

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the
Disciplinary Action of the
Educator Certificate of
Elaine Catherine Smoak
Certificate 241987

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

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on May 17, 2022. On March 21, 2022, the South Carolina Department of Education (SCDE) sent Elaine Catherine Smoak a notice via regular and certified mail of her right to a hearing regarding the possible suspension of her South Carolina educator certificate. Ms. Smoak received the notice on April 4, 2022, as evidenced by US Postal Service Tracking. The SCDE sent a final notice via regular mail on April 21, 2022, informing Ms. Smoak that this matter would be presented to the State Board on May 17, 2022. She 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. Smoak's educator certificate for a period of one year, commencing May 17, 2022, and ending on May 16, 2023.

FINDINGS OF FACT

This case concerns a formal complaint of the Aiken County Public School District (District) seeking the suspension of the educator certificate of Elaine Catherine Smoak 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 May 4, 2021, Elaine Catherine Smoak signed a contractual agreement with the District to serve as an educator for the 2021-22 school year. On January 27, 2022, Ms. Smoak submitted her resignation to the District, effective February 10, 2022. On January 31, 2022, the District informed Ms. Smoak she was not released from her contract. Ms. Smoak did not return to work for the District after February 11, 2022. The District Board voted to report Ms. Smoak's breach of contract to the SCDE on March 8, 2022. The District reported the matter to the SCDE on March 11, 2022.

After considering the evidence, the State Board finds that the evidence presented demonstrates that Ms. Smoak breached her contract with the District, and that just cause exists to suspend Ms. Smoak's certificate 241987 for a period of one year, commencing on May 17, 2022, and ending on May 16, 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 Ms. Smoak 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 educator certificate of Elaine Catherine Smoak for a period of one year, commencing on May 17, 2022, and ending on May 16, 2023.

If Ms. Smoak 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. Smoak shall also pay the applicable reinstatement fee. The suspension of Ms. Smoak's educator certificate 241987 shall be reported to the NASDTEC Clearinghouse and all South Carolina school districts within thirty days from the date of

Elaine Catherine Smoak, certificate 241987

ORDER OF SUSPENSION

May 17, 2022

Page 3 of 3

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

s/Alan Walters

Alan Walters, Chair

Columbia, South Carolina

May 17, 2022