

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES

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SOUTH DAKOTA PROFESSIONAL TEACHERS
PRACTICES AND STANDARDS COMMISSION

Dr. Pamela Osnes,

COMPLAINANT,

v.

Kenneth Waterbury,

RESPONDENT.

PTPSC 2018-02

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. A hearing was held on November 14, 2018, at 10:00 a.m. Central Time in the Library Commons, MacKay Building, 800 Governors Drive, Pierre, South Dakota, as previously scheduled and duly and properly noticed for hearing. The hearing was continued to December 5, 2018, at 8:00 a.m. Central Time in Conference Room 1, MacKay Building, as agreed to by the parties.

The following members of the South Dakota Professional Teachers Practices and Standards Commission (Commission) were present at the hearing: Tammy Jo Schlechter, Ann Noyes, Paula McMahan, Caitlin Bordeaux, and Kaye Wickard. Holly Farris and Paul Bachand, co-counsel for the Commission, and Ferne Haddock, executive secretary of the Commission, were also present. Vice-Chairperson Schlechter served as acting chair. Complainant Osnes was personally present and appeared through counsel Stephanie Pochop of Gregory, South Dakota. Respondent Kenneth Waterbury was personally present and represented by counsel Gina Ruggieri of Chamberlain, South Dakota.

Based upon the evidence presented at the hearing and documents contained in the official file, the Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent Kenneth Waterbury (Waterbury) is the holder of a valid South Dakota Teacher's Certificate, No. 47353, issued on March 27, 2015, and expiring on July 1, 2020.
2. On or about March 19, 2018, Dr. Pamela Osnes (Osnes) filed a complaint against Waterbury with the Commission.
3. The complaint alleged that Waterbury violated sections of the South Dakota Code of Professional Ethics for Teachers ("Code") as a result of his interactions with Osnes during their concurrent employment tenures at Chamberlain School District, Chamberlain, South Dakota.
4. The complaint alleged that Waterbury violated the following sections of the Code:
 - a. ARSD 24:08:03:01(4), which states that in fulfilling their obligations to students, educators shall "[m]ake 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[.]"



- b. ARSD 24:08:03:01(9), which states that in fulfilling their obligations to students, educators shall “[m]aintain professional relationships with students in a manner which is free of vindictiveness, recrimination, and harassment[.]”
 - c. ARSD 24:08:03:02(1), which states that in fulfilling their obligations to the public, educators shall “take precautions to distinguish between their personal views and those of the local school district or governing body[.]”
 - d. ARSD 24:08:03:02(8), which states that in fulfilling their obligations to the public, educators shall “[e]xemplify 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[.]”
 - e. ARSD 24:08:03:02(9), which states that in fulfilling their obligations to the public, educators shall “[n]ot misuse or abuse school equipment or property.”
 - f. ARSD 24:08:03:03(1), which states that in fulfilling their obligations to the profession, educators shall “[a]ccord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities[.]”
 - g. ARSD 24:08:03:03(3), which states that in fulfilling their obligations to the profession, educators shall “[d]iscuss professional matters concerning colleagues in a professional manner[.]”
 - h. ARSD 24:08:03:03(7), which states that in fulfilling their obligations to the profession, educators shall “[n]ot interfere with the free participation of colleagues in the affairs of their associations[.]”
 - i. ARSD 24:08:03:03(8), which states that in fulfilling their obligations to the profession, educators shall “[n]ot use coercive or threatening means in order to influence professional decisions of colleagues[.]”
 - j. ARSD 24:08:03:03(11), which states that in fulfilling their obligations to the profession, educators shall “[n]ot criticize a colleague before students, except as unavoidably related to an administrative or judicial proceeding[.]”
 - k. ARSD 24:08:03:03(11), which states that in fulfilling their obligations to the profession, educators shall “[p]erform duties in accordance with local, state, and federal rules and laws.”
5. The complaint was served on Waterbury on or about March 22, 2018.
 6. Waterbury responded to the complaint on or about April 5, 2018.
 7. A due and proper notice of hearing was served on the parties on May 18, 2018, setting the hearing for June 19, 2018.
 8. Complainant Osnes requested a continuance of the June 19, 2018 hearing, which was granted.

