

STATE OF SOUTH DAKOTA) DIVISION OF THE SECRETARY
) :SS
 COUNTY OF HUGHES) SOUTH DAKOTA DEPT. OF EDUCATION

In the Matter of the
 Revocation of the
 Certificate of
 Paul E. Hildebrant.

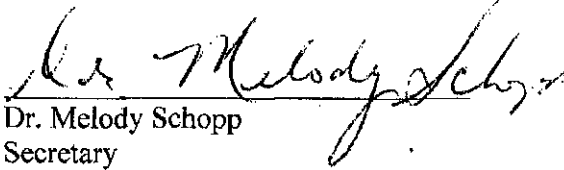
)
) DSE 2614-04
) PTPSC 2014-03
) **ORDER REVOKING**
) **SOUTH DAKOTA TEACHER**
) **CERTIFICATION**
)

Pursuant to the authority granted to the Secretary of the South Dakota Department of Education by SDCL 13-43-28.1 and 13-42-9, following receipt of a Complaint for the Revocation of a certificate dated July 21, 2014, from the South Dakota Professional Teachers Practices and Standards Commission, and after review of the entire record of the hearing before the Commission, the Secretary orders the following:

1. The Secretary affirms and adopts the Findings of Fact and Conclusions of Law of the Commission. These findings and conclusions, attached as Exhibit A, are hereby incorporated into this Order by this reference as if set forth in full.
2. Based upon the foregoing Findings of Fact and Conclusions of Law, the certificate of Paul Eugene Hildebrant (#47433-4) is hereby **permanently, immediately revoked**.
3. Notification of this revocation will be placed on the NASDTEC registry and be placed in Paul Eugene Hildebrant's permanent certification file within the South Dakota Department of Education.
4. This Order and findings and conclusions will be provided to Paul Eugene Hildebrant and his counsel, the executive secretary of the Professional Teachers Practices and Standards Commission and its counsel, the complainant before the Commission and her counsel, and the school district where Paul Eugene Hildebrant was last employed and its counsel.
5. This Order and incorporated findings and conclusions are a public record pursuant to SDCL Chapter 1-27 and 1-26-2. See PTPSC v. Tuma, Hughes Co. Civ. 08-170, Letter Decision Re: Respondent's Motion to Seal Court File (Wilbur, J., July 18, 2008).

This ORDER constitutes final agency action.

Dated this 19th day of August, 2014.

A handwritten signature in cursive script, appearing to read "Dr. Melody Schopp", written over a horizontal line.

Dr. Melody Schopp
Secretary
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501

STATE OF SOUTH DAKOTA)	PROFESSIONAL TEACHERS
)	
COUNTY OF HUGHES)	PRACTICES AND STANDARDS COMMISSION

CARLA LEINGANG,)	
ADMINISTRATOR, OFFICE OF)	PTPSC 2014-03
CERTIFICATION AND TEACHER)	
QUALITY, SD DEPT. OF EDUCATION,)	
)	FINDINGS OF FACT
COMPLAINANT,)	CONCLUSIONS OF LAW
v.)	AND ORDER
)	
PAUL EUGENE HILDEBRANT,)	
)	
RESPONDENT.)	

This matter came on for hearing pursuant to the provisions of SDCL 13-43-28 before the South Dakota Professional Teachers Practices and Standards Commission on June 26, 2014 in Conference Room 1, MacKay Building, 800 Governors Drive, Pierre, South Dakota as previously scheduled and duly and formally noticed for hearing.

The following members of the South Dakota Professional Teachers Practices and Standards Commission (Commission) were present at the hearing: Connie Gretschmann, Thomas Keck, Bev Kopren and Tammy Jo Schlechter. Paul E. Bachand, counsel for the Commission, and Ferne Haddock, Executive Secretary of the Commission, were also present. Attorney Bobbi Rank appeared along with Carla Leingang. Paul Eugene Hildebrant failed to appear at the hearing.

Based upon Hildebrant's failure to appear at the hearing, the evidence presented by the complainant and the records on file, the Commission makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Hildebrant is the holder of a valid South Dakota Teaching Certificate No. 47433-04 issued on September 12, 2013 and expiring on July 1, 2014.
2. On March 17, 2014, Carla Leingang, Administrator, Office of Certification and Teacher Quality, South Dakota Department of Education, filed a complaint against Hildebrant with the Commission.
3. The complaint alleged that Hildebrant violated sections of the South Dakota Code of and Professional Ethics for Teachers.
4. The complaint was served on Hildebrant on or about March 19, 2014.

