

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the
Disciplinary Action of the
Educator Certificate of
David Anibal Cruz
Certificate 264694

**ORDER OF SUSPENSION
(BREACH OF CONTRACT)**

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on January 11, 2022. On December 20, 2021, the South Carolina Department of Education (SCDE) sent David Anibal Cruz a notice via regular and certified mail of his right to a hearing regarding the possible suspension of his South Carolina educator certificate. On December 29, 2021, Mr. Cruz informed the SCDE he would not request a hearing in this matter. He has allowed the SCDE to present this matter to the State Board as a default.

After considering the evidence presented, the State Board voted to suspend Mr. Cruz's educator certificate for a period of one year, commencing January 11, 2022, and ending on January 10, 2023.

FINDINGS OF FACT

This case concerns a formal complaint of the Charleston County School District (District) seeking the suspension of the educator certificate of Mr. Cruz for breach of contract. The State Board has jurisdiction in this matter pursuant to S.C. Code Ann. § 59-25-150 (2018) and S.C. Code Ann. § 59-25-530 (2018).

On June 14, 2021, Mr. Cruz signed a contractual agreement with the District to serve as a teacher for the 2021-22 school year. Mr. Cruz submitted an undated resignation to the District, effective immediately. In his resignation, Mr. Cruz cited family responsibilities as the reason for his resignation. On August 27, 2021, the District informed Mr. Cruz that he would not be released from his contract until a suitable replacement was found. The District Board voted to report Mr. Cruz's breach of contract to the SCDE on November 15, 2021. The District reported the matter to the SCDE on December 16, 2021.

After considering the evidence, the State Board finds that the evidence presented demonstrates that Mr. Cruz breached his contract with the District, and that just cause exists to suspend Mr. Cruz's certificate 264694 for a period of one year, commencing on January 11, 2022, and ending on January 10, 2023.

CONCLUSIONS OF LAW

"The South Carolina 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) (2018). Pursuant to 24 S.C. Code Regs. 43-58 (2) and (14) (2018), the State Board of Education had the legal authority to suspend a certificate for "failure to comply with the provision 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 his [or her] contract without written consent of the school board shall be deemed guilty of unprofessional conduct." S. C. Code Ann. § 59-25-530 (2018). "Upon 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 Mr. Cruz breached his contract without the consent and/or approval of the District. Accordingly, the evidence presented supports the State Board's determination that just cause exists to suspend the educator certificate of David Anibal Cruz for a period of one year, commencing on January 11, 2022, and ending on January 10, 2023.

If Mr. Cruz 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. Cruz shall also pay the applicable reinstatement fee. The suspension of Mr. Cruz's educator certificate 264694 shall be reported to the NASDTEC Clearinghouse and all South Carolina school districts within thirty days from the date of this order, with

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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

s/Alan Walters
Alan Walters, Chair

Columbia, South Carolina
January 11, 2022