

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the)
)
Disciplinary Action of the)
)
Educator Certificate of)
)
John Melvin Kirby, Jr.)
)
)
Certificate 090538)

**CONSENT ORDER OF
PUBLIC REPRIMAND**

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on May 14, 2019. On August 29, 2018, the South Carolina Department of Education (SCDE) sent John Melvin Kirby, Jr., a notice letter by certified mail, return receipt, restricted delivery, and regular mail, regarding possible action against his educator certificate. After receiving the notice letter, Dr. Kirby's counsel contacted the SCDE and advised that he desired to waive his right to a hearing and pursue an alternative resolution in this matter. After considering the evidence presented, the State Board voted to accept this Consent Order of Public Reprimand.

FINDINGS OF FACT

Dr. Kirby holds a valid South Carolina professional educator certificate and has over forty-four years of teaching experience. He has no prior record of disciplinary action with the State Board. Dr. Kirby is the superintendent of Dillon County School District Three (District).

On June 14, 2017, the SCDE received an educator misconduct complaint from V.R. (Complainant), a parent in the District. The Complainant was involved in several matters with the District, including a challenge to her student's expulsion and the delivery of special needs services. The Complainant alleged that Dr. Kirby attempted to coerce her into signing a document that would waive her student's educational rights and absolve the District of any claims and concerns. In exchange for signing the document, the student would be allowed to participate in the graduation exercise. Dr. Kirby alleges that the document was prepared after consultations with the Complainant and denies any intent to coerce the Complainant.

John
Melvin
Kirby,
Jr.
090538


Initial

4/11/19
Date

Dr. Kirby has agreed to waive his right to a hearing and resolve this disciplinary matter by entering into this Consent Order of Public Reprimand, subject to the following terms: (1) a Public Reprimand shall be issued by the State Board, (2) the Public Reprimand shall be reported to the NASDTEC Clearinghouse and all South Carolina school districts within thirty days from the date of this order, and (3) the Consent Order of Public Reprimand shall be posted on the SCDE's website and shall be maintained as a public record in the SCDE's Office of General Counsel. After considering the evidence presented, the State Board voted to accept the Consent Order of Public Reprimand with the terms set forth above.

CONCLUSIONS OF LAW

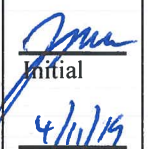
"The South Carolina Board of Education may, for just cause, either revoke or suspend the certificate of any person." S.C. Code Ann. § 59-25-150 (2017); S.C. Code Ann. § 59-25-160 (2017). Just cause includes unprofessional conduct. S.C. Code Ann. § 59-25-160 (2017); 24 S.C. Code Regs. 43-58 (2017). The State Board finds that the evidence presented by the District would not support a conclusion that just cause exists to suspend or revoke the educator certificate of John Melvin Kirby, Jr. However, the evidence presented could support a conclusion that Dr. Kirby engaged in unprofessional conduct as a result of coercion against a parent to waive a student's educational rights. The State Board further finds that just cause exists for the issuance of a Public Reprimand to Dr. Kirby by the State Board.

Now, therefore, it is ordered that the State Board hereby issues a Public Reprimand to John Melvin Kirby, Jr., certificate 090538. The Public Reprimand shall be reported to the NASDTEC Clearinghouse and all South Carolina school districts within thirty days from the date of this order with the grounds listed as "unprofessional conduct." This Consent Order of Public Reprimand shall be posted on the SCDE's web site and shall be maintained as a public record in the SCDE's Office of General Counsel.

AND IT IS SO ORDERED.

(Signature page attached.)

John
Melvin
Kirby, Jr.
090538


Initial

4/11/19
Date

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South Carolina State Board of Education


Del-Gratia Jones, Chair

Columbia, South Carolina
May 14, 2019

I, John Melvin Kirby, Jr., S.C. Educator Certificate 090538, understand there has been an investigation concerning alleged violations of the laws and regulations governing the practice of educator certificate holders and that I have waived my right to a hearing in this matter. I understand that the terms set forth in this Consent Order of Public Reprimand are not subject to reconsideration, collateral attack or judicial review. I have read the Consent Order of Public Reprimand, consisting of three pages, and I freely and voluntarily agree to the terms set forth therein. I understand that this Order will be presented to the South Carolina State Board of Education for approval on Tuesday, May 14, 2019. I understand this Consent Order will not become effective until approved by the State Board and, if not approved, it shall not constitute an admission against interest in this proceeding or prejudice the right of the State Board to adjudicate this matter.


John Melvin Kirby, Jr.

4/11/19
Date