

STATE OF SOUTH DAKOTA)
)
COUNTY OF HUGHES) SOUTH DAKOTA DEPT. OF EDUCATION

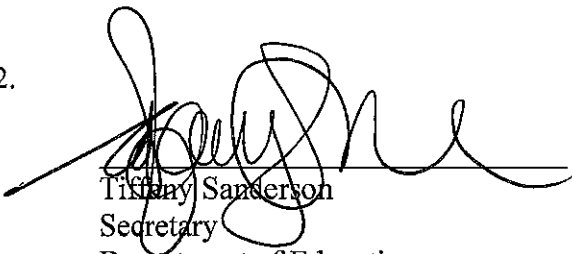
In re: Revocation of the) DSE 2022-02
Teaching Certificate of)
KENNETH JONES) **ORDER REVOKING**
) **TEACHING CERTIFICATE**

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 seeking 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 enters the attached Findings of Fact and Conclusions of Law and are hereby incorporated into this Order by this reference, as Exhibit A.
2. Based upon the foregoing Findings of Fact and Conclusions of Law, the teaching certificate of Kenneth Jones, Certificate #64735, issued on July 23, 2018, is hereby **immediately and permanently revoked**.
3. Notification of this revocation will be placed on the NASDTEC registry and be placed in Jones' permanent certification file within the South Dakota Department of Education.
4. The Order and incorporated Findings of Fact and Conclusions of Law are a public record pursuant to SDCL 13-42-17.1.

This constitutes final agency action and may be appealed to circuit court pursuant to SDCL § 13-42-16.

Dated this the 24 of January, 2022.


Tiffany Sanderson
Secretary
Department of Education
800 Governors Drive
Pierre, SD 57501

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

In re: Revocation of the)
Teaching Certificate of)
KENNETH JONES) DSE 2022-02
) **FINDINGS OF FACT AND**
) **CONCLUSIONS OF LAW**

This matter came before the Secretary upon the South Dakota Professional Teachers Practices and Standards Commission filing a complaint, dated January 12, 2022, pursuant to SDCL § 13-43-28.1. After a review of the Complaint; Findings of Fact, Conclusions of Law, and Order; and the commission’s hearing record, the Secretary enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On or about July 23, 2018, Respondent Ken Jones (“Jones”) was issued South Dakota teaching certificate number 64735. The certificate is valid until July 1, 2023.
2. On or about March 22, 2021, Quinton Cermak, Superintendent (“Superintendent”) with the Highmore-Harold School District filed a complaint against Jones with the Commission.
3. The complaint alleged that Jones violated the following sections of the Code of Professional Ethics for teachers:
 - a. ARSD 24:08:03:01(5), which states that in fulfilling their obligations to students, educators shall “[c]onduct professional business in such a way that they do not expose the students to unnecessary intimidation, embarrassment, or disparagement[.]”
 - b. ARSD 24:08:03:01(7), which states that in fulfilling their obligations to



students, educators shall “[m]aintain professional relationships with students without exploitation of a student for personal gain or advantage[.]”

4. The complaint was served on Jones on or about March 24, 2021.
5. A due and proper Notice of Hearing was served on the parties setting this hearing for October 7, 2021.
6. Two private hearings were held on this matter. One was held on October 7, 2021, and the second was held on December 6, 2021.
7. Jones was a teacher at Highmore-Harold School District (“District”) who taught 7th-12th grade agricultural education.
8. Jones was employed in such capacity for approximately sixteen years.
9. Jones was a full-time teacher with the District and had his own classroom.
10. The students involved in the allegations were all former female students who Jones engaged with through the various roles in his teaching capacity.
11. On August 18, 2020, a 2016 graduate (“Student A”) of the District filed a written complaint with the District alleging sexual harassment by Jones.
12. Student A subsequently testified to the allegations in her complaint at the private hearing before the Commission on December 6, 2021.
13. In her complaint and during her testimony, Student A specifically described the following actions and behaviors committed by Jones:
 - a. During class, Jones would use her father as an example when talking about animal reproduction. Specifically, Jones would discuss the fact that Student’s father wore tight jeans as an example of how fertility in bulls can be affected if

the testicles were too constricted, and then proceed to say that her father had “defied the odds.”

- b. Jones would commonly make comments about women, talking about their bodies in sexually explicit ways and using the words “ass” and “boobs” in front of students.
- c. During one class period, Jones asked male students “what their favorite song was to jack off to in the shower,” in an attempt to get them to admit that they masturbated in the shower.
- d. On a trip where Jones was the chaperone, he made comments about a student’s mother – specifically how hot she was and then proceeded to make noises imitating sexual arousal.
- e. While at a public speaking competition Student was participating in, Jones took a picture of Student with Student’s mouth open, then drew a penis in Student’s mouth on the photo and allegedly sent it to other students and placed it on SnapChat.

14. Student A testified that these incidences and behaviors were enough to make Student consider dropping out of the classes Jones taught – however Student indicated that Student’s love for the events she competed in through FFA (part of the classes taught by Jones), as well as pressure from friends and teammates, were enough to make Student stay.

