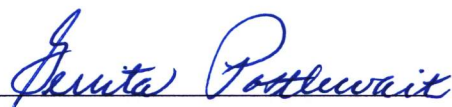
"The State Board of Education may, for just cause, either revoke or suspend the certificate of any person." S.C. Code Ann. § 59-25-150 (2004). Just cause includes, *inter alia*, "unprofessional conduct"

and “willful violation of the rules and regulations of the State Board of Education.” S.C. Code Ann. § 59-25-160 (3) and (4) (2004). “Any teacher who fails to comply with the provisions of his contract without the written consent of the school board shall be deemed guilty of unprofessional conduct.” S. C. Code Ann. § 59-25-530 (2004). Pursuant to 24 S.C. Code Regs. 43-58 (2) and (14) (Supp. 2010), the State Board of Education has the legal authority, *inter alia*, to suspend a certificate for “willful neglect of duty” and “failure to comply with the provisions of a contract without the written consent of the local school board.” The State Board finds that the evidence presented demonstrates that Mr. Parker breached his contract and engaged in unprofessional conduct, willfully neglected his duty, and failed to comply with the provisions of his contract without the written consent of the Berkeley County School District.

The evidence presented further supports the State Board’s determination that just cause exists to suspend the educator certificate of James M. Parker, certificate 237039, for a period of one year, commencing on June 9, 2011, and ending on June 8, 2012. If Mr. Parker wishes to have his educator certificate reinstated at the end of the suspension period, he shall make a written request to the SCDE’s Office of Educator Certification, and shall meet all certification requirements in effect at the time he requests reinstatement. Mr. Parker shall also pay all applicable reinstatement fees. The suspension of Mr. Parker’s educator certificate 237039 shall be reported to the NASDTEC Clearinghouse and all South Carolina school districts within thirty days from the date of this order with the reason stated as “unprofessional conduct for breach of contract, willful neglect of duty, and failure to comply with the provisions of a contract without the written consent of the local school board.”

AND IT IS SO ORDERED.

South Carolina State Board of Education

By: 
Gerrita Postlewait, Chair

Columbia, South Carolina
June 9, 2011