

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  
Teaching Certificate of  
CHRISTOPHER BORCHARDT

DSE 2018-09

**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, 13-42-9, and 13-42-15, following receipt of a Complaint requesting revocation of a certificate from the South Dakota Professional Teachers Practices and Standards Commission, and after review of the entire file herein, the Secretary enters the following order:

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 teacher Certificate No. 74726 issued to Christopher Borchardt is hereby **immediately, permanently revoked.**
3. Notification of this revocation will be placed on the NASDTEC registry and be placed in Borchardt'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.

This constitutes final agency action.

Dated this 21<sup>st</sup> day of September, 2018.

  
Mary Stadick Smith, Secretary  
South Dakota Department of Education

STATE OF SOUTH DAKOTA  
COUNTY OF HUGHES

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SOUTH DAKOTA PROFESSIONAL TEACHERS  
PRACTICES AND STANDARDS COMMISSION

DR. JAROD LARSON,  
COMPLAINANT,

v.

CHRISTOPHER BORCHARDT,  
RESPONDENT.

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PTPSC 2018-01

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER.

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 May 10, 2018, 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 properly noticed for hearing.

The following members of the South Dakota Professional Teachers Practices and Standards Commission (Commission) were present: Tammy Jo Schlechter, Ann Noyes, Paula McMahan, Kaye Wickard, and Caitlin Bordeaux. Holly Farris, counsel for the Commission, and Ferne Haddock, executive secretary of the Commission, were also present. Complainant Dr. Jarod Larson was personally present. Respondent Christopher Borchardt did not appear at the hearing.

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

#### FINDINGS OF FACT

1. Respondent is the holder of a valid South Dakota Teacher's Certificate, No. 74726, issued January 6, 2017, and expiring July 1, 2026.
2. On or about January 9, 2018, Superintendent Dr. Jarod Larson, of the Brandon Valley School District in Brandon, South Dakota, filed a complaint against Borchardt with the Commission.
3. The complaint alleged that Borchardt violated sections of the South Dakota Code of Professional Ethics for Teachers as a result of his interactions with two students at Brandon Valley High School.
4. The complaint was served on Borchardt on or about January 12, 2018.
5. Borchardt responded to the complaint on or about February 10, 2018, in a letter. In the response, Borchardt stated "I acknowledge the evidence against me and I understand the gravity of my actions. I am currently seeking counseling to rectify these issues. I fully accept the consequences recommended by Dr. Larson of the Brandon Valley School District."



6. A due and proper notice of hearing was served on Borchardt, advising him of the time and place of the hearing.

7. A hearing on the complaint was held on May 10, 2018, in Conference Room 1, MacKay Building, 800 Governors Drive, Pierre, South Dakota at 9:00 a.m. Central Time.

8. Borchardt failed to appear at the May 10, 2018, hearing to request a private hearing, so a public hearing was held.

9. Borchardt's failure to appear at the May 10, 2018, hearing constitutes an admission of the allegations contained in the complaint.

10. Borchardt was employed by the Brandon Valley School District for the 2016-2017 and 2017-2018 academic years as a band director for grades nine through twelve.

11. On or about December 22, 2017, officials with the Brandon Valley School District were notified that Borchardt was engaging in an inappropriate relationship with a current student (Student A) enrolled in at least one of Borchardt's classes and participating in extracurricular activities supervised by Borchardt. According to evidence submitted, Student A was 17 years old at the time communications began and turned 18 prior to the school being notified of the relationship. At all times relevant to the conduct underlying the complaint, Student A was an enrolled student of the Brandon Valley School District and of Borchardt.

12. Brandon Valley School District officials investigated the allegations against Borchardt by meeting with Student A and Student A's parents. The parents turned over a large volume of text messages exchanged between Student A and Borchardt.

13. Borchardt was immediately contacted by school officials regarding the investigation. He submitted a resignation on December 28, 2017, effective immediately. The school board acted on the resignation at its meeting on January 8, 2018.

14. The investigation conducted resulted in the following information:

- a. Text communications between Borchardt and Student A began on or about July 13, 2017.
- b. Text communications between the two significantly increased in November 2017, when Borchardt accompanied students from Brandon Valley High School on a school trip to Florida.
- c. Text exchanges indicate Borchardt texting with Student A as early as 6:00 a.m. until as late as 11:00 p.m., including numerous text message exchanged during hours in which school was in session.

15. Text messages exchanged between Borchardt and Student A, admitted into evidence as Exhibit 1, included too many inappropriate exchanges to reference verbatim. The text messages included exchanges such as:

November 28, 2017:

CB (Christopher Borchardt): "You are strong, smart, adorable, and I just love being around you."

