

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)
Arlene Maxfield)
)
)
)

DSE 2017-2

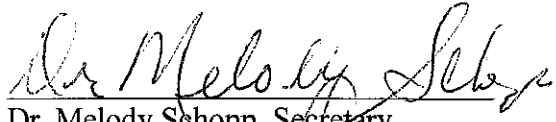
**AMENDED ORDER REGARDING
SOUTH DAKOTA TEACHING
CERTIFICATION**

Pursuant to the authority granted to the Secretary of the South Dakota Department of Education by SDCL 13-42-9, 13-42-15, and 13-43-28.1, following receipt of a Complaint from the South Dakota Professional Teachers Practices and Standards Commission, and after review of the entire record herein, including the Complaint from the Commission and attached exhibits and the entire hearing record, the Secretary enters the following order:

1. The Secretary affirms and adopts the Findings of Fact and Conclusions of Law of the Commission attached as Exhibit A and incorporated herein by this reference.
2. Based on the foregoing Findings of Fact and Conclusions of Law, Arlene Maxfield's South Dakota Teaching Certificate 59826-2 is **suspended for a period of five years, effective January 31, 2017.**
3. Notification of this Order will be placed on the NASDTEC registry and be placed in Maxfield's permanent certification file within the South Dakota Department of Education.
4. This Order and incorporated findings and conclusions are a public record pursuant to SDCL 13-42-17.1.
5. Maxfield is prohibited from being employed by a public school or other accredited school in South Dakota during the term of suspension pursuant to SDCL 13-43-5.1.

This constitutes final agency action and may be appealed pursuant to SDCL 13-42-16 unless appeal has been waived.

Dated this 2nd day of February, 2017.


Dr. Melody Schopp, Secretary
South Dakota Department of Education

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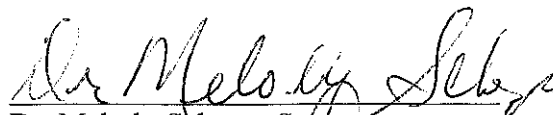
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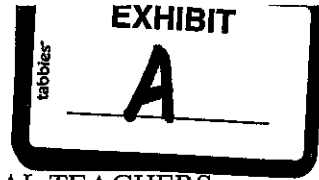
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STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF HUGHES)

PROFESSIONAL TEACHERS
PRACTICES AND STANDARDS
COMMISSION

CARLA LEINGANG, ADMINISTRATOR,)
OFFICE OF CERTIFICATION AND)
TEACHER QUALITY, S.D. DEPT.)
OF EDUCATION,)

PTPSC 2016-04

Complainant,)

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

v.)

ARLENE MAXFIELD,)

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 December 12, 2016 at 9:00 a.m. Central Time, 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: Thomas Keck, Bev Kopren, Connie Gretschnann, Tammy Jo Schlecter, Paula McMahan and Ann Noyes. Paul Bachand and Ferne Haddock, executive secretary of the Commission, were also present. Carla Leingang, Administrator, Office of Certification and Teacher Quality, South Dakota Department of Education along with her counsel, Deputy Attorney General Robert Mayer were present. Respondent Arlene Maxfield was present and requested a private hearing. At the commencement of the hearing a Stipulation, executed by the parties, and attached hereto as Exhibit A and incorporated herein by reference, was provided to the Commission. In addition to the Stipulation, at the commencement of the hearing, Respondent admitted to the allegations contained in the complaint on file herein, including that Respondent violated the Code of Professional Ethics for Teachers.

Based upon the Stipulation entered into by the parties, Respondent's admissions, the evidence presented, and the records on file, the Commission makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. A South Dakota Teacher's Certificate, No. 59826-2, was issued to Maxfield on June 5, 2009 with an expiration date of July 1, 2014.

2. A South Dakota Administrator's Certificate, No. 59826-3 with teaching endorsements, was issued to Maxfield on June 16, 2014, with an expiration date of July 1, 2024.
3. On or about August 10, 2016, Carla Leingang, Administrator, Office of Certification and Teacher Quality, South Dakota Department of Education, filed a complaint against Maxfield.
4. The complaint was served on Maxfield on or about August 11, 2016.
5. A due and property notice of hearing was served on Maxfield, and a hearing on the complaint was held on December 12, 2016 in Conference Room 1, MacKay Building, 800 Governors Drive, Pierre, South Dakota at 9:00 a.m.
6. On or about May 24, 2012, Maxfield was interviewed by law enforcement in her capacity as treasurer of Hill City AAU Wrestling Club. This interview was conducted by Detective Jason Mitzell (Mitzell) of the Pennington County Sheriff's Department.
 - a. Mitzell asked Maxfield why she was mentioned in a report involving the wrestling club checking account. Maxfield responded that she knew the High School wrestling coach had questioned "when we turned our books over to the new parent about the amount and stuff that there was."
 - b. Maxfield went on to say a wrestling tournament one year prior was not successful due to a blizzard, and that is why there wasn't much money in the wrestling club's account.
 - c. Mitzell asked Maxfield what her role was in the wrestling club. Maxfield responded, "I'm the one that had the checkbook." Mitzell then asked Maxfield if she was the treasurer, and she said "yeah."
 - d. Mitzell advised Maxfield that the wrestling club was claiming there were some discrepancies in the account. Maxfield nodded her head up and down in agreement and said "ok."
 - e. Mitzell asked Maxfield about a check written in April, 2010 to her husband Dan for \$1,750. Maxfield responded that would have been expenses back from a tournament. Mitzell then asked if the \$1,750 were expenses back from a tournament. Maxfield nodded her head and said "umhmm" in agreement.
 - f. Mitzell also asked Maxfield about a check written in May, 2010 to her husband Dan for \$1,700. Maxfield said that money was for t-shirts for districts.
 - g. Mitzell asked Maxfield if she had the checkbook register. Maxfield responded "yes, it is all together, I haven't been able to find it."