9. An amended notice of hearing was served on the parties on or about August 10, 2018, setting the hearing for September 13, 2018.

10. Respondent Waterbury requested a continuance of the September 13, 2018 hearing, which was granted.

11. An amended notice of hearing was served on the parties on or about October 1, 2018, setting the hearing for November 14, 2018.

12. On November 12, 2018, Respondent Waterbury by and through his counsel, requested a continuance of the November 14, 2018 hearing, which was denied.

13. The hearing proceeded as noticed on November 14, 2018.

14. At the time of the incident alleged in the complaint, Waterbury was employed by the Chamberlain School District as a special education teacher at Chamberlain Elementary School ("CES").

15. Osnes is a licensed board-certified behavior analyst. At the time of the conduct underlying the complaint, Osnes had a contract with the Chamberlain School District (CSD) to provide behavioral support services.

16. Osnes worked for CES beginning in the 2016-17 school year and concluding at the end of the 2017-2018 school year.

17. Osnes was assigned to work with a student ("Student") in Waterbury's classroom during her first year at CES.

18. Student is entitled to receive special education services from CES as a result of his diagnosed conditions in accordance with Student's IEP.

19. Student exhibits a pattern of disruptive behaviors, including tantrums, which can manifest in screaming, removal of his glasses, socks and shoes, throwing and destruction of objects, hair-pulling, and/or scratching. Student's IEP services were in part to provide supports for Student's behavioral issues. School staff also referred to these behaviors as Student having a "meltdown."

20. Osnes was directed to assess by observation what she thought might be causing tantrums by Student.

21. Karla Burke ("Burke") is the special education director at CES and has been the special education director since August 2015.

22. Burke provided direction to Osnes regarding Osnes' work for CES.

23. On February 12, 2018, an IEP meeting occurred with CES staff and Student's parents.

24. During this meeting, Student's parents expressed that they no longer wanted Osnes working with Student and Burke informed the parents that there was value in CES staff working with Osnes.

25. Osnes was not present at the IEP meeting on February 12, 2018.

26. Rocky Almond ("Almond") is the elementary principal at CES.

27. Almond has been an educator for approximately 39 years.

28. Almond testified that Osnes always handled herself in a professional manner, even when others around her were upset.

29. Almond participated in annual evaluations of Waterbury in the course of Waterbury's employment at CES.

30. In Spring 2018, Almond noted on Waterbury's 2017-2018 evaluation "We have to follow the IEP. No variations to appease meltdowns from students."

31. Although Student was to participate in various classes and programs at CES pursuant to Student's IEP, Waterbury regularly and independently determined that Student's participation was not necessary and would allow Student to remain in Waterbury's classroom on those occasions.

February 21, 2018 Incident

32. On February 21, 2018, Student was in the speech therapy room at CES in order to receive speech therapy services from speech language pathology assistant Nakita Miiller ("Miiller"). Osnes was likewise present in the room. Speech pathologist Jamie Griffith ("Griffith") was in an adjoining room to the speech therapy room.

33. Miiller is currently employed at CES and has been a CES employee for approximately three years.

34. Griffith is currently employed at CES and has been a CES employee for approximately eight years.

35. Miiller was aware of the Student's behaviors and tantrum-like behaviors that Student would exhibit.

36. Student exhibited tantrum-like behaviors prior to working with Miiller on February 21, 2018.

37. On February 21, 2018, Osnes was in the speech therapy room in order to record data on Student's speech therapy session. The data recording was a ministerial task and did not involve Osnes interacting with Student directly.

38. The testimony at the hearing indicates a dispute exists over whether the parents' request at the February 12, 2018 IEP team meeting regarding Osnes was to result in discontinuation of services from Osnes to Student or whether Osnes was not to have contact with Student in any capacity. It is not for the Commission to determine whether a violation of the Individuals with Disabilities Education Act (IDEA) occurred concerning the implementation of the IEP.

