

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

In the Matter of the)
Teaching Certificate of)
Gregg Wilson.)
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DSE 2014-16

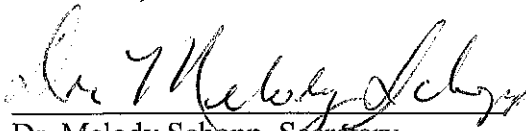
**ORDER SUSPENDING
SOUTH DAKOTA TEACHER
CERTIFICATION**

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 requesting suspension of a certificate from the South Dakota Professional Teachers Practices and Standards Commission, and after review of the complaint, exhibits, and order, the Secretary enters the following order:

1. The Secretary has entered Findings of Fact and Conclusions of Law, which 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 teacher Certificate No. 76039 issued to Gregg Wilson is hereby **suspended for a period of two years**, effective June 30, 2014.
3. In order to be considered for certification at the conclusion of the suspension period, Wilson must reapply and meet all legal requirements for certification at the time of the application.
4. Notification of this suspension will be placed on the NASDTEC registry and be placed in Wilson's permanent certification file within the South Dakota Department of Education.
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 constitutes final agency action.

Dated this 24th day of November, 2014.


Dr. Melody Schopp, Secretary
South Dakota Department of Education

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

In the Matter of the)	DSE 2014-16
Teaching Certificate of)	
Gregg Wilson.)	
)	FINDINGS OF FACT
)	AND CONCLUSIONS OF LAW
)	OF THE SECRETARY

FINDINGS OF FACT

1. Any Finding of Fact more properly designated as a Conclusion of Law is hereby so designated.
2. Gregg Wilson (“Wilson”) was issued South Dakota Teacher Certificate No. 76039 on May 29, 2013. This certificate expired on July 1, 2014, and lapsed on September 30, 2014. All parties have stipulated that Wilson is still subject to licensure action.
3. The last known address of Wilson is 20 North 700 East, Spanish Fork, Utah 84660.
4. On or about April 24, 2014, the Lemmon School District filed a complaint with the South Dakota Teachers Practices and Standards Commission against Wilson alleging that he violated the code of professional ethics for teachers.
5. Specifically, the complaint alleged that Wilson inappropriately had texting and verbal communication with a high school girl and that Wilson violated school district policies through this inappropriate communication.
6. Prior to a hearing on the complaint, the Lemmon School District and Wilson, through their attorneys, entered into the Stipulated Findings of Fact and Conclusions of Law (“Stipulation”) attached hereto as Exhibit A.
7. The stated reason for entering into the Stipulation was “to efficiently resolve the Complaint, and to prevent the Lemmon School District student and her family involved in this Complaint from having to testify at the Noticed hearing...”
8. In the Stipulation, the parties agreed to a two year suspension of Wilson’s certificate. The Stipulation also purported to allow either party to withdraw the Stipulation and proceed to hearing if the Commission did not accept the Stipulation in its entirety.

9. The Commission accepted and adopted the Stipulation and took no additional evidence in regard to the complaint.

10. On or about October 14, 2014, the Commission filed a complaint with the Secretary recommending a two year suspension of Wilson's certificate.

11. Except as otherwise referenced herein, the Secretary adopts from the Stipulation Findings of Fact 1-29, and 32-33.

12. The Secretary rejects Finding of Fact 30 from the Stipulation because Wilson's certificate did not lapse until September 30, 2014. ARSD § 24:15:02:03.

13. The Secretary rejects Finding of Fact 31 from the Stipulation because it is vague and ambiguous.

14. Nothing in the Stipulation explains why Wilson as an assistant boys' basketball coach would need to reach out to a female student to build the athletic program at Lemmon High School. Therefore, that portion of Finding of Fact 14 in the Stipulation is rejected.

15. As student's teacher and supervisor of open gym, Wilson was in a position of authority over student. Wilson abused that authority through his actions.

CONCLUSIONS OF LAW

1. Any Conclusion of Law more properly designated as a Finding of Fact is hereby so designated.

2. The Secretary adopts Conclusions of Law 1-11 from the Stipulation and makes the following additional Conclusions.

3. The authority to issue, deny, suspend and revoke certificates is vested with the Secretary of the Department of Education. SDCL §§ 13-42-4, 13-42-7, 13-42-9, 13-42-15, 13-42-28.1. The Secretary may revoke, suspend, or not issue a teaching certificate for violation of the code of ethics.