- h. Maxfield went on to explain that the AAU club just had checking. Maxfield said they pay for things like club fees with their bank card online, and then reimburse themselves with a check from the AAU account.
 - i. Mitzell asked Maxfield about a check for \$325 written to Maxfield. In the memo portion of the check was the word "camp." Maxfield explained the check was used to send some kids to wrestling camp in Custer. When asked who she sent, Maxfield hesitated, and didn't answer. Maxfield eventually said "whoever was able to go." When Mitzell asked Maxfield why she wrote herself a check from the AAU account, Maxfield explained she paid for it initially with her own money because she didn't have the AAU account checkbook with her.
 - j. Mitzell asked Maxfield about a "\$1,200 and change" deposit made just prior to turning over records to the AAU club. Maxfield could not explain where the funds for the deposit came from.
 - k. Mitzell advised Maxfield to track down the receipt book she claimed to have and any print outs for money spent from the account. Mitzell advised Maxfield he would give her a couple of weeks to locate the records and to give him a call.
 - l. The interview was then completed.
7. On or about June 20, 2012, Mitzell attempted to call Maxfield because she had not contacted Mitzell as requested. He was unsuccessful, and left a message reminding Maxfield that he wanted to review the receipt book.
8. Maxfield did not return Mitzell's message and he failed to hear from her for two months. On or about August 14, 2012, Mitzell again attempted to call Maxfield. Again, he was unsuccessful and left a message for her to call him as soon as possible. Mitzell felt Maxfield may have been avoiding him so he drove to her residence at 22808 Gateway Drive in Rapid City. He activated his digital audio recorder and approached the residence. Mitzell made contact with Maxfield, and she invited him into the residence. Mitzell then conducted a second interview:
- a. Mitzell asked Maxfield if she was able to locate any paperwork or receipts for the AAU account. Maxfield said she still needed to do that.
 - b. Mitzell confirmed he had the correct telephone number when previously trying to contact Maxfield. Mitzell advised Maxfield he would give her until the end of the week to locate the paperwork. Mitzell advised Maxfield that the money for the AAU account was entrusted to her, and now it's gone. Mitzell asked Maxfield if she understood that. Maxfield continuously replied "yeah" and "right." Mitzell advised Maxfield that she was probably looking at a theft charge. Maxfield replied "ok."

- c. Mitzell told Maxfield that he was willing to listen to her story and now was the time for her to talk to him about the money. Maxfield said she would continue to look for the receipts and, "if I can't find them, I guess we're liable for it. I guess we'll pay for it."
 - d. Mitzell advised Maxfield that he would call her on Monday or Tuesday the following week to check on the status of the paperwork. Maxfield agreed and Mitzell then left the residence.
9. On or about August 21, 2012, Mitzell attempted to call Maxfield with negative results. Maxfield continued to avoid Mitzell's telephone calls and did not follow through on Mitzell's request to locate a receipt book or any documentation regarding the AAU account.
 10. Andrea Swanson (Swanson) was one of the AAU club's new treasurers. Swanson indicated to Mitzell that she was going to make some phone calls and try to determine what the \$1,700, \$1,750, and \$300 checks were used for.
 11. On February 11, 2013, Mitzell received an email from Swanson. Swanson indicated she made phone calls and was unable to determine what the checks written for \$1,700 and \$1,750 were used for. Swanson was unable to verify the money was used to pay for any club events or merchandise.
 12. Swanson also indicated she spoke to a representative from the Custer AAU wrestling club. That person advised that the Custer AAU wrestling club did not receive a check for \$300 for wrestling camp. That person also advised that they did not have anyone from Hill City AAU attend the Custer camp.
 13. Maxfield was ultimately unable to provide any documentation establishing purchases that were made using the money from the account described above. Rather, Maxfield has displayed signs of being evasive and untruthful while attempting to obtain such documentation.
 14. As of February 11, 2013, the three transactions involving checks for \$1,750, \$1,700 and \$300 remained unexplained. Maxfield was unable to provide documentation, receipts or proof of what happened to the above \$3,750.
 15. On or about June 16, 2014, Maxfield was issued a renewed South Dakota Teaching Certificate number 59826. The certificate is valid until July 1, 2024.
 16. On or about June 16, 2014, as part of the application process for her teaching certificate to be issued, Maxfield submitted a Department of Education South Dakota Certificate Renewal Application (Application).
 17. On or about July 12, 2014, as part of the process for filling out the Application, Maxfield was asked the following question on the Applicant Conduct Review Statement:

