

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the
Disciplinary Action of the
Educator Certificate of
Mitchell P. Bailey
Certificate 255997

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

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on February 14, 2023. On October 6, 2022, the South Carolina Department of Education (SCDE) sent Mitchell P. Bailey a notice via regular and certified mail of his right to a hearing regarding the possible suspension of his South Carolina educator certificate. The SCDE has verified Mr. Bailey's address and the letter sent via regular mail has not been returned. On November 21, 2022, the SCDE informed Mr. Bailey via regular mail that the State Board would meet on January 17, 2023, or as soon thereafter as is feasible, to consider action against his educator certification. Under the South Carolina Rules of Civil Procedure 5(b), Mr. Bailey has been given fair notice of constitutional due process. Mr. Bailey 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 Mr. Bailey's educator certificate for a period of one year, commencing February 14, 2023, and ending on February 13, 2024.

FINDINGS OF FACT

This case concerns a formal complaint of Richland School District Two (District) seeking the suspension of the educator certificate of Mr. Bailey 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 29, 2022, Mr. Bailey signed a contractual agreement with the District to serve as a teacher for the 2022-23 school year. On July 14, 2022, Mr. Bailey submitted a separation request to the District, effective June 3, 2022. In the request, Mr. Bailey stated he was seeking a teaching position outside of South Carolina. On July 25, 2022, the District informed Mr. Bailey he would not be considered for release from his contract until a

suitable replacement was found. He did not return to fulfill his contract with the District. The District Board voted to report Mr. Bailey's breach of contract to the SCDE on September 27, 2022. The District reported the matter to the SCDE on October 5, 2022.

After considering the evidence, the State Board finds that the evidence presented demonstrates that Mr. Bailey breached his contract with the District, and that just cause exists to suspend Mr. Bailey's certificate 255997 for a period of one year, commencing on February 14, 2023, and ending on February 13, 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 Mr. Bailey 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 Mitchell P. Bailey for a period of one year, commencing on February 14, 2023, and ending on February 13, 2024.

If Mr. Bailey 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

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reinstatement. Mr. Bailey shall also pay the applicable reinstatement fee. The suspension of Mr. Bailey's educator certificate 255997 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."

AND IT IS SO ORDERED.

South Carolina State Board of Education

s/Crystal F. Stapleton, Ed.D.
Crystal F. Stapleton, Chair

Columbia, South Carolina
February 14, 2023