SA (Student A): "well thank you. it means a lot."

CB: "You mean a lot to me, [Student name omitted]. No joke."

SA: "are you sure you're not being sarcastic? 100% truth?"

CB: "Truth. Every word"

SA: "i'm glad. You mean a lot to me too"

CB: "My sweet sweet [Student name omitted]"

SA: "that's me"

CB: "I really do love you. You are so special to me."

December 13, 2017

CB: "How was your day babe?"

SA: "it was okay i guess. Just have a lot on my mind"

SA: "how was yours"

CB: "Mine was fine. Nothing special.  
Tell me what's on your mind!"

SA: "you, mostly"

CB: "Bad?"

SA: "depends on how you look at it. i think i like you more than i'm supposed to"

CB: "I don't think you do. Why can't you like me?"

SA: "it's not that i can't like, it's at the level at which i like you. nevermind. it's stupid"

CB: "Not stupid at all babe."

SA: "kind of is"

CB: "No way. Explain if you want princess"

SA: "logically, i'm not supposed to like a high school teacher who has a wife and kid as much as I do."

CB: "And I shouldn't like my student this much. Logic sucks though."

CB: "Also, my marriage is awful and has been for longer than I've been talking to you. Haven't had a chance to talk about it. Please understand you have nothing to do with that. I would be like this with you no matter what. I really am crazy about you."

SA: "but that's the thing. you shouldn't be. i'm nothing special or anything like that so all of this confuses me. i'm sorry for bringing it up"

CB: "Never apologize. Ever. You have done nothing wrong.

And I am free to like who I want and have my reasons for that. You stop doubting yourself! You are an amazing woman."

CB: "Please don't leave me."

SA: "what's something good that happened to you today"

CB: "You held my hand.

I laughed some.

My bands sounded pretty decent.

I got to touch your back.

I got to see you interact with [student name omitted].”  
SA: “i like holding your hand.”  
SA: “i hate being in the same room as you and not being able to be close to you.”  
CB: “It’s tough!  
Makes us want each other more though!”  
SA: “very true”  
CB: “It’s kinda fun being sneaky though!”  
SA: “i think we are really good at it.”  
SA: “at least i hope so”  
CB: “Very. I love when you grab me before I grab you. Makes my heart light up”  
SA: “i’m glad you notice. i want you to know that we share the same feelings.”  
CB: “Oh, I notice everything when it comes to you babe”

December 15, 2017

CB: “I like being with you now though too babe”  
SA: “oh so do i, i just wish some things were different”  
CB: “Obviously. But we are doing pretty good considering what we are up against.  
I wish I could see how beautiful you will be tonight”

CB: “You leaving me?”  
SA: “never. are you going to leave me?”  
CB: “No way. You make me too happy.”  
SA: “so it won’t ever stop? Us falling?”  
CB: “No princess. Fireworks and stars for you and me.”  
CB: “I love being your man”  
SA: “i love being your babygirl”  
CB: “So how do we transfer this into times we are in the room together”  
SA: “i’m not sure. do you have any ideas”  
CB: “Just more stares and looking into each other’s eyes.  
We are good st (sic) being sneaky.  
More lessons in practice rooms.”

SA: “so obviously there’s a solution to this problem that i’m having”  
CB: “It would appear that way. Unfortunately my place of employment is your place  
of education.”  
SA: “which is greatly frowned upon”  
SA: “among with some other issues but we won’t get into that”  
CB: “All that matters is the school doesn’t know. Don’t care about my life. But the  
school and your parents can’t know.  
But being with you is worth it”

December 18, 2017

CB: “Do you like when I pick you up?”  
SA: “very much. Any sort of physical contact with you gives me butterflies”

CB: "Well I love holding you."

SA: "so what happens now"

CB: "What do you mean?"

SA: "i don't know, i mean a married teacher just kissed his student. i'm probably just overthinking it"

CB: "Don't overthink this honey. We do need to talk about it but in person sometime. For now I just want you to enjoy being with me and be happy. Can you do that for me baby girl?"

December 21, 2017

SA: "shut up"

CB: "Again...get over here and make me"

SA: "gotta think of a way to shut you up first"

CB: "Good luck"

SA: "any suggestions?"

CB: "Pretty sure grabbing my head and pulling my lips to yours while you run your hands through my hair will shut me up for a minute."