4. The Secretary has personal and subject matter jurisdiction in this matter pursuant to the complaint for revocation or suspension filed by the Commission. Although the Commission can make a recommendation regarding a revocation or specific length of suspension, this recommendation is not binding on the Secretary.

5. The Secretary is not bound by the Stipulation before the Commission to a two year suspension, and the parties have no right to withdraw the Stipulation if the Secretary imposes a greater penalty.

6. Wilson admits that he acted as student's friend rather than her teacher. However, it is important to note that Wilson's position of authority over the student would call into question any true friendship.

7. Based upon the foregoing Findings of Fact and Conclusions of Law, the teacher Certificate No. 76039 issued to Gregg Wilson should be **suspended for a period of two years**, effective June 30, 2014.

Dated this 24th day of November, 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)
)SS- SOUTH DAKOTA PROFESSIONAL TEACHERS
COUNTY OF HUGHES) PRACTICES AND STANDARDS COMMISSION

Lemmon School District/Rick Herbel)
209 3rd St. West)
Lemmon, SD 57638,)

PTPSC 2014-04

Complainant,)

**STIPULATED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

vs.)

Gregg Wilson)
[REDACTED])
Respondent.)

On or about April 24, 2014 the South Dakota Professional Teachers Practices and Standards Commission (herein PTPSC) received a complaint from the Lemmon School District #52-4 against Gregg Wilson (herein Wilson). A hearing on the matter was properly noticed and scheduled to take place in front of the PTPSC on September 9, 2014 at 1:30 pm CDT in Conference Room 1, MacKay Building, 800 Governors Drive, Pierre, South Dakota.

Now, in an effort to efficiently resolve the Complaint, and to prevent the Lemmon School District student and her family involved in this Complaint from having to testify at the Noticed hearing, the parties offer the following Stipulated Findings of Fact and Conclusions of Law. The Parties respectfully request the PTPSC consider this proposal for adoption by the PTPSC as a full and final resolution of the above captioned Complaint.

Should the PTPSC not accept this Stipulation in its entirety as a full and final resolution of the above captioned matter, either party reserves the right to withdraw this submission and



proceed to hearing as previously noticed. In that case, none of the proposed Findings of Conclusions contained herein shall be used against either party.

STIPULATED FINDINGS OF FACT

1. Wilson completed his college degree and received Teaching Certification in the state of Utah.
2. Utah issued Wilson a Teaching Certificate on May 13, 2013.
3. Thereafter Wilson applied for an available teaching position at the Lemmon High School located at 209 3rd Street West, Lemmon, South Dakota.
4. Wilson applied for and received a 1 year Teaching Certificate from the State of South Dakota.
5. Wilson ultimately was hired by the Lemmon High School to teach Industrial Arts and to act as the assistant boys basketball coach for the 2013/2014 school year.
6. Wilson moved to Lemmon, SD from Utah on or about August 22, 2013 and began his first year of teaching on August 22, 2013.
7. In addition to Wilson's duties at the Lemmon High School, he also taught at McIntosh High School, 4 times per week.
8. Throughout the 2013/2014 school year Wilson made efforts to become involved in all Lemmon High School sporting events. He and his family attended nearly all basketball games and he came to personally know several of the student athletes.
9. In addition Wilson was assigned and volunteered to work and supervise open gyms scheduled at the Lemmon High School gymnasium.
10. When he worked at the open gym events, he often offered to give students a ride home, and engaged directly with students participating in the open gym event.

11. Wilson also directly invited students to participate in the Industrial Arts program. In an effort to do so, he had an open door policy and invited students to his office.

12. During the 2013/2014 school year, Student attended the Lemmon High School as an 11th grader, a junior.

13. Student was on the girls basketball team and often participated in the open gym events supervised by Wilson.

14. Student is considered a leader at the Lemmon High School both academically and athletically. As a result, Wilson intended to reach out to her for her assistance in building the athletic program at the Lemmon High School and increasing participation in the Industrial Arts program.

15. Wilson obtained Student's personal cell phone number from a student at the Lemmon High School.

16. Wilson communicated with Student on a regular basis via text message.

17. Wilson's communications with Student were not always directly related to either academics or athletic involvement.

18. Wilson invited Student to his office to discuss both school related topics and items of relevance in Student's personal life.

