

BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the
Disciplinary Action of the
Educator Certificate of
Niya Maria Jay
Certificate 276243

ORDER OF SUSPENSION
(Breach of Contract)

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on July 14, 2020. The South Carolina Department of Education (SCDE) notified Niya Maria Jay of potential disciplinary action against her teaching certificate and informed her of her right to a hearing via a certified letter dated October 29, 2019. Ms. Jay timely requested a hearing and such was held on March 5, 2020. On March 27, 2020, the SCDE and Ms. Jay received the hearing officer's final report and recommendation. After considering the evidence presented, the State Board hereby voted to suspend Ms. Jay's educator certificate for a period of two months, commencing on July 14, 2020 and ending on September 13, 2020.

FINDINGS OF FACT

This case concerns a formal complaint by the Richland County School District One (District) seeking the suspension of Ms. Jay's educator certificate for breach of contract. The State Board has jurisdiction in this matter, pursuant to S.C. Code Ann. § 59-25-150 (2004). Ms. Jay holds a valid South Carolina professional educator certificate and has over seven years of experience. She has no prior record of disciplinary action with the State Board.

On May 9, 2019, Ms. Jay signed an employment contract as a teacher for the District for the 2019-20 school year. On July 8, 2019, Ms. Jay submitted a notice of separation to the District and received a conditional release. The conditional release was dependent on the District finding a suitable replacement for Ms. Jay's position. Although she was not officially released from her contract, Ms. Jay relocated to Clover, South Carolina. When Ms. Jay did not report to work at the beginning of the school year, the District sent her a formal notice reminding her she was not officially released from her

contract and that she should return to work by September 16, 2019. On October 8, 2019, the District sent a second notice informing Ms. Jay the District Board would be asked to seek suspension of her certification. The District Board subsequently voted to report Ms. Jay to the SCDE as a breach of contract.

During the hearing, the Hearing Officer found Ms. Jay did breach her contract with the District. However, as a mitigating circumstance, the Hearing Officer considered Ms. Jay's lack of notice from the District. Ms. Jay testified she informed a District employee of her address change but did not submit the change to the District's official system. The District employee that knew of the change did not enter it into the system or instruct Ms. Jay to do so herself. Therefore, the District's final notices were never addressed to her new location in Clover.

After considering the evidence presented and the mitigating circumstances surrounding the breach, the State Board finds that Ms. Jay breached her contract with the District. Accordingly, the State Board finds that just cause exists to accept the recommendation of the hearing officer and suspend Ms. Jay's educator certificate for a period of two months, commencing on July 14, 2020, and ending on September 13, 2020.

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); The State Board may, for just cause, issue a public reprimand. S.C. Code Ann. Regs. 43-58 (2018). Just cause includes unprofessional conduct. S.C. Code Ann. §59-25-160. The State Board finds that the evidence presented supports its conclusion that just cause exists to suspend the professional educator certificate of Niya Maria Jay in this matter. The State Board finds that just cause exists to accept the recommendation of the hearing officer and suspend Ms. Jay's educator certificate for a period of two months, commencing on July 14, 2020 and ending on September 13, 2020.

If Ms. Jay 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

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Services, and shall meet all certification requirements in effect at the time she requests reinstatement. Ms. Jay shall also pay the applicable reinstatement fee. The suspension of Niya Maria Jay's educator certificate 276243 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
July 14, 2020