

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the
Disciplinary Action of the
Educator Certificate of
Donna R. Timko
Certificate 904489

CONSENT ORDER OF SUSPENSION

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on February 11, 2020. On September 17, 2019, the South Carolina Department of Education (SCDE) sent Donna R. Timko a notice via regular and certified mail of her right to a hearing regarding the possible suspension of her South Carolina educator certificate. On September 26, 2019, Ms. Timko requested a hearing in the matter. Prior to the hearing in the case, Ms. Timko contacted the SCDE and agreed to waive her right to a hearing and enter into this Consent Order of Suspension.

After considering the evidence presented, the State Board voted to suspend Ms. Timko's educator certificate for a period of one year, commencing February 11, 2020, and ending February 9, 2021.

FINDINGS OF FACT

This case concerns a formal complaint from the Berkeley County School District (District) seeking the suspension of the educator certificate of Ms. Timko 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 May 2, 2019, Ms. Timko signed a contractual agreement with the District to serve as a teacher for the 2019-2020 school year. On May 30, 2019, Ms. Timko submitted her resignation to the District, effective July 31, 2019. She informed the District that she was resigning to take a position at a college.

After receiving Ms. Timko's resignation, the District informed her she would not be released from her contract until a suitable replacement was found. She was further informed of the consequences of failing to report to work. On August 16, 2019, the District

Donna R. Timko, 904489

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Initial

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sent Ms. Timko a letter outlining the District policy on resignations and informing her that she failed to report to work and was therefore in breach of contract. Ms. Timko was informed the Berkeley County School District Board would determine whether the breach would be reported to the SCDE. The Berkeley County School District Board subsequently voted to report Ms. Timko's breach of contract to the SCDE on August 27, 2019.

After considering the evidence, the State Board finds that the evidence presented demonstrates that Ms. Timko breached her contract with the District, and that just cause exists to suspend Ms. Timko's certificate 904489 for a period of one year, commencing on February 11, 2020, and ending on February 9, 2021.

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 Ms. Timko breached her 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 Donna R. Timko for a period of one year,

commencing on February 11, 2020, and ending on February 9, 2021. If Ms. Timko wishes to have her educator certificate reinstated at the end of the suspension period, she shall make a written request to the SCDE's Office of Educator Services, and shall meet all certification requirements in effect at the time she requests reinstatement. Ms. Timko shall also pay the applicable reinstatement fee. The suspension of Ms. Timko's educator certificate 904489 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/Michael Brennan
Michael Brennan, Chair

Columbia, South Carolina
February 11, 2020

I, Donna R. Timko, S.C. Educator Certificate 904489, understand there has been an investigation concerning alleged violations of the laws and regulations governing the practice of educator certificate holders and that I have waived my right to a hearing in this matter. I understand that the terms set forth in this Consent Order of Suspension are not subject to reconsideration, collateral attack or judicial review. I have read the Consent Order of Suspension, consisting of three pages, and I freely and voluntarily agree to the terms set forth therein. I understand that this Order will be presented to the South Carolina State Board of Education for approval on Tuesday, February 11, 2020. 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.

Donna R. Timko
Donna R. Timko

02/02/2020
Date