SA: "you read my mind babe"

CB: "Usually honey

But that's just one idea"

SA: "i'm sure i can think of something else"

CB: "Do tell"

SA: "I would love to jump up into your arms and kiss your lips and your neck"

CB: "If I ever have a t-shirt on when I see you I would melt if you touched my back under my shirt"

16. Names, or nicknames, utilized by Borchardt for Student A in text messages included "cutie," "sweetie," "darling," "sunshine," "princess," "baby girl," "babe," "baby," "gorgeous," "honey," and "hottie."

17. Physical contact referenced in the text messages included kissing, hugging, hand-holding, cuddling, touching of the back or butt, and hands up shirt.

18. Dr. Larson's testimony at the hearing indicated that the relationship between Borchardt and Student A resulted in "substantial social and emotional trauma" to Student A.

19. Brandon Valley School District officials interviewed additional students during their investigation into Borchardt's conduct and discovered a prior relationship with a student (Student B) who had since graduated from Brandon Valley. Borchardt had engaged in a relationship with Student B while she was enrolled in a band course with him and, while many details of the relationship were unclear, school officials did uncover information that Borchardt and Student B kissed on school property prior to her graduation from the district.

20. The investigation into Borchardt's conduct did not result in information indicating that Borchardt had engaged in sexual intercourse with students but did result in information that

Borchardt had kissed students on prior occasions, as well as other physical contact such as hand-holding and hugging.

21. The relationships between Borchardt and the two students discovered by school officials, including voluminous text messages of an intimate nature and physical contact in the form of kissing, hugging, and hand-holding, constitute inappropriate, unprofessional, and exploitative relationships between a teacher and a student.

22. Borchardt's inappropriate, unprofessional, and exploitative relationships with the students demonstrates a significant lack of judgment as to what constitutes appropriate boundaries between students and teachers.

23. Borchardt's lack of judgment as to what constitutes appropriate boundaries between students and teachers created an environment detrimental to students' learning and physical and emotional well-being.

24. Borchardt's inappropriate communications with Student A and lack of judgment as to inappropriate boundaries between students and teachers constitute moral turpitude.

25. Several of Borchardt's text exchanges with Student A indicate the knowledge and belief that the communications and relationship should be kept hidden as they were inappropriate and impermissible, which is an aggravating factor in this case.

26. In the text messages, Borchardt also referred to another faculty member at the Brandon Valley High School as having "not much invention coming from his room" and an "old dog . . . not learning new tricks."

27. Borchardt's communications with Student A regarding other faculty or staff at Brandon Valley High School constitutes unprofessional criticism of a colleague in front of a student.

28. Teachers at the Brandon Valley School District are provided with the school district teacher handbook and board policies during the course of their employment, such as during new teacher in-service.

29. As part of the Brandon Valley School District policies for teachers and employees, staff are expected to maintain professional relationships with students and support the policies of the board and regulations of school administration in regard to students.

30. Brandon Valley School District policy regarding instant messaging requires that all communications between two or more persons be strictly limited to education purposes.

31. The relationships and communications between Borchardt and two female students were in direct contradiction to multiple policies of the Brandon Valley School District.

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

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

### CONCLUSIONS OF LAW

33. Borchardt's failure to appear at the hearing acts as an admission to all items alleged in the complaint.

34. The burden of proof in this matter as a contested case hearing is clear and convincing. In re: Setliff, 2002 SD 57, 245 N.W.2d 601, 605.

35. 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:

(4) Make a reasonable effort to maintain discipline and order in the classroom and the school system to protect the students from conditions harmful to learning, physical and emotional well-being, health, and safety;

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

(9) Maintain professional relationships with students in a manner which is free of vindictiveness, recrimination, and harassment; and

(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.

36. 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:

(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, sexual contact with students, illegal drugs, or use of misleading or false statements.

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

(11) Not criticize a colleague before students, except as unavoidably related to an administrative or judicial proceeding; and

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

38. The complainant has also met its burden of proof as a result of the testimony and evidence presented at the hearing.

39. Clear and convincing evidence exists that Borchardt violated ARSD 24:08:03:01(4), (7), (9), and (10); ARSD 24:08:03:02(8); and ARSD 24:08:03:03(11) and (13).



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

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 Borchardt as provided for in SDCL § 13-43-28.1. The Commission recommends immediate and permanent revocation of Borchardt's teaching certificate, 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 (NASDTEC) 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 30<sup>th</sup> day of August, 2018

PROFESSIONAL TEACHERS PRACTICES  
AND STANDARDS COMMISSION

By: Mrs. Tammy Jo Schlechter  
Mrs. Tammy Jo Schlechter, Acting Chair 