39. After the February 12, 2018 IEP meeting, Osnes was directed by CES special education director Karla Burke to continue to provide support to the speech therapy personnel and attended Student's speech therapy for that purpose.

40. Student was brought to the speech therapy room on February 21, 2018, at approximately 12:35 p.m. by paraprofessional Aspen Hansen (Hansen). Hansen notified Waterbury that Osnes was present in the speech therapy room, at which point Waterbury went from his classroom to the speech therapy room and asked to speak with Osnes. Waterbury stated to Osnes that Student's parents did not want her

involved with Student any longer. Osnes stated to Waterbury that Burke had instructed her to provide support services to the speech therapy personnel. Osnes further stated to Waterbury that he should seek clarification from Burke if needed.

41. During Student's speech therapy session on February 21, 2018, Student exhibited tantrum behaviors.

42. The tantrum Student experienced was not out of the ordinary for Student and similar to other tantrums Student exhibited in the past.

43. Miiller attempted to calm Student, but Student became physical with Miiller. Osnes intervened in order to help Miiller prevent physical harm to Student or Miiller. Miiller and Osnes continued to attempt to calm Student.

44. Student's meltdown attracted the attention of a CES employee, who alerted Waterbury that Student was having issues in the speech therapy room.

45. Waterbury left his classroom on the third floor for the purpose of intervening and investigating Student's behavior.

46. After Student had started to calm in the speech therapy room, Waterbury entered the room.

47. Miiller and Osnes were appropriately addressing Student's behavior when Waterbury stormed into the room, yelling with a raised voice, and telling Miiller and Osnes to "get away" and "get out of there." Waterbury also physically reacted by slapping himself on the legs repeatedly.

48. Griffith entered the room while Waterbury was slapping himself on his legs and yelling at Miiller and Osnes. Griffith heard Waterbury from the adjoining room and decided to step into the therapy room.

49. Osnes was shaken and upset by Waterbury's confrontation.

50. Waterbury yelled at Miiller, causing her to cry and become visibly shaken and upset.

51. Student reacted to Waterbury's behavior with a blank stare and silence, which was unusual for Student.

52. Osnes left the room and then went to report the incident to Principal Rocky Almond. Almond was not present so Osnes went to Karla Burke's office, who likewise was not present.

53. Osnes then documented the incident on her computer.

54. For the remainder of the day after the incident, Student was very clingy and paraprofessional Hansen could tell Student was upset.

55. Waterbury's conduct and demeanor negatively impacted Student by modeling the behavior that Student exhibited during Student's tantrums.

56. Waterbury's conduct and demeanor in responding to Student's tantrum also negatively impacted Miiller, causing her to not want to attend work at CES.

57. Osnes' presence in the speech therapy room did not cause Student to experience a tantrum.

58. There was no reason for Waterbury to intervene in the incident that occurred with Student on February 21, 2018.

59. Miiller and Osnes were capable of handling the situation with Student and were appropriately handling the situation with Student.

60. Waterbury presented CES with a written response to the report filed by Osnes.

61. The same written response was likewise presented to the Commission in response to the complaint filed by Osnes.

62. The response to the complaint in this matter presented to the Commission by Waterbury contains purposeful misstatements.

63. Waterbury claimed in his response to the complaint that Jamie Griffith was not in the room during the incident on February 21, 2018, when in fact Jamie Griffith was in the room.

64. Waterbury stated in his response to the commission that Jamie Griffith came into the room and told him "I was in the other room and I didn't see or hear anything."

65. Based upon the Commission's ability to observe both Griffith and Waterbury, the Commission finds that Griffith is a credible witness and that her statements as to what she saw and heard on February 21, 2018 in the speech therapy room are true.

