

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the Suspension)
)
of the Educator Certificate of)
)
Kelly Sue Irving,)
)
Certificate 280450)
_____)

ORDER OF SUSPENSION
(BREACH OF CONTRACT)

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on August 14, 2018. On March 30, 2018, the South Carolina Department of Education (SCDE) sent Kelly Sue Irving a notice via regular and certified mail of her right to a hearing regarding the possible suspension of her South Carolina educator certificate regarding her alleged breach of contract. On May 7, 2018, Ms. Irving was sent a final notice of her right to a hearing. SCDE has verified Ms. Irving's address and the letters sent via regular mail have not been returned. Under the South Carolina Rules of Civil Procedure 5(b), Ms. Irving has been given fair notice of constitutional due process. Ms. Irving 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 Ms. Irving's educator certificate for a period of one year, commencing on August 14, 2018, and ending on August 13, 2019.

FINDINGS OF FACT

This case concerns a formal complaint by Greenville County School District (District) recommending the suspension of the educator certificate of Kelly Sue Irving for breach of contract. The State Board has jurisdiction in this matter pursuant to S.C. Code Ann. § 59-25-150 (2017) and S.C. Code Ann. § 59-25-530 (2017).

On May 4, 2017, Ms. Irving signed an annual contract with the District for the 2017-2018 school year, agreeing to serve as a teacher at Fisher Middle School (School). On March 9, 2018, Ms. Irving submitted a resignation letter to be effective April 6, 2018. On March 20, 2018, the District notified Ms. Irving that her resignation was deemed a breach of contract and that the matter would be presented to the District Board of Trustees. On March 27, 2018, the Greenville County Board of Trustees voted to recommend the suspension of Ms. Irving for breach of

contract to the SCDE. On March 28, 2018, the District reported the breach of contract to the SCDE.

After considering the evidence presented, the State Board voted to suspend Ms. Irving's educator certificate for a period of one year, commencing August 14, 2018, and ending on August 13, 2019.

CONCLUSIONS OF LAW

"The State Board of Education may, for just cause, either revoke or suspend the certificate of any person." 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) (2017). Pursuant to 24 S.C. Code Regs. 43-58 (2) and (14) (Supp. 2017), 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."

With respect to breach of contract, "any teacher who fails to comply with the provisions of [her] contract without written consent of the school board shall be deemed guilty of unprofessional conduct." S.C. Code Ann. § 59-25-530 (2017). "Upon the formal complaint of the school board, substantiated by conclusive evidence, the state board shall suspend or revoke the teacher's certificate, for a period not to exceed one calendar year." *Id.*

The State Board finds that the evidence presented demonstrates that Ms. Irving breached her contract and engaged in unprofessional conduct, willfully neglected her duty, and failed to comply with the provision of her contract without the written consent of the Greenville County Board of Trustees. The evidence presented further supports the State Board's determination that just cause exists to suspend the educator certificate of Kelly Sue Irving, certificate 280450, for a period of one year, commencing August 14, 2018, and ending on August 13, 2019. If Ms. Irving wishes to have her educator certificate reinstated at the end of the suspension period, she shall make a written request to the SCDE's Office of Educator Services and shall meet all certification requirements in effect at the time she requests reinstatement. Ms. Irving shall also pay all applicable reinstatement fees. The suspension of Ms. Irving's educator certificate 280450 shall be reported to the NASDTEC Clearinghouse and all South Carolina school districts within 30

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days from the date of this order with the reason stated as “unprofessional conduct, 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: 
Sharon Wall, Ed.D., Chair

Columbia, South Carolina
August 14, 2018