15. When asked why Student A waited four years to come forward, Student indicated the following:

- a. Jones was the “cool” teacher – and as a high school girl Student worried about Student’s popularity and did not want to be the one that stepped forward when nobody else did.
- b. Student’s younger siblings were still in school at the District, and Student did not want to make things more difficult for them either. Student also indicated that Student believed Jones could change his ways, and that Student did not think Student was leaving Student’s younger sibling in the same kind of environment.
- c. Student watched “Athlete A,” [the documentary about Larry Nassar and the USA Gymnastics team] which became available to the public in June of 2020 and gave Student the courage to finally come forward.
- d. Student also worked in a Women’s Crisis Center during college and came to understand more about sexual harassment and that what Jones did was not okay.

16. On December 16, 2020, a 2020 graduate (“Student B”) of the District filed a written sexual harassment complaint with the District as well.

17. Student B subsequently testified to the allegations in her complaint at the private hearing before the Commission on December 6, 2021.

18. In Student B’s complaint and during her testimony, Student B specifically described the following actions and behaviors committed by Jones:

- a. During a trip to a national competition, a woman walked across the street and Jones commented on her breasts in front of the group of students. When

confronted by Student B and reminded that he had a wife and kids at home, Jones stated, “I can look at the menu, I just can’t order.”

- b. On a different trip where Jones was the chaperone, he participated in student conversations and helped rank a list of the “hot moms” of the District.
 - c. Jones made comments in class related to the sexual nature of Student’s parents – specifically as an example of a bulls’ ability to impregnate a cow and that Student’s father must have been very “prolific” [i.e., fertile, producing many offspring] because Student had a large number of siblings.
 - d. Jones would make similar comments about Student’s parents, stating that Student’s father must have had a “weak pull-out game,” and that there was no way her “mother’s genitalia was the same after [that many] births.”
19. Student B testified that these incidences and behaviors by Jones were enough to eventually cause Student B to drop out of the classes Jones taught.
20. When asked why Student B didn’t address these concerns prior to graduating, Student B indicated that it was school policy at that point where you could not make an anonymous complaint. You would either have to meet face to face or sign your name to a letter. Student B was not comfortable in doing so.
21. On January 5, 2021, a second 2020 graduate (“Student C”) of the District filed a sexual harassment claim with the District as well.
22. Student C subsequently testified to the allegations in her complaint at the private hearing before the Commission on December 6, 2021.
23. In Student C’s complaint and during Student C’s testimony, Student C specifically

described the following actions and behaviors committed by Jones:

- a. Jones asked Student C during class if she was a virgin, which made Student feel “embarrassed, weird, and gross.”
- b. During a national trip where Jones was the chaperone, he “cat called” [to whistle, shout or comment in a sexual nature] to a woman walking across the street in front of the students.
- c. During the same trip, Jones told Student C that at the trip-sponsored dance she would be “grinding so hard with some guy that she would end up pregnant by the end of the night and be the new Virgin Mary.”
- d. During class on one occasion, Jones argued with another student that her UTI [urinary tract infection] was caused by her having sex. When the student tried to tell Jones it was from her spandex, he argued that “it couldn’t be from anything but sex and that she should stop sleeping around.”
- e. During class on a different occasion, Jones would pet Student C’s hair and proceed to say, “you’re so pretty [Student C].”
- f. During class and on trips, Jones would participate in and encourage the “hot mom’s list” game and the creation of a “MILF” [mother I’d like to fuck] list as well.
- g. Jones made a comment in class one time regarding another student’s mother and stated that “[mother’s] genitalia must look like a roast beef sandwich after having ten kids.”

24. When asked why Student C waited until after Student C graduated to file a complaint

against Jones, Student C indicated that going to college and talking to different people helped her realize that her experience with Jones was not normal.

25. Student C also indicated that when Student C came back home, she heard things were still the same with Jones, that things weren't getting better, and that Student C realized it wasn't okay for other students to still face those negative situations.

26. Each of these students agreed that Jones was a good teacher and coach, but acted inappropriately and made them feel uncomfortable, nonetheless.

27. The Commission also considered a fourth complaint filed by a Parent ("Parent") of a student in the District.

28. In the complaint, Parent discussed the following concerns:

- a. These things should not be an issue in a teacher's classroom. As a teacher, "[Jones] should have shut down any lude or inappropriate comments, not creating or allowing them."
- b. "Jones is teaching the young men that it is okay to talk to and treat women in a disrespectful manner and teaching girls to accept it."
- c. "Last year at one point during the beginning of the year, [Jones and students] were again engaging in inappropriate conversations in the classroom and Jones asked [Parent's Daughter] if she was still a virgin."
- d. "This year, the icing on the cake, [Parent's Daughter] was not feeling well, so I had an appointment for her at the clinic. Jones asked why she was going, and she answered him honestly, saying that she had not been feeling well and having stomach pains. After she got back to school, some of her classmates

informed her that as soon as she walked out the door, Jones' reply was, 'Oh, she's pregnant, that's why she has to go to the clinic.' ...And by the end of the day and at the end of basketball practice, she had an elementary student come up to her and say something about her being pregnant."

- e. Parent also indicated that female students were once lied to and led to believe by Jones that Parent would be the chaperone on a