66. Waterbury's response is false as to those statements.

67. Waterbury's conduct needlessly escalated the situation on February 21, 2018.

68. Based upon Waterbury's actions on February 21, 2018, Waterbury was required to write apology letters to staff members and to Osnes. In addition, Waterbury was required to engage in self-reflection and self-review for anger management.

69. Waterbury's action in dealing with questions regarding the IBP and Student's tantrum demonstrates he failed to 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.

70. Waterbury's actions in confronting Osnes and Miiller following Student's tantrum demonstrate that he failed to accord just and equitable treatment to members of the educator profession in the exercise of their professional rights and responsibilities.

71. Waterbury's action in providing false information in his response to the Osnes report and complaint demonstrates that he engaged in misleading or false statements and failed to exemplify high moral standards.

October 25, 2017 Incident

72. On October 25, 2017, at the direction of Waterbury, Aspen Hansen filled out an incident report regarding Student.

73. On October 25, 2017, at the direction of Waterbury, Hansen took a photo of Student's back with Hansen's cell phone. The photo was taken in a restroom and Waterbury was present.

74. Waterbury removed Student's shirt in order for Hansen to take the photo.

75. The photo was alleged to show marks on Student resulting from physical contact.

76. At the direction of Waterbury, Hansen gave Waterbury the incident report and provided him with a color copy of the photograph by emailing the photo to him.

77. Hansen believed that Waterbury was going to file the incident with the school, although Waterbury never did.

78. Based upon the Commission's ability to observe both Hansen and Waterbury, the Commission finds that Hansen is a credible witness.

79. Waterbury kept a copy of the incident report and photograph in a separate file folder in his office.

80. Waterbury never put a copy of the incident report in the Student's folder that would go home with Student.

81. After the October 25, 2017, incident, Waterbury did not contemporaneously inform Student's parents of the incident.

82. It was not until September 19, 2018, that Waterbury informed Student's parents of the October 25, 2017, incident.

83. Waterbury informed Student's parents that the incident with Student involved Osnes.

84. Waterbury only informed Student's parents of the October 25, 2017, incident after the complaint was filed by Osnes in this matter.

85. Waterbury testified that he hand-delivered the incident report and photo to Karla Burke and likewise to Almond.

86. Almond indicated he was never provided with the incident report or photo.

87. Waterbury had previously shown Almond the photo attached to the October 25, 2017, incident report on either Waterbury's or Hansen's cell phone. Almond told Waterbury that if Waterbury felt he needed to file a report regarding the photo, that he should submit a written report. Waterbury did not file such a report with Almond.

88. Almond did not become aware of the October 25, 2017, incident until a protection order was filed against Osnes and served on CES on or about November 15, 2018.

89. The Commission finds Almond's testimony credible and does not believe that Waterbury provided the incident report or photograph to Almond, or to any other CES staff or administration.

90. After the October 25, 2017 incident, Waterbury never informed Student's parents of the incident until after the complaint in this matter had been filed against Waterbury.

91. Waterbury's action in not informing Student's parents of the October 25, 2017, incident until after the complaint in this matter had been filed and set for hearing demonstrates retaliatory conduct and that Waterbury used coercive or threatening means in order to influence professional decisions of colleagues.

Post-Complaint Conduct by Waterbury

92. After Osnes filed this complaint with the Commission, Waterbury became very disgruntled in working with his paraprofessionals and other staff in the CES special education department. He also became increasingly paranoid.

93. Waterbury further attempted to discredit Osnes in the fall of 2018 by indicating to Almond that Waterbury "had" three things on Osnes: an abuse charge, a marijuana-related allegation, and that she was not licensed in South Dakota.

94. Waterbury falsely indicated to Almond that Osnes was not licensed or certified to practice in South Dakota.

95. Waterbury made these statements to Almond on multiple occasions.

96. At the beginning of the 2018-2019 school year, Waterbury repeatedly told Hansen that Waterbury was going to make certain the Burke, Griffith, and Miiller were going to pay for what they did and that they were abusers. Waterbury also indicated that it would be funny if Burke was arrested right before her son's wedding.

