

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the
Disciplinary Action of the
Educator Certificate of
James E. Winbush
Certificate 213156

CONSENT ORDER OF SUSPENSION

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on October 8, 2019. On January 25, 2017, the South Carolina Department of Education (SCDE) sent notice via regular and certified mail, return receipt requested, to James E. Winbush concerning the pending action against his educator certificate 213156. After further allegations emerged, the SCDE sent Dr. Winbush a second notice letter on December 21, 2018, via regular and certified mail, return receipt requested, informing him of an additional action against his educator certificate 213156. After Dr. Winbush received the notice, his legal counsel contacted the SCDE and agreed Dr. Winbush would waive his right to a hearing and would enter into this Consent Order of Suspension of his educator certificate 213156 for a retroactive period of two years, commencing on May 14, 2017 and ending on May 14, 2019. After considering the evidence provided, the State Board has agreed to accept the Consent Order of Suspension for James E. Winbush.

FINDINGS OF FACT

Dr. Winbush holds a South Carolina educator certificate and has seventeen years of teaching experience. Dr. Winbush was employed by the Charleston County School District (District) as Associate Superintendent of the Middle School Learning Community.

In January of 2016, Dr. Winbush was placed on administrative leave while the District investigated his use of two personal bank accounts for the purpose of handling personal funds donated to schools for events not financially supported by the District. Using his name and social security number, he opened two checking accounts, one entitled, "Innovation Zone Learning Community," and another entitled, "Middle School Learning Community." At the time, there was no District policy regarding private

James E. Winbush

213156

JEB

Initial

09/30/19

Date

donations to the District. The District was aware of Dr. Winbush's activities and his fundraising efforts, and for several years the District publicized and supported his efforts. In 2016, a new administration performed an audit of Dr. Winbush's accounts (conducted by the District's Director of Internal Audit) and that audit revealed deposits were made into the accounts and money was withdrawn in large amounts; however, there was no way to determine the use of the money. Dr. Winbush also obtained gift cards, but, similarly, there was no accounting of where the money was spent or deposited. The total amount unaccounted for between 2012 and 2016 was \$49,908.76. However, Dr. Winbush subsequently provided receipts to the District's legal Department for most of the activities and thereafter provided his attorney additional receipts which the District never requested to review. Dr. Winbush had to file suit to defend his reputation. The District eventually paid Dr. Winbush \$100,000 and wrote him a letter of recommendation. Subsequently, on July 19, 2018, SLED found all funds associated with its investigation were private funds.

While the aforementioned matter was still pending, the SCDE was made aware of an investigation by the District into an allegation that Dr. Winbush allowed a teacher on administrative leave for potentially possessing child pornography to return to work at the school, where the teacher subsequently sexually assaulted two elementary school students. Wilbur E. Johnson, Esquire, of the law firm Young, Clement, and Rivers, LLP, conducted the investigation on behalf of the District, and Mr. Johnson compiled a report outlining the essential facts and circumstances of the case, which are as follows:

In January of 2014, an employee of the District reported that his laptop was not functioning correctly. A member of the IT staff examined the browser history and noticed a "disturbing" browser history that included visits to pornographic websites. The employee admitted viewing "adult" pornographic content on the laptop. Following this revelation, Dr. Winbush indicated he put the employee on paid administrative leave; however, there is no documentation regarding this disciplinary matter. The Director of

James E. Winbush
213156
JEW
Initial
9/30/19
Date

Security for the District contacted the North Charleston Police Department (NCPD). In an email to the NCPD, an IT employee with the district noted the laptop browser history included the website, "101 Boy Videos." The NCPD subsequently requested the IT employee bring the laptop to them for a forensic examination, which ultimately took two years.

During the pendency of the investigation by law enforcement, the employee was allowed to return to work. Yet, on May 15, 2014, Dr. Winbush was told in an email for the first time that the employee's computer was turned over to the NCPD and that NCPD had not yet gotten back to CCSD. The email explained that a detective had called Jeff Scott in Security and questioned why the employee was at work, as the detective knew his laptop was being screened for pornography that may include underage models. Based on the length of time this situation had taken, Dr. Winbush took no action to remove the employee from work after receiving this email, nor did anyone else at the District, who arguably share some of the responsibility with regard to personnel matters.

When asked how the employee was allowed to return to work, Dr. Winbush replied the employee has been "returned to work and reprimanded." Dr. Winbush did not complete any documentation memorializing this decision, nor did other District administrators whose could have taken on the task. Mr. Johnson's inquiry revealed that Dr. Winbush had previously loaned the employee money and, after the employee returned to work, Dr. Winbush sent him communications arranging to be reimbursed. Dr. Winbush admits he did loan the employee money when he was going through a divorce. In January of 2016, the NCPD finally reviewed the laptop and concluded it had been used to access child pornography and the employee was arrested. Dr. Winbush had already been placed on leave due to the incident regarding the audit of private donations outlined above. After further investigation, the employee was charged with third degree criminal sexual conduct with a minor and first degree sexual exploitation of a minor stemming from acts of abuse upon two elementary school students that occurred after Dr. Winbush

James E. Winbush
213156
JEW
Initial
9/30/19
Date

allowed the employee to return to school with the same knowledge and acquiescence imputed to the District's Employee Relations Investigator and Lawyer. The Principal of the school was never made aware there was an allegation the employee viewed child pornography.

Dr. Winbush has agreed to waive his right to a hearing and to resolve this disciplinary matter by entering into an alternate resolution to the action against his educator certificate. Dr. Winbush agreed that his educator's certificate will be suspended for a period of two years, commencing on May 14, 2017 and ending on May 14, 2019. After considering the evidence presented, the State Board voted to accept the Consent Order of Suspension with the terms set above.

CONCLUSIONS OF LAW

"The South Carolina Board of Education may, for just cause, 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, willful neglect of duty, any conduct involving moral turpitude, and evident unfitness for the position for which one is employed." S.C. Code Ann. § 59-25-160 (2017); 2 S.C. Code Regs 43-58 (2017). The State Board finds that Dr. Winbush has committed acts of unprofessional conduct and that just cause exists for the suspension of Dr. Winbush's South Carolina educator certificate for a period of two years, commencing on May 14, 2017 and ending on May 14, 2019.

Now, therefore, it is hereby ordered that the educator certificate of James E. Winbush, certificate 213156, is suspended for a period of two years, commencing on May 14, 2017 and ending on May 14, 2019. If Dr. Winbush wishes to have his certificate reinstated at the conclusion of the period of suspension, he shall make a written request to the SCDE's Office of Educator Services. Dr. Winbush shall be responsible for meeting all certification requirements in effect at the time he requests reinstatement and for the payment of any applicable reinstatement fees. The suspension of Dr. Winbush's educator

James E. Winbush
213156
JEW
Initial
9/30/19
Date

certificate shall be reported to the NASDTEC Clearinghouse and all South Carolina school districts within thirty days from the date of this order.

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

I, James E. Winbush, S.C. Educator Certificate 213156, understand there has been an investigation concerning alleged violations of the laws and regulations governing the practice of education certificate holders and that I have waived my right to a hearing in this matter. I understand the terms set forth in this Consent Order of Suspension are not subject to reconsideration, collateral attack or judicial review. I agree to the terms of this Consent Order of Suspension, consisting of four pages, and understand that this Order will be presented to the State Board for approval on October 8, 2019. I also agree to not work in any capacity at a South Carolina public school during the term of my suspension. 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. If approved by the State Board, I give the SCDE permission to use my electronic signature in the style of “/S/ name” for required website publication.

s/James E. Winbush
James E. Winbush

9/30/19
Date