

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the
Disciplinary Action of the
Educator Certificate of
Amber Gainey Malphus
Certificate 294379

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

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on August 8, 2023. On March 2, 2023, and May 5, 2023, the South Carolina Department of Education (SCDE) sent Amber Gainey Malphus a notice via regular and certified mail of her right to a hearing regarding the possible suspension of her South Carolina educator certificate. Ms. Malphus received the notice on May 8, 2023, as evidenced by signed postal receipt. 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. Malphus' educator certificate for a period of one year, commencing on August 8, 2023, and ending on August 7, 2024.

FINDINGS OF FACT

This case concerns a formal complaint of the Darlington County School District (District) seeking the suspension of the educator certificate of Ms. Malphus for breach of contract. The State Board has jurisdiction in this matter pursuant to S.C. Code Ann. § 59-25-150 (2020) and S.C. Code Ann. § 59-25-530 (2020).

On April 15, 2022, Ms. Malphus signed a contractual agreement with the District to serve as a teacher for the 2022-23 school year. On January 23, 2023, Ms. Malphus submitted her resignation to the District, effective February 3, 2023. On January 24, 2023, the District informed Ms. Malphus she would not be released from her contract until a suitable replacement was secured. However, Ms. Malphus stated she accepted a new position with a university and would not be returning to the District after February 2, 2023. The District Board voted to report Ms. Malphus' breach of contract to the SCDE on February 13, 2023. The District reported the matter to the SCDE on February 20, 2023.

After considering the evidence, the State Board finds that the evidence presented demonstrates that Ms. Malphus breached her contract with the District, and that just cause exists to suspend Ms. Malphus' certificate 294379 for a period of one year, commencing on August 8, 2023, and ending on August 7, 2024.

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) (2020). Pursuant to 24 S.C. Code Regs. 43-58 (2) and (14) (2021), the State Board of Education has 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 (2020). "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. Malphus 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 Amber Gainey Malphus for a period of one year, commencing on August 8, 2023, and ending on August 7, 2024.

If Ms. Malphus 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. Malphus shall also pay the applicable reinstatement fee. The suspension of Ms. Malphus' educator certificate 294379 shall be reported to the NASDTEC Clearinghouse and all South Carolina school districts within thirty days from the date of

Amber Gainey Malphus, Certificate 294379

ORDER OF SUSPENSION

August 8, 2023

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/Crystal F. Stapleton, Ed.D.

Crystal F. Stapleton, Ed.D., Chair

Columbia, South Carolina

August 8, 2023