

STATE OF SOUTH DAKOTA)	OFFICE OF THE SECRETARY
	SS:	
COUNTY OF HUGHES)	SOUTH DAKOTA DEPT. OF EDUCATION
In re: certification application of)	DSE 2016-02
CHRISTOPHER R. BARTLING.)	
)	FINDINGS OF FACT and
)	CONCLUSIONS OF LAW
)	

Following receipt of Christopher Bartling's application for teaching certificate, a Notice of Intent to Deny Teaching Certificate, and after review of the entire file herein, the Secretary enters the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. On April 22, 2016, the South Dakota Department of Education, Office of Teacher Quality, served a Notice of Intent to Deny Teaching Certificate and attached exhibits on Christopher Bartling via certified mail, first class mail, and e-mail.
 2. The Notice of Intent informed Bartling that if he failed to request a hearing within 30 days after service of the notice, the allegations of the Notice would be accepted as true by the Secretary.
 3. The thirty-day period for Bartling to request a hearing expired on May 22, 2016.
 4. The Department received no request for hearing or any other correspondence from Bartling.
 5. On or about March 14, 1996, Bartling was charged with possession of alcohol by a minor (SDCL § 35-9-2; class 2 misdemeanor) in Brookings County, South Dakota. On or about March 18, 1996, Bartling pled guilty to that offense. Bartling was sentenced to fines and costs, five days in jail with five days suspended, and to abide by all laws for a period of one year.
- Exhibit1.

6. On or about February 3, 1997, Bartling was charged with possession of alcohol by a minor (SDCL § 35-9-2; class 2 misdemeanor) and disorderly house (City of Vermillion ordinance; class 2 misdemeanor) in Clay County, South Dakota. On or about February 19, 1997, Bartling pled guilty to these offenses.

7. On or about May 17, 2000, Bartling was charged with open container (City of Vermillion ordinance; class 2 misdemeanor) in Clay County, South Dakota. On or about May 23, 2000, Bartling pled guilty to this offense. Bartling was sentenced to fines and costs.

8. On or about September 26, 2012, Bartling was charged with driving under the influence (Neb.Rev.Stat. Ann. § 60-6, 196; Class W misdemeanor), refusal to submit to a preliminary breath test (Neb.Rev.Stat. Ann. § 60-6, 197.04; class V misdemeanor), and failure to stop at a stop sign (Neb.Rev.Stat. Ann. §60-6, 148(2); infraction) in Sarpy County, Nebraska. On or about November 30, 2012, the charges were dismissed.

9. On or about February 4, 2013, Bartling was charged with driving under the influence (Neb.Rev.Stat. Ann. § 60-6, 196; Class W misdemeanor), refusal to submit to a preliminary breath test (Neb.Rev.Stat. Ann. § 60-6, 197.04; class V misdemeanor), and failure to stop at a stop sign (Neb.Rev.Stat. Ann. §60-6, 148(2); infraction) in Sarpy County, Nebraska. On or about April 2, 2013, Bartling pled guilty to the DUI offense and the remaining charges were dismissed. Bartling was sentenced to revocation of his driver's license for 60 days, fines and costs, and probation for one year with conditions including obeying all state and federal laws, no consumption of alcoholic beverages, completion of a chemical dependency evaluation and compliance with the recommendation, attendance at AA meetings, completion of ADD/defensive driving and MADD Victim Impact Panel programs, and 30 days in jail.

10. On or about April 25, 2014, Bartling was charged with second degree petty theft (SDCL § 22-30A-17.3; class 2 misdemeanor) in Clay County, South Dakota, for taking alcohol from the Vermillion Liquor Store in Vermillion, South Dakota. On or about May 20, 2014, Bartling pled guilty to this offense. Bartling was sentenced to five days in jail with five days suspended, restitution, fines and costs, and to commit no similar offenses for 360 days.

11. On or about May 13, 2014, Sarpy County moved to revoke Bartling's probation, referenced in paragraph 9, for violating his probation by committing petty theft in Clay County, South Dakota, failing to make payments towards his court-imposed debts, consuming alcohol, failing to produce verification of AA attendance, and failing to produce verification of defensive driving and MADD Victim Impact panel attendance. On or about July 8, 2014, Bartling admitted to violating his probation. Bartling's probation was revoked and a 10-day jail sentence was imposed.

