

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the Suspension)
)
of the Educator Certificate of)
)
Gary John Montgomery,)
)
Certificate 273819)

ORDER OF SUSPENSION

(BREACH OF CONTRACT)

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on March 14, 2017. On January 24, 2017, the South Carolina Department of Education (SCDE) served Gary John Montgomery 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. Mr. Montgomery received the notice on January 28, 2017, as evidenced by the signed postal receipt bearing his signature. Mr. Montgomery has not contacted the SCDE to request a hearing and is now in default. After considering the evidence presented, the State Board voted to suspend Mr. Montgomery's educator certificate for a period of one year, commencing on March 14, 2017, and ending on March 13, 2018.

FINDINGS OF FACT

This case concerns a formal complaint by the Rock Hill School District Three of York County (District) recommending the suspension of the educator certificate of Gary John Montgomery 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. Montgomery received a South Carolina professional educator certificate by reciprocity in 2015. Mr. Montgomery signed a Contractual Agreement with the District to serve as a teacher at Rosewood Elementary School for the 2016-2017 school year on June 20, 2016. On October 24, 2106, Mr. Montgomery turned in his resignation to the District's Chief Personnel informing the District that he would be leaving the District and that her last day would be November 4, 2016. On October 24, 2016, the District informed Mr. Montgomery that her resignation would be presented to the board, and that he would be released when a suitable replacement had been found and if the Board approved the resignation. On November 30, 2016,

the District notified Mr. Montgomery that the Board did not accept his resignation, that he was considered in breach of his contract, had violated Policy GCQC/GCQD: Resignation of Professional Staff, and that a formal complaint would be filed with the State Board. On November 29, 2016, the District reported Mr. Montgomery's breach of contract to SCDE and requested that the State Board take disciplinary action on Mr. Montgomery's educator certificate.

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*, "willful violation of the rules and regulations of the State Board of Education" and "unprofessional conduct." S.C. Code Ann. § 59-25-160 (3) and (4) (Supp. 2016). Pursuant to S.C. Code Ann. § 59-25-530 (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." 24 S.C. Code Ann. Regs. 43-58 (2) and (14) (2004), provide that the State Board of Education has the legal authority, *inter alia*, to suspend a certificate for "wilful 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. Montgomery breached his contract and engaged in unprofessional conduct, and failed to comply with the provisions of his contract without the consent of the District.

The evidence presented further supports the State Board's determination that just cause exists to suspend the educator certificate of Gary John Montgomery, certificate 273819, for a period of one year, commencing on March 14, 2017, and ending on March 13, 2018. If Mr. Montgomery 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 Services, and shall meet all certification requirements in effect at the time he requests reinstatement. Mr. Montgomery shall also pay the applicable reinstatement fee. The suspension of Gary John Montgomery's educator certificate 273819 shall be reported to the NASDTEC Clearinghouse and all South Carolina school districts within thirty days from the date of this order.

(signature page attached)

AND IT IS SO ORDERED.

South Carolina State Board of Education

By: 
Ivan Randolph, Ph.D., Chair

Columbia, South Carolina

March 14, 2017