

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the
Disciplinary Action of the
Educator Certificate of
Nikita M. Porter
Certificate 235706

ORDER OF SUSPENSION

SUMMARY OF THE CASE

The State Board of Education (State Board) considered this matter on May 17, 2022. On May 11, 2021, the South Carolina Department of Education (SCDE) sent a notice via regular and certified mail, return receipt requested, to Nikita M. Porter concerning the pending action against educator certificate 235706. Ms. Porter thereafter timely requested a hearing which was held on February 16, 2022. This matter is properly before the State Board pursuant to S.C Code Ann. § 59-25-150 (2017) and referred to a hearing officer pursuant to S.C. Code Ann. 59-5-70 (2004). After considering the evidence presented, the State Board voted to suspend the certificate of Ms. Porter's certificate 235706, for a period of three months, commencing on May 17, 2022, and ending on August 16, 2022.

FINDINGS OF FACT

This case concerns a formal complaint of Richland County School District Two (District) seeking the suspension of the educator certificate of Ms. Porter 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 April 20, 2020, Ms. Porter signed a contractual agreement with the District to serve as a teaching learning coach for the 2020-21 school year. On March 25, 2021, Ms. Porter submitted her resignation to the District, effective April 9, 2021. She informed the District she had accepted a position in the private sector. On March 26, 2021, Ms. Porter completed a separation form citing her reason for leaving as "Promotion/Advancement within education," noting she had been offered a position with a significant pay increase. Ms. Porter was notified she would not be

released from her contract until a suitable replacement was found. She did not return to work after April 2, 2021, which was the beginning of spring break for the District.

The hearing officer found that Ms. Porter did breach her contract with the District. In considering mitigating circumstances, the hearing officer noted Ms. Porter's past attempts for promotions within the District and raise that came with her new position. The hearing officer further noted that Ms. Porter had left her coworkers prepared for her departure.

After considering the evidence presented, the State Board finds the evidence presented demonstrated that Ms. Porter breached her contract with the District, and that there is just cause for the suspension of Ms. Porter's educator certificate for a period of three months, commencing on May 17, 2022 and ending on August 16, 2022.

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 Ms. Porter breached her 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 education certification of Nikita M. Porter's educator certificate 235706 for a period of three months, commencing on May 17, 2022 and ending on August 16, 2022.

If Ms. Porter 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. Porter shall also pay the applicable reinstatement fee. The suspension of Ms. Porter's educator certificate 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, 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."

Now, therefore it is hereby ordered that the educator certificate of Nikita M. Porter, certificate 235706, is suspended for a period of three months, commencing on May 17, 2022, and concluding on August 16, 2022.

AND IT IS SO ORDERED.

South Carolina Board of Education

s/Alan Walters
Alan Walters, Chair

Columbia, South Carolina
May 17, 2022