5. A due and proper notice of hearing was served on Hildebrant advising him of the time and place of the hearing.
6. A hearing on the complaint was held on June 26, 2014 at Conference Room 1, MacKay Building, 800 Governors Drive, Pierre, South Dakota.
7. Hildebrant failed to appear at the June 26, 2014 hearing to request a private hearing so a public hearing occurred.
8. Hildebrant's failure to appear at the hearing constitutes an admission of the allegations contained in the complaint.
9. On or about January 2, 1990, Hildebrant was charged with Failure to Report Accident to Police Officer (SDCL 32-34-7 – class 2 misdemeanor) in Brown County, South Dakota. On or about January 8, 1990, Hildebrant pled guilty to this offense and was sentenced to thirty days in jail, suspended on certain conditions.
10. On or about July 20, 1990, Hildebrant applied for a teaching certificate. He answered "No" to the following question on the application: "Have you ever been convicted of any crime involving moral turpitude, including traffic in narcotics?"
11. On or about July 31, 1990, Hildebrant was issued certificate number 47433-00. This certificate was valid until July 1, 1995.
12. On or about July 4, 1992, Hildebrant was charged with Possession of Marijuana Less than ½ Pound (SDCL 22-42-6 – class 1 misdemeanor) in Brown County, South Dakota. On or about November 3, 1992, this charge was dismissed.
13. On or about July 6, 1992, Hildebrant was charged with Possession of Marijuana Less than ½ Pound (class 1 misdemeanor) and Use or Possession of Drug Paraphernalia (SDCL 22-42A-3 – class 2 misdemeanor) in Brown County, South Dakota. On or about November 3, 1992, these charges were dismissed.
14. On or about January 15, 1993, Hildebrant was charged with Use or Possession of Drug Paraphernalia (class 2 misdemeanor) in Brown County, South Dakota. On or about March 3, 1993, the paraphernalia charge was dismissed.
15. On or about April 30, 1995, Hildebrant was charged with Open Container (SDCL 35-1-9.1 – class 2 misdemeanor) in Faulk County, South Dakota. On or about May 16, 1995, Hildebrant pled guilty to this offense by paying a fine.
16. On or about August 5, 1995, Hildebrant was charged with Failure to Report an Accident with Unattended Vehicle (SDCL 32-34-4 - class 2 misdemeanor) in Faulk County, South Dakota. On or about October 20, 1995, Hildebrant pled guilty to this offense by paying a fine.

17. On or about August 25, 1995, Hildebrant applied to renew his teaching certificate. He answered "No" to the following question on the application: "Have you, since your previous certificate was issued, been convicted of any crime involving moral turpitude, including traffic in narcotics?"
18. On or about September 12, 1995, Hildebrandt was issued certificate number 47433-01. This certificate was valid until July 1, 2000.
19. On or about February 16, 1996, Hildebrant was arrested for Driving Under the Influence – First Offense (SDCL 32-23-2 – class 1 misdemeanor) in Spink County, South Dakota. On or about February 29, 1996, Hildebrant pled guilty to the DUI charge and was sentenced to sixty days in jail with fifty-seven days suspended on certain conditions.
20. On or about January 18, 1997, Hildebrant was charged with Failure to Report Accident to Police Officer (class 2 misdemeanor), Reckless Driving (SDCL 32-24-1 – Class 1 misdemeanor), Open Container (class 2 misdemeanor), Use or Possession of Drug Paraphernalia (class 2 misdemeanor), and Possession of Marijuana Less than ½ Pound (class 1 misdemeanor) in Faulk County, South Dakota. On or about August 5, 1997, Hildebrant pled guilty to Failure to Report Accident to Police Officer, Reckless Driving, and Open Container and was sentenced to 100 days in jail on the Reckless Driving and ten days in jail on the other charges, with all but one day of the jail time suspended on certain conditions. The remaining charges were dismissed.
21. On or about March 30, 1998, Hildebrant was charged with Insufficient Funds Check – Third Degree (SDCL 22-41-1, class 2 misdemeanor) in Brown County, South Dakota. On or about May 22, 1998, Hildebrant pled guilty to this offense and was sentenced to thirty days in jail, suspended on certain conditions.
22. On or about March 28, 2003, Hildebrant applied to renew his teaching certificate. On the application, Hildebrant answered "No" to the following question:

Have you ever, or since your previous certificate was issued, been summoned, arrested, taken into custody, indicted, convicted OR tried for, OR charged with, OR pleaded guilty to, any felony or misdemeanor crime involving moral turpitude, including traffic in either controlled substances or marijuana, or both? Note that the term CRIME does include a misdemeanor, a gross misdemeanor, a felony, or a charge which resulted in a stay of imposition of sentence.
23. On or about May 27, 2003, Hildebrant was issued certification number 47433-02. This certificate was valid until July 1, 2008.
24. On or about December 9, 2005, Hildebrant was charged with No Driver's License (SDCL 32-12-22 - class 2 misdemeanor) in Walworth County, South Dakota. On or about December 27, 2005, Hildebrant pled guilty by paying a fine.

