

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the Revocation or)
Suspension of the Educator Certificate of)
John P. Kilgallen,)
Certificate 238917)
_____)

**ORDER OF
SUMMARY SUSPENSION**

SUMMARY OF THE CASE

The Chair of the South Carolina State Board of Education (State Board) considered this matter on October 10, 2012. In accordance with S.C. Code Ann. § 1-23-370(c) (2004), § 59-5-10 (2004), and State Board Rule of Governance BBABA, the South Carolina Department of Education (SCDE) requested that the Chair of the State Board summarily suspend the educator certificate of John P. Kilgallen, certificate 238917, as a result of his being arrested on or about September 27, 2012, in the municipality of Liberty, South Carolina, and being charged with Sexual Battery With a Student, S.C. Code Ann. § 16-3-755 (B) (Supp. 2011). The SCDE has reason to believe that, due to the serious nature of these allegations of misconduct, Mr. Kilgallen may pose a threat to the health, safety and welfare of students that may be under his instruction and that emergency action is required. After considering the evidence presented by the SCDE, the Chair of the State Board finds that Mr. Kilgallen's educator certificate shall be summarily suspended until a due process hearing is held and/or this matter is otherwise resolved. The SCDE is directed to serve notice on Mr. Kilgallen of the summary suspension, as well as the possible suspension or revocation of his educator certificate.

FINDINGS OF FACT

Mr. Kilgallen holds a professional South Carolina educator certificate and has four years of teaching experience. Mr. Kilgallen was previously employed by the Pickens County School District (District) as a science teacher at Easley High School (School). Mr. Kilgallen resigned from his position with the District prior to his arrest.

Mr. Kilgallen was arrested on or about September 27, 2012, in the municipality of Liberty, South Carolina, and charged with Sexual Battery with A Student, S.C. Code Ann. § 16-3-755 (B) (Supp. 2011) based on allegations that between August 26, 2012, and September 13, 2012, Mr. Kilgallen engaged in sexual battery at his home with a victim who was a student at the School. The SCDE has reason to believe that, due to the serious nature of these allegations of misconduct, Mr.

Kilgallen may pose a threat to the health, safety and welfare of students that may be under his instruction and that emergency action is required. After considering the evidence presented by the SCDE, the Chair of the State Board finds that Mr. Kilgallen's educator certificate shall be summarily suspended until a due process hearing is held and/or this matter is otherwise resolved. The SCDE is directed to serve notice on Mr. Kilgallen of the summary suspension, as well as the possible suspension or revocation of his educator certificate.

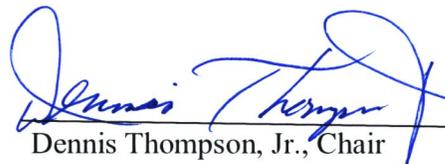
CONCLUSIONS OF LAW

"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 (2004). Just cause includes unprofessional conduct, immorality, any conduct involving moral turpitude, crime against the law of this State, and evident unfitness for position for which employed. S.C. Code Ann. § 59-25-160 (2004); 24 S.C. Code Ann. Regs. 43-58 (2011). In accordance with S.C. Code Ann. § 1-23-370(c) (2004), "If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action." Pursuant to S.C. Code Ann § 59-5-10 (2004) and State Board Rule of Governance BBABA, the Chair of the State Board finds that as a result of the allegations of Mr. Kilgallen's unprofessional conduct, immorality, conduct involving moral turpitude, evident unfitness for position for which employed and his arrest for Sexual Battery of a Student, S.C. Code Ann. § 16-3-755 (B) (Supp. 2011), there is reason to believe that Mr. Kilgallen may pose a threat to the health, safety and welfare of students and that emergency action is required. Accordingly, the educator certificate of John P. Kilgallen, certificate 238917, is summarily suspended until a due process hearing is held and/or this matter is otherwise resolved. The SCDE is directed to serve notice on Mr. Kilgallen of the summary suspension, as well as the possible suspension or revocation of his educator certificate.

AND IT IS SO ORDERED.

South Carolina State Board of Education

By:


Dennis Thompson, Jr., Chair