

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the Suspension)
)
of the Educator Certificate of) **ORDER OF SUSPENSION**
)
James E. Berry Jr.,) **(BREACH OF CONTRACT)**
)
Certificate 250174)

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on February 10, 2011. On December 14, 2010, the South Carolina Department of Education (SCDE) sent James E. Berry Jr. a notice of his right to a hearing regarding the possible suspension of his South Carolina educator certificate, by regular and certified mail, return receipt requested, delivery restricted to addressee. On December 17, 2010, Mr. Berry received the notice as evidenced by a postal receipt bearing his signature. Ms. Berry did not contact the SCDE to request a hearing within the time specified in the notice and is now in default.

After considering the evidence presented, the State Board voted to suspend Mr. Berry's educator certificate for a period of one year, commencing on February 10, 2011, and ending on February 9, 2012.

FINDINGS OF FACT

This case concerns a formal complaint by the Lee County School District (District) seeking the suspension of the educator certificate of James E. Berry Jr., for breach of contract. The State Board has jurisdiction in this matter, pursuant to S.C. Code Ann. § 59-25-150 (2004) and S.C. Code Ann § 59-25-530 (2004).

Mr. Berry holds a valid South Carolina educator certificate and has less than one year of teaching experience. On July 29, 2010, Mr. Berry signed a Contractual Agreement with the District for the 2010-2011 school year to work as a sixth grade social studies teacher at Lee Central Middle School. On August 18, 2010, Mr. Berry sent a letter of resignation to the Lee County School District stating that he would resign from the District, effective August 20, 2010, because he planned to accept a position that would allow him to return to graduate school to pursue his interest in history.

On August 23, 2010, the District Director of Human Resources and Communications sent a letter to Mr. Berry stating that the District would make a recommendation to the Board of Trustees to petition the SCDE to suspend his teaching license for breach of contract.

On September 3, 2010, the Lee County Board of Trustees approved the superintendent's recommendation to terminate Mr. Berry's employment with the District, effective September 7, 2010, and to initiate proceedings to suspend his educator certificate for breach of contract.

On December 14, 2010, the SCDE sent Mr. Berry a notice of his right to a hearing regarding the possible suspension of his South Carolina educator certificate, by regular and certified mail, return receipt requested, delivery restricted to addressee. On December 17, 2010, Mr. Berry received the notice as evidenced by a postal receipt bearing his signature. Mr. Berry did not contact the SCDE to request a hearing within the time specified in the notice and is now in default.

After considering the evidence presented, the State Board finds that the evidence presented demonstrates that Mr. Berry engaged in unprofessional conduct when he breached his contract with the District, and that just cause exists to suspend Mr. Berry's educator certificate for a period of one year, commencing on February 10, 2011, and ending on February 9, 2012.

CONCLUSIONS OF LAW

"The State Board of Education may, for just cause, either revoke or suspend the certificate of any person." S.C. Code Ann. § 59-25-150 (2004). 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) (2004). Pursuant to 24 S.C. Code Regs. 43-58 (2) and (14) (Supp. 2010), the State Board of Education has the legal authority to suspend, *inter alia*, a certificate for "willful neglect of duty" and "failure to comply with the provisions of a contract without the written consent of the local school board." The State Board finds that the evidence presented demonstrates that Mr. Berry breached his contract and engaged in unprofessional conduct, willfully neglected his duty, and failed to comply with the provisions of his contract without the written consent of the Lee County School District. The evidence presented further supports the State Board's determination that just cause exists to suspend the

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educator certificate of James E. Berry, Jr., certificate 250174, for a period of one year, commencing on February 10, 2011, and ending on February 9, 2012. If Mr. Berry 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 Certification, and shall meet all certification requirements in effect at the time he requests reinstatement. Mr. Berry shall also pay all applicable reinstatement fees. The suspension of Mr. Berry's educator certificate 250174 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 for 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

By: 
Gerrita Postlewait, Chair

Columbia, South Carolina
February 10, 2011