

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

In the Matter of the)	DSE # 2015-06
Revocation of the)	PTPSC # 2014-15
Certificate of)	
Justin Dean Kiefer)	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 April 9, 2015, 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 Justin Dean Kiefer # 74428-0 is hereby **permanently, immediately, REVOKED**.
3. Notification of this revocation shall be placed on the NASDTEC registry and be placed in Justin Dean Kiefer's permanent certification file within the South Dakota Department of Education.
4. This Order and findings and conclusions will be provided to Justin Dean Kiefer, the executive secretary of the Professional Teachers Practices and Standards Commission and its counsel, the complainant before the Commission (and counsel), and the school district where Justin Dean Kiefer was last employed.
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 27 day of April, 2015.

A handwritten signature in cursive script, reading "Dr. Melody Schopp". The signature is written in black ink and is positioned above the printed name.

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

STATE OF SOUTH DAKOTA)	PROFESSIONAL TEACHERS
	ss:	PRACTICES AND STANDARDS
COUNTY OF HUGHES)	COMMISSION
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CARLA LEINGANG, ADMINISTRATOR,)	
OFFICE OF CERTIFICATION AND)	
TEACHER QUALITY, S.D. DEPT. OF)	PTPSC 2014-15
EDUCATION ,)	
)	FINDINGS OF FACT
Complainant,)	CONCLUSIONS OF LAW
)	AND ORDER
v.)	
)	
JUSTIN DEAN KIEFER,)	
)	
Respondent.)	
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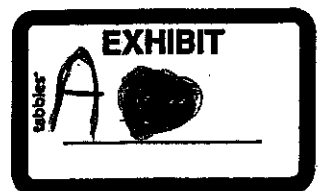
This matter came on for hearing pursuant to the provisions of SDCL 13-43-28 before the South Dakota Professional Teachers Practices and Standards Commission on April 1, 2015, at 1:00 p.m. in Conference Room 1, MacKay Building, 800 Governors Drive, Pierre, South Dakota, as previously scheduled and duly and formally noticed for hearing.

The following members of the South Dakota Professional Teachers Practices and Standards Commission (Commission) were present at the hearing: Michael Amolins, Connie Gretschmann, Thomas Keck, Bev Kopren, Tammy Jo Schlechter and Paul E. Bachand, counsel for the Commission, and Ferne Haddock, Executive Secretary of the Commission, were also present. The complainant personally appeared with attorney Bobbi Rank. Justin Dean Kiefer failed to appear at the hearing and the Commission conducted a public hearing.

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

FINDINGS OF FACT

1. On or about May 5, 2012, Kiefer was issued initial South Dakota teaching certificate number 74428-00. The certificate is valid until July 1, 2017.
2. On or about December 23, 2014, Carla Leingang, Administrator, Office of Certification and Teacher Quality, South Dakota Department of Education, filed a complaint against Kiefer with the Commission.
3. The complaint alleged that Kiefer violated the South Dakota Code of Professional Ethics for Teachers.
4. The complaint was served on Kiefer on or about December 29, 2015.



5. A notice of hearing was served on the parties on or about February 17, 2015. The notice of hearing advised Kiefer that a hearing had been set for April 1, 2015, at Conference Room 1, MacKay Building, 800 Governors Drive, Pierre, South Dakota.
6. Kiefer failed to appear at the hearing.
7. Kiefer's failure to appear at the hearing acts as an admission to the items alleged in the complaint.
8. Kiefer responded to the complaint and his response is attached as Exhibit A.
9. Kiefer's response acts as an admission to the items alleged in the complaint.
10. In the fall of 2013, Kiefer was a 5th grade teacher at Park River Public Schools, Park River, North Dakota.
11. In the fall of 2013, Victim was a sixteen-year-old student at Park River Public Schools, Park River, North Dakota.
12. On or about November 8, 2013, Kiefer unlawfully engaged in sexual intercourse with Victim, a sixteen-year-old juvenile, in Walsh County, North Dakota.
13. On or about November 16, 2013, Kiefer unlawfully engaged in sexual intercourse with Victim, a sixteen-year-old juvenile, in Walsh County, North Dakota.
14. On or about November 26, 2013, Kiefer was charged with two counts of Corruption or Solicitation of a Minor (N.D.C.C. § 12.1-20-5; Class C felony) for engaging in sexual intercourse with Victim, a sixteen-year-old juvenile, in Walsh County, North Dakota.
15. As a part of Kiefer's conditions of release for the offenses listed in paragraph 14 Kiefer was ordered not to have any form of contact or communication with Victim.
16. Between approximately December 16, 2013 and January 20, 2014 Kiefer exchanged dozens of text messages with Victim.
17. The text messages exchanged with Victim included the following:
 - a. "I miss you so much too baby cakes but time will fly and before you know it we will be together" (December 17, 2013).
 - b. "baby I love you so much and I am so sorry for upsetting you I have been driving myself nuts the last few days please talk to me" (December 21, 2013).
 - c. "No stop talkin like that I love you no matter what I like hearing about you but it would just be nice for you to act more like my girlfriend and be sympathetic to me too can you please call me tonight?" (December 22, 2013).
 - d. "Haircut time, gotta get cleaned up before court" (December 23, 2013).