97. After the hearing before the Commission set for September 13, 2018, was continued at Waterbury's request, Waterbury engaged in a course of harassment of witnesses in this matter.

98. The witness list filed by Osnes was provided to Waterbury on or about September 5, 2018, and indicated that Nakita Miiller, Karla Burke, and Jamie Griffith were subpoenaed to testify at the September 13 hearing:

99. On September 14, 2018, Waterbury informed Aspen Hansen that "shit was going to hit the fan with Karla" and that he was "going to make sure she was held accountable for the abuse that she and the speech ladies did to (Student) last year."

100. On September 17, 2018, Waterbury informed Hansen that he was going to make certain the "stupid bitch" Karla was held accountable for what she did to the Student.

101. Waterbury's statements to Hansen occurred in his classroom when students were present.

102. Based upon Waterbury's conduct in regard to Burke, Miiller, Griffith, and Hansen, Hansen filed a grievance with CES alleging a hostile work environment.

103. No evidence was presented at the hearing to support Waterbury's statements that Burke abused Student or any other student.

104. The Commission finds that Waterbury provided false testimony to the Commission regarding the statements Hansen attributed to Waterbury.

105. Waterbury's actions in regard to Burke, Miiller, Griffith, and Hansen are directly related to the February 21, 2018 incident with Student and constitute retaliatory conduct as a result of the complaint filed in this matter and the fact that the named individuals would testify as witnesses in front of the Commission.

106. Waterbury, through his report to Student's parents on September 19, 2018, regarding the October 25, 2017 incident, caused a criminal investigation to commence regarding Osnes.

107. After the hearing in this matter commenced on November 14, 2018, a Petition and Affidavit for a protection order was filed against Osnes on November 15, 2018.

108. On or about October 3, 2018, Waterbury was suspended from CES by Dr. Debra Johnson, superintendent of the Chamberlain School District (CSD).

109. Johnson has been superintendent at CSD for nine years.

110. After the complaint in this matter was filed, Waterbury exhibited such unprofessional behavior that Johnson had to suspended Waterbury.

111. Johnson and CES learned in early September 2018 that CES staff members had been subpoenaed for the Commission hearing on September 13, 2018.

112. According to Waterbury, Dr. Johnson, on homecoming day, walked into Waterbury's classroom and provided him with the grievance filled out by Hansen and then informed him: "I told you I'd get you fired."

113. Almond testified that after being served with the Hansen grievance, Waterbury came into Almond's office and told Almond that Johnson had said to Waterbury "I told you I would get you fired."

114. Dr. Johnson denied telling Waterbury that she would get him fired and the Commission finds Dr. Johnson's testimony credible in this regard.

115. The Commission finds that Waterbury provided false testimony to the Commission regarding the statement Waterbury attributes to Dr. Johnson regarding Dr. Johnson stating; "I told you I'd get you fired."

116. Based upon the commission's ability to judge the demeanor of both Dr. Johnson and Waterbury, the Commission finds Dr. Johnson to be credible.

117. At the hearing, Waterbury attempted to discredit Almond's testimony by inferring that Almond had a drinking problem.

118. Based upon the Commission's ability to judge the demeanor of both Almond and Waterbury, the Commission finds Almond to be credible.

119. The Commission specifically finds Waterbury's testimony regarding Almond to be both disparaging and retaliatory, and not based in fact.

120. Waterbury engaged in retaliatory conduct related to multiple witnesses in this matter.

121. Based upon the totality of the facts surrounding Waterbury's actions related to witnesses, the Commission finds that Waterbury engaged in such conduct in an effort to dissuade witnesses from testifying before the Commission.

122. Based upon the totality of the facts surrounding Waterbury's actions related to witnesses, the Commission finds that Waterbury created a negative and unstable working environment within the special education department at CES, and for the employees within the CES special education department.

123. The facts presented to the Commission concerning matters occurring after the filing of the complaint relate to Waterbury's inappropriate conduct concerning the filing of the complaint.

