

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the Revocation or)
Suspension of the Educator Certificate of)
Ellen Lindsay Niemiec,)
Certificate 248438)
_____)

**ORDER OF
SUMMARY SUSPENSION**

SUMMARY OF THE CASE

The Chair of the South Carolina State Board of Education (State Board) considered this matter on May 14, 2014. 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 Ellen Lindsay Niemiec, certificate 248438, as a result of allegations that she engaged in inappropriate conduct of a sexual nature with students.

The SCDE has reason to believe that, due to the serious nature of these allegations of misconduct, Mrs. Niemiec may pose a threat to the health, safety, and welfare of students that may be under her instruction and that emergency action is required. After considering the evidence presented by the SCDE, the Chair of the State Board finds that Mrs. Niemiec'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 Mrs. Niemiec of the summary suspension, as well as, the possible suspension or revocation of her educator certificate.

FINDINGS OF FACT

Mrs. Niemiec holds a professional South Carolina educator certificate and has approximately three years and seven months of teaching experience in South Carolina. Mrs. Niemiec has been employed by the Berkeley County School District (District) since August 2010. During the 2013–2014 school year, the District employed Mrs. Niemiec as a Social Studies teacher at Cross High School (School). The District placed Mrs. Niemiec on administrative leave on April 25, 2014, as a result of an investigation into allegations of Mrs. Niemiec's inappropriate conduct with a student. The District immediately reported these allegations to law enforcement. Mrs. Niemiec resigned from the District, effective April 30, 2014.

On May 8, 2014, the Berkeley County Sheriff's Department arrested Ms. Niemiec and charged her with two felony counts and one misdemeanor count of Sexual Battery of a Student pursuant to S.C. Code Ann. § 16-3-755 (B) & (C) (Supp. 2013) as a result of allegations that she engaged in sexual battery with three male victims who are students at the School.

The SCDE has reason to believe that, due to the serious nature of these allegations of misconduct, Mrs. Niemiec may pose a threat to the health, safety, and welfare of students that may be under her instruction and that emergency action is required. After considering the evidence presented by the SCDE, the Chair of the State Board finds that Mrs. Niemiec' 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 Mrs. Niemiec of the summary suspension, as well as the possible suspension or revocation of her 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, 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 Mrs. Niemiec's inappropriate conduct of a sexual nature with three male students, she has engaged in unprofessional conduct, immorality, conduct involving moral turpitude, and demonstrated evident unfitness for position for which employed. The Chair also finds that there is reason to believe that Mrs. Niemiec may pose a threat to the health, safety, and welfare of students and that emergency action is required. Accordingly, the educator certificate of Ellen Lindsay Niemiec, certificate 248438, 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 Mrs. Niemiec of the summary suspension, as well as, the possible suspension or revocation of her educator certificate. The suspension of Mrs. Niemiec's educator certificate 248438 shall be immediately reported to the NASDTEC Clearinghouse and all South Carolina school districts.

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AND IT IS SO ORDERED.

South Carolina State Board of Education

By: 
Barry F. Bolen, Chair

Columbia, South Carolina
May 14, 2014