19. Wilson made attempts to involve himself in Student's personal life in addition to Student's academic and athletic life. He utilized communication through personal cell phones via text messages as a means to do so.

20. The Professional Teacher's Practices and Standards Commission has promulgated rules for a code of professional ethics for teachers in South Dakota pursuant to authority granted by South Dakota Law. This code of ethics is found in ARSD 24:08:03.

21. The teacher's code of ethics provides that teachers "maintain a professional relationship with students..." see ARSD 24:08:03:01(7).

22. The teacher's code of ethics provides that teachers, "perform duties in accordance with local, state and federal rules..." see ARSD 24:08:03:03(13).

23. The Lemmon School District had an employee policy which prohibited the following conduct: (i) improper fraternization with students, (ii) staff members providing private phone numbers, (iii) inappropriate phone contact with students.

24. Although Wilson maintains that his direct communication with Student was intended only to build the academic and athletic community at the Lemmon High School, he admits he did not maintain the appropriate professional distance from Student's personal life.

25. Wilson did not intend to put Student in a compromised position, but admits he should not have communicated with Student on Student's private cell phone for the purpose of sending text messages.

26. On or about March 8, 2014 the communication Wilson had with Student came to the attention of Superintendent Rick Herbel. As a result, Mr. Herbel held a meeting on April 14, 2014 with Wilson, Student and Student's parents.

27. During the meeting Wilson admitted he communicated with Student on Student's person cell phone via text message. He admitted his communication with Student went beyond conversation regarding academics or athletics.

28. On April 15, 2014 Wilson's employment with the Lemmon School District was terminated.

29. On April 18, 2014 Wilson and his family moved to Utah.

30. On July 1, 2014 Wilson's 1 year South Dakota Teaching Certificate lapsed.

31. Wilson now lives and works in Utah. He disclosed this matter to his current employer.

32. Wilson admits he violated ARSD 24:08:03:01(7) when he failed to “maintain a professional relationship with students...” when he communicated with Student about Student’s personal life and attempted to become Student’s friend.

33. Wilson admits he violated ARSD 24:08:03:03(13) when he became friends with Student rather than remaining Student’s teacher, when he utilized Student’s personal phone number and when he sent Student personal text messages.

CONCLUSIONS OF LAW

1. The Department of Education, South Dakota Professional Teachers Practices and Standards Commission has jurisdiction over the parties and the subject matter of this proceeding 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.

2. A South Dakota teaching certificate may be revoked, suspended or not issued for violations of the Teacher’s Code of Ethics as set forth by South Dakota administrative rule.

3. Wilson does not currently have an active South Dakota Teacher’s Certificate, however he is still subject to licensure action.

4. 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.

5. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:01 that in fulfilling their obligations to the profession, educators shall act as follows:

- a. (7) Maintain professional relationships with students without exploitation of a student for personal gain or advantage

6. Clear and convincing evidence exists that Wilson violated ARSD 24:08:03:01(7) when he when he communicated with Student about Student's personal life.

7. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:03 that in fulfilling their obligations to the profession, educators shall act as follows:

a. (13) Perform duties in accordance with local, state, and federal rules and laws.

8. Clear and convincing evidence exists that Wilson violated ARSD 24:08:03:03 when he became friends with Student rather than remaining Student's teacher, when he utilized Student's personal phone number and when he sent Student personal text messages.

9. Any conclusion of law improperly denoted as a finding of fact is hereby incorporated as a conclusion of law.

10. Based upon the Findings of Fact and Conclusions of Law, the parties stipulate and agree to a two year suspension of Wilson's teaching certificate and that Wilson will be ineligible to apply for a teaching certificate for two years.

11. The Commission may file a complaint with the Secretary of the Department of Education seeking a two year suspension of Wilson's teaching certificate.

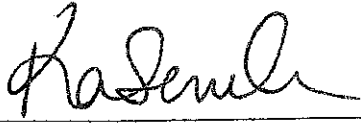
Dated this 24th day of September, 2014.

By: 

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Attorneys for Complainant

Dated this 8 day of September, 2014.

MAY, ADAM, GERDES & THOMPSON, LLP

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