124. These facts are relevant as they relate to the Commission's ultimate determination as to the appropriateness of any sanction imposed by the Commission.

125. Waterbury had sufficient opportunity to address these additional facts and presented testimony and evidence at the hearing concerning these items.

126. Waterbury's actions and comments toward Johnson, Almond, Osnes, Burke, Griffith, and Miiller, including his testimony at the hearing, demonstrates that Waterbury failed to accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities.

127. Waterbury's actions and comments, including his testimony at the hearing regarding Johnson, Almond, Osnes, Burke, Griffith, Hansen, and Miiller demonstrates that Waterbury failed to exemplify high moral standards by not engaging in or becoming a party to the use of misleading or false statements.

128. Waterbury's actions and comments, including his testimony at the hearing regarding Johnson, Almond, Osnes, Burke, Griffith, Miiller, and Hansen, demonstrates an intentional failure to exemplify high moral standards and engaging in moral turpitude.

129. Waterbury's actions and comments, including his testimony at the hearing regarding Johnson, Almond, Osnes, Burke, Griffith, Hansen, and Miiller, demonstrates that Waterbury failed to discuss professional matters concerning colleagues in a professional manner.

130. Waterbury's actions and comments about Osnes, Burke, Griffith, and Miiller demonstrates that Waterbury used coercive or threatening means in order to influence professional decisions of colleagues.

131. Waterbury's actions and comments about Burke, Griffith, and Miiller demonstrates that Waterbury criticized colleagues before students.

132. Waterbury's response to the complaint and testimony at the hearing indicates that he does not accept responsibility for his unprofessional conduct and does not believe that any of his conduct was unwarranted. His unwillingness to accept responsibility for his conduct indicates a significant likelihood of sustained unprofessional conduct, should he continue in the teaching profession.

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

CONCLUSIONS OF LAW

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

135. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:01 that in fulfilling their obligations to students, educators shall:

(4) “[m]ake 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[.]”

(9) “[m]aintain professional relationships with students in a manner which is free of vindictiveness, recrimination, and harassment[.]”

136. 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:

(1) “take precautions to distinguish between their personal views and those of the local school district or governing body[.]”

(8) “[e]xemplify 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[.]”

(9) “[n]ot misuse or abuse school equipment or property.”

137. 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:

(1) “[a]ccord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities[.]”

(3) “[d]iscuss professional matters concerning colleagues in a professional manner[.]”

(7) “[n]ot interfere with the free participation of colleagues in the affairs of their associations[.]”

(8) “[n]ot use coercive or threatening means in order to influence professional decisions of colleagues[.]”

(11) “[n]ot criticize a colleague before students, except as unavoidably related to an administrative or judicial proceeding[.]”

(13) “[p]erform duties in accordance with local, state, and federal rules and laws.”

138. The complainant has met its burden of proof through testimony and evidence presented at the hearing regarding the allegations of violations of ARSD 24:08:03:01(4); 24:08:03:02(8); and 24:08:03:03(1), (3), (8), and (11).

139. Clear and convincing evidences exists that Waterbury violated ARSD 24:08:03:01(4); 24:08:03:02(8); and 24:08:03:03(1), (3), (8), and (11).

140. The complainant has not met its burden of proof through testimony and evidence presented at the hearing regarding the allegations of violations of ARSD 24:08:03:01(9); 24:08:03:02(1) and (9); and 24:08:03:03(7) and (13).

141. Clear and convincing evidence does not exist that Waterbury violated ARSD 24:08:03:01(9); 24:08:03:02(1) and (9); and 24:08:03:03(7) and (13).

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

143. Any party adversely affected by this decision may appeal to the circuit court pursuant to SDCL 1-26-30.2.

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 Waterbury as provided for in SDCL 13-43-28.1. The Commission recommends immediate and permanent revocation of Waterbury'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 14th day of January, 2019.

PROFESSIONAL TEACHERS PRACTICES
AND STANDARDS COMMISSION

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