12. On or about April 22, 2015, Bartling was charged with Driving Under the Influence—Second Offense (SDCL § 32-23-3; class 1 misdemeanor) in Clay County, South Dakota. On or about July 7, 2015, Bartling pled guilty to this offense. Bartling was sentenced to 30 days in jail with 20 days suspended, revocation of his driver's license for one year, obtain a chemical dependency evaluation and comply with the recommendations, and fines and costs.

13. On or about August 21, 2015, Bartling applied for an initial teaching certificate from the Department.

14. Bartling answered "yes" to Question 1 of the applicant conduct review statement portion of the application, which asked:

"Have you ever 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 I misdemeanor offenses and Class II non-traffic misdemeanor offenses must be disclosed.”

15. Bartling’s answer to Question 1 was as follows:

*“DUI September 2012 in Sarpy County of Nebraska.
One count petty theft, march 2013 Clay County SD.”*

16. Bartling answered “yes” to Question 2 of the applicant conduct review statement portion of the application, which asked:

“Have you ever been convicted of or pleaded guilty to any criminal offense?

The term **conviction** includes a finding of guilty by a judge or jury, or admission of guilty 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.”

17. Bartling’s answer to Question 2 was as follows:

“I was on probation for 6 months in Nebraska for the DUI and it is all done, completed everything needed in 2013.

Petty theft, paid back \$45 dollars because on accident had things in my coat because didnt grad a cart and was in a hurry and forgot that I had it and they had me on camera. paid fine and that is it.”

18. On or about September 23, 2015, Bartling was charged with second degree petty theft (SDCL § 22-30A-17.3; class 2 misdemeanor) in Clay County, South Dakota, for taking a can of beer from Casey’s General Store in Vermillion, South Dakota. On or about October 20, 2015, Bartling pled guilty to this offense. Bartling was sentenced to five days in jail with five days suspended, fines and costs, and to commit no similar offenses for 360 days.

19. On or about November 3, 2015, Bartling was charged with second degree petty theft (SDCL § 22-30A-17.3; class 2 misdemeanor) in Clay County, South Dakota. On or about

December 15, 2015, Bartling pled guilty to this offense. Bartling was sentenced to five days in jail with five days suspended, fines and costs, and to commit no similar offenses for 360 days.

20. At the time of his application, Bartling failed to disclose the charges and guilty pleas referenced in paragraphs 5-7. He also failed to disclose the Clay County, South Dakota, DUI referenced in paragraph 12. He also provided incorrect information about the sentence for the Sarpy County, Nebraska, DUI referenced in paragraph 9, including the probation revocation referenced in paragraph 11.

21. Bartling's criminal history includes two DUI convictions and three petty theft convictions since February 2013.

22. Any finding of fact more properly designated as a conclusion of law is hereby so designated.

CONCLUSIONS OF LAW

1. Grounds for denial of a teacher's certificate are provided in SDCL Chapter 13-42.
2. The Professional Teachers Practices and Standards Commission has been given the authority and obligation to promulgate rules for a code of professional ethics for the teaching profession in South Dakota. SDCL 13-43-25. This code of professional ethics is found in ARSD chapter 24:08:03.
3. The Secretary of the Department of Education has the power and authority to refuse to issue or renew a certificate for violation of the code of professional ethics governing teachers. SDCL 13-42-7 and 13-42-9(2).
4. The code of ethics requires a teacher to "[e]ngage in no act that results in a conviction." ARSD 24:08:03:02(7).

5. The code of ethics requires a teacher to “[e]xemplify high moral standards by not engaging in or becoming a party to such activities as moral turpitude ... or use of misleading or false statements.” ARSD 24:08:03:02(8).

6. Bartling’s numerous criminal convictions, referenced in paragraphs 5-12 and 18-19, violate ARSD 24:08:03:02(7).

7. Bartling’s repeated actions of driving under the influence, referenced in paragraphs 9 and 12, violate ARSD 24:08:03:02(8).

8. Bartling’s actions of failing to fully disclose the charges and convictions on his record on his 2015 application to the Department, referenced in paragraph 20, violate ARSD 24:08:03:02(8).

9. In order for a certificate to be issued, applicants must meet the rules and requirements for certificates as determined by the South Dakota Board of Education. SDCL 13-42-3 and 13-42-4.

10. Bartling’s application should be denied for a period of seven years for multiple violations of the code of ethics. SDCL 13-42-9(2); ARSD 24:08:03:02(7) and (8).

Dated this 30th day of June, 2016.



Dr. Melody Schopp
Secretary
South Dakota Department of Education
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