- a. 9. Is there any information not disclosed by your answers concerning your background, history, experience, education, or activities which may have some bearing on your character, moral fitness, or eligibility to teach or hold an administrative position in South Dakota and which should be placed at the disposal or brought to the attention of the South Dakota Department of Education?
18. On or about July 12, 2014, in response to the above question, Maxfield checked the "NO" box.
19. On April 23, 2015, South Dakota Division of Criminal Investigation Agent Guy DiBenedetto interviewed Maxfield.
20. During this interview, Maxfield provided numerous excuses regarding the fact that she took money from the Hill City AAU Wrestling Club which she was not entitled to take.
21. During this interview Maxfield did not fully accept responsibility for her actions in taking money from the Hill City AAU Wrestling Club.
22. At the time of the interview with Maxfield on April 23, 2015, approximately five years after she took money from the Hill City AAU Wrestling Club, Maxfield had not made any attempt to make restitution to the Hill City AAU Wrestling Club.
23. At the time Maxfield took money in which she was not entitled to from the Hill City AAU Wrestling Club, Maxfield was a teacher at Hill City, South Dakota.
24. On or about November 18, 2015, Maxfield was indicted for Aggravated Grand Theft by Embezzlement (Class 4 Felony) in Pennington County, South Dakota. Exhibit 3, attached hereto and incorporated herein by reference. The indictment alleged that between April 20 and December, 2010, Maxfield embezzled more than \$1,000 from funds belonging to the Hill City AAU Wrestling Club.
25. On the dates as alleged in the indictment, Maxfield wrote checks to her husband on the Hill City AAU Wrestling Club checking account, and subsequently deposited those checks in her personal account. Maxfield's husband was not aware that these checks were written to him.
26. On February 16, 2016, Maxfield pled guilty to the Indictment charging her with the offense of Aggravated Grand Theft by Embezzlement. She explained to the Court that she wrote checks from the Hill City AAU Wrestling Club and deposited those to pay personal bills. She knew that was wrong.
27. On the 21st day of March, 2016, the Court found that the ends of justice and the interest of the public, as well as the Defendant, would be served by withholding entry of judgment of guilt, suspending imposition of sentence, and placing the defendant on probation.

28. The Court proceeded to order that entry of judgment of guilt be withheld and imposition of sentence be suspended, and that Maxfield, upon her conviction for the offense of Aggravated Grand Theft by Embezzlement, be placed on probation for the term of four years.
29. Any conclusion of law improperly denoted as a finding of fact is hereby incorporated as a conclusion of law.
30. Absent criminal charges being filed against Maxfield, she would not have paid back the money she stole from the Hill City AAU Wrestling Club.
31. Although Maxfield expressed remorse to the Commission for her theft, she made no attempt to pay back the Hill City AAU Wrestling Club for a period of approximately six years from when she stole money from the club.

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

CONCLUSIONS OF LAW

32. The burden of proof in this matter as a contested case hearing is clear and convincing. In re: Setliff, 2002 SD 58, 245 N.W.2d 601, 605.
33. 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:
 - a. (8) Exemplify high moral standards by not engaging in or becoming a party to such activities as fraud, embezzlement, theft, deceit, moral turpitude, gross immorality. . . or use of misleading or false statements.
34. 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:
 - a. (9) Not knowingly misrepresent their professional qualifications.
 - b. (12) Cooperate with authorities and the commissions regarding violations of the codes of ethics of the South Dakota Professional Teachers Practices and Standards Commission and the Professional Administrators Practices and Standards Commission.
35. Clear and convincing evidence exists that Maxfield has violated 24:08:03:02(8) and ARSD 24:08:03:03 (9) and (12).

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 suspend the teaching certificate of Maxfield, as provided for in

SDCL § 13-43-28.1. The Commission recommends a suspension of Maxfield's teaching certificate for a period of at least five years, effective on the date the applicable order is signed by the Secretary of Education. It is further

ORDERED that a copy of the Findings of Fact, Conclusions of Law, and Order be sent to the 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 National Association of the State Directors of Teacher Education and Certification Clearinghouse 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 January, 2017.

PROFESSIONAL TEACHERS PRACTICES
AND STANDARDS COMMISSION

By: Thomas J. Keck
Thomas Keck, Chair