- e. "Well I hope you had a good birthday I went out for a bit with my younger cousin I hated it your mom ruined my life and did something really stupid and is dragging you through the mud along with I hate this I hate my life im losing hope and I don't know what to do why would someone do this to me she ruined my life and shattered my hopes and dreams im such a good person what did I do to deserve this besides falling for you" (January 1, 2014).
 - f. "... I just cannot wait until next year and I cannot wait until you graduate so we can be together we need to start talking about the future and how happy we will be together" (January 2, 2014).
 - g. "Ok I miss when you wanted to talk to me every night but thanks for texting me good luck on your tests I love you" (January 6, 2014)
18. On or about March 18, 2014, Kiefer was charged with 20 counts of Disobedience of a Judicial Order (N.D.C.C. § 12.1-10-05; Class A misdemeanor) for texting the victim of the charges described in paragraph 14 on dozens of occasions, on a phone he provided to Victim, in direct violation of bond conditions imposed by the court in Walsh County, North Dakota.
19. On or about September 9, 2014, Kiefer pled guilty to the two counts of Corruption or Solicitation of a Minor (N.D.C.C. § 12.1-20-5; Class C felony). Kiefer received the following sentence:
- a. Count 1: Incarceration for a term of five years, with three years suspended and credit for 229 days served. He was also placed on probation until September 9, 2019.
 - b. Count 2: Incarceration for a term of five years, with five years suspended. He was also placed on probation until September 9, 2019.
20. On or about September 9, 2014, Keifer pled guilty to two counts of Disobedience of a Judicial Order (N.D.C.C. § 12.1-10-05; Class A misdemeanor). The remaining 18 counts were dismissed by the prosecutor. Keifer received the following sentence:
- a. Count 1: Incarceration for a term of one year, with nine months suspended. He was also placed on probation until September 9, 2016.
 - b. Count 2: Incarceration for a term of one year, with one year suspended. He was also placed on probation until September 9, 2016.
 - c. The sentencing court ordered that the incarceration periods described in paragraphs 17 and 18 run consecutively, while the probationary periods were to run concurrently.
21. The North Dakota Education Standards and Practices Board initiated proceedings on November 6, 2014, to revoke Kiefer's North Dakota teaching certificate. Kiefer's North Dakota certificate was revoked on November 26, 2014.
22. Any Finding of fact improperly denoted as a conclusion of law is hereby incorporated as a finding of fact.

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

CONCLUSIONS OF LAW

23. 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.
24. The burden of proof in this matter is clear and convincing. In Re: Setliff, 202 SD 58, 645 N.W.2d 601, 605.
25. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:01 that in fulfilling their obligations to the students, educators shall act as follows:
 - (10) Not engage in or be a party to any sexual activity with students including sexual intercourse, sexual contact, sexual photography, or illicit sexual communication.
26. Clear and convincing evidence exists that Kiefer violated ARSD 24:08:03:01(10).
27. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:02 that in fulfilling their obligations to the public, 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, sexual contact with students. . . .
28. Clear and convincing evidence exists that Kiefer violated ARSD 24:08:03:02(7) and (8).
29. ARSD 24:15:03:04 states, in pertinent part: "An applicant whose certificate has been revoked or suspended by another state or a commonwealth, territory, or possession of the United States or a foreign country may not be certified until that revocation or suspension has been vacated."
30. Pursuant to ARSD 24:15:03:04, Kiefer may not be certified in South Dakota due to the revocation of his North Dakota teaching certificate.
31. 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 permanently revoke the teaching certificate of Kiefer 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. It is further

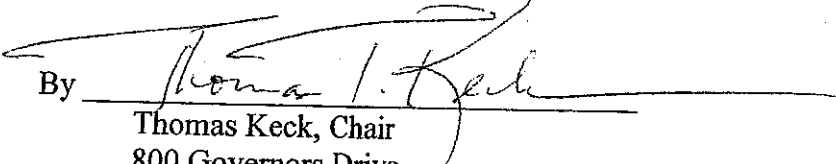
ORDERED that a copy of the Findings of Fact, Conclusions of Law and Order be provided to the Secretary of the South Dakota Department of Education for placement on the NASDTEC clearing house and that it remain with the Department's permanent certification file. It is further

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 9th day of April 2015.

PROFESSIONAL TEACHERS PRACTICES and
STANDARDS COMMISSION

By


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