25. On or about August 19, 2008, Hildebrant applied to renew his teaching certificate. On the 2008 application, Hildebrant made the following affirmation:

I declare and affirm under penalties of perjury pursuant to SDCL 22-29-9.1 that this application has been examined by me, and to the best of my knowledge and belief, is in all things true, accurate, complete and correct. I understand that any intentional falsification, misrepresentation or omission of facts or falsification of statements on accompanying documents may result in criminal charges and/or the denial of certification, and could affect the status of my teaching or school administrative certificate.

26. Hildebrant answered "Yes" to question 1 of the application, which asked: Have you ever been charged, indicted, summoned, or tried in any criminal matter?
27. In his explanation for question 1, Hildebrant disclosed "DUI, speeding tickets, reckless driving."
28. In response to question 1, Hildebrant failed to disclose the marijuana related charges referenced in paragraphs 12-14 and 20 herein.
29. Hildebrant answered "Yes" to question 2 of the application, which asked: Have you ever been convicted or pled guilty to any crime?

The term conviction includes a finding of guilt by a judge or jury, or admission of guilt or plea of guilty, or a plea without an admission of guilt. You must include those crimes where the sentence was stayed, suspended, executed or you received a suspended imposition of sentence.

The term crime includes misdemeanor and felony offenses. It does not include petty offenses such as minor traffic offenses, including but not limited to speeding tickets, stop sign violations, or careless driving. If you are not sure whether the crime would be a minor offense, please include the offense.

30. In his explanation for question 2, Hildebrant disclosed "DUI, speeding tickets, reckless driving."
31. In response to question 2, Hildebrant failed to disclose his convictions for failure to report an accident, insufficient funds check, and open container.
32. On or about August 19, 2008, Hildebrant was issued certificate number 47433-03. This certificate was valid until July 1, 2013.
33. On or about March 22, 2013, Hildebrant was charged with Possession of Two Ounces of Marijuana or Less (SDCL 22-42-6 - class 1 misdemeanor), Ingesting (SDCL 22-42-15 - class 1 misdemeanor), Possession of Drug Paraphernalia (class 2 misdemeanor), and Unlicensed

Vehicle (SDCL 32-5-98 - class 2 misdemeanor) in Walworth County, South Dakota. On or about May 24, 2013, these charges were dismissed due to a deferred prosecution agreement.

34. On or about July 23, 2013, Hildebrant applied to renew his teaching certificate. On the 2013 application, Hildebrant made the following affirmation:

I declare and affirm under penalties of perjury pursuant to SDCL 22-29-9.1 that this application has been examined by me, and to the best of my knowledge and belief, is in all things true, accurate, complete and correct. I understand that any intentional falsification, misrepresentation or omission of facts or falsification of statements on accompanying documents may result in criminal charges and/or the denial of certification, and could affect the status of my teaching or school administrative certificate.

35. Hildebrant answered "No" to question 1 of the application, which asked: Since your last certification was issued, have you been arrested or charged with any criminal offense?

The term criminal offense includes misdemeanor and felony offenses. It does not include petty offenses such as minor traffic offenses, including but not limited to: Speeding tickets, stop sign violations, or careless driving offenses. If you are not sure whether the crime would be a minor offense, please include the offense. All class 1 misdemeanor offenses and Class II non-traffic misdemeanor offenses must be disclosed.

36. Hildebrant failed to disclose the charges referenced in paragraph 33 herein.

37. On or about September 12, 2013, Hildebrant was issued certificate number 47433-04. This certificate expires July 1, 2014.

38. On or about September 17, 2013, Hildebrant was charged with Possession of Two Ounces of Marijuana or Less (class 1 misdemeanor), Ingesting (class 1 misdemeanor), and Possession of Drug Paraphernalia (class 2 misdemeanor) in Dewey County, South Dakota. On or about September 30, 2013, Hildebrant pled guilty to Ingesting and was sentenced to thirty days in jail, suspended on certain conditions, including one year unsupervised probation and a drug evaluation. The remaining charges were dismissed.

39. On September 17, 2013, Hildebrandt was employed as a teacher with the Timber Lake school district in Timber Lake, South Dakota.

40. On September 17, 2013, law enforcement officers and a canine handler conducted an examination of the schools parking lot.

41. During the examination, the drug dog alerted to a Geo Prism. Officers learned that the Geo Prism belonged to Hildebrant and he was contacted by Timber Lake School personnel to report to the parking lot.

42. Once at the parking lot, Hildebrant admitted that the vehicle was his, but denied that it contained any contraband.
43. A subsequent search of Hildebrant's vehicle uncovered marijuana and a marijuana pipe disguised as a cigarette.
44. Based upon the marijuana and marijuana pipe discovered in Hildebrant's vehicle, law enforcement arrested Hildebrant.
45. Hildebrant subsequently agreed to provide a urine sample to law enforcement. An analysis by the South Dakota Department of Health Public Health Laboratory determined that THC, the active component of marijuana, was present in Hildebrant's urine.
46. Hildebrant had marijuana in his system while he was teaching on September 17, 2013 at the Timber Lake School.
47. On or about September 18, 2013, Hildebrant was recharged with the offenses referenced in paragraph 33 herein in Walworth County, South Dakota. On or about October 7, 2013, Hildebrant pled guilty to Ingesting and was sentenced to five days in jail, suspended on conditions. The remaining charges were dismissed.
48. Hildebrant's acts in failing to submit truthful information on his teaching certificate applications and his commission of acts that have resulted in convictions, violates the following code of ethics for teachers:

ARSD § 24:08:03:02.

(7) Engage in no act that results in a conviction;

(8) Exemplify high moral standards by not engaging in or becoming a party to such activities as ... deceit, moral turpitude, gross immorality ... illegal drugs, or use of misleading or false statements.

49. Evidence regarding Hildebrant's criminal history and application history exceeding five years from the date the complaint was filed with the commission is relevant because that evidence shows a pattern of behavior and omissions which is relevant to both Hildebrant's intent and the penalty which should be imposed.

Based upon the foregoing findings of fact, the Commission hereby issues the following conclusions of law:

CONCLUSIONS OF LAW

50. The Commission has jurisdiction over this matter pursuant to SDCL 13-43-28 and 13-43-28.1, SDCL Ch. 1-26, and the Administrative Rules of South Dakota, Chapters 24:08:03 and 24:08:04.01.

51. Hildebrant's failure to appear at the hearing acts as an admission to all items alleged in the complaint.
52. The burden of proof in this matter at a contested case hearing is clear and convincing. In Re: Setliff, 202 SD 58, 645 N.W.2d 601, 605.
53. The complainant has met the burden of proof as a result of the testimony and exhibits presented at the hearing regardless of Hildebrant's default due to his failure to appear at the hearing.
54. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:02 that in fulfilling their obligations to the profession, educators shall act as follows:
 - (7) Engage in no act that results in a conviction;
 - (8) Exemplify high moral standards by not engaging in or becoming a party to such activities as ... deceit, moral turpitude, gross immorality ... illegal drugs, or use of misleading or false statements.
55. Clear and convincing evidence exists that Hildebrant violated ARSD 24:08:03:02 (7) and (8).
56. Any conclusion of law improperly denoted as a finding of fact is hereby incorporated as a conclusion of law.

Based upon the foregoing findings and conclusions, it is hereby

ORDERED that this matter be referred to the Secretary of the South Dakota Department of Education for proceedings to revoke the teaching certificate of Hildebrant as provided for in SDCL 13-43-28. It is further

ORDERED that a copy of the Findings of Fact, Conclusions of Law and Order be sent to parties herein and to the superintendent and school board president of the Timber Lake School District. It is further

ORDERED that a copy of the Findings of Fact, Conclusions of Law and Order be provided to the Secretary of the South Dakota Department of Education for placement in the Department's permanent certification file and that notice be placed on the NASDTEC clearing house. It is further

ORDERED that the Department may release the Findings of Fact, Conclusions of Law and Order to the certification office of any state in which the respondent holds or applies for a certificate.

Dated this 21st day of July, 2014.

PROFESSIONAL TEACHERS PRACTICES and
STANDARDS COMMISSION

By Thomas Keck
Thomas Keck, Chair
800 Governors Drive
Pierre, SD 57501-2294