

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the

Disciplinary Action of the

Educator Certificate of

Shawn Kyle Drake

Certificate 223981

ORDER OF SUSPENSION

(BREACH OF CONTRACT)

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on October 8, 2019. On August 21, 2019, and September 19, 2019, the South Carolina Department of Education (SCDE) sent Shawn Kyle Drake a notice via regular and certified mail of his right to a hearing regarding the possible suspension of his South Carolina educator certificate. On September 26, 2019, Mr. Drake informed the SCDE that he understood his rights and that he would allow the matter to proceed as a default.

After considering the evidence presented, the State Board voted to suspend Mr. Drake's educator certificate for a period of one year, commencing October 8, 2019, and ending October 6, 2020.

FINDINGS OF FACT

This case concerns a formal complaint of the Fairfield County School District (District) seeking the suspension of the educator certificate of Shawn Kyle Drake 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 24, 2018, Mr. Drake signed a contractual agreement with the District to serve as a teacher for 2018-19 school year. On January 28, 2019, Mr. Drake submitted his resignation to the District, effective February 8, 2019. He informed the District he would be starting at his new job on February 11, 2019. On February 1, 2019, the District informed Mr. Drake he would not be released from contract until and unless a replacement was found. He was further informed that his resignation may constitute a breach of contract and could be reported to the SCDE for action against his educator certification. The

District Board voted to report Mr. Drake's breach of contract to the SCDE on February 19, 2019.

After considering the evidence, the State Board finds that the evidence presented demonstrates that Mr. Drake breached his contract with the District, and that just cause exists to suspend Mr. Drake's certificate 223981 for a period of one year, commencing on October 8, 2019, and ending on October 6, 2019.

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 Mr. Drake 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 Shawn Kyle Drake for a period of one year, commencing on October 8, 2019, and ending on October 6, 2020.

If Mr. Drake 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 reinstatement. Mr. Drake shall also pay the applicable reinstatement fee. The suspension of Mr. Drake's educator certificate 223981 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/Del-Gratia Jones
Del-Gratia Jones, Chair

Columbia, South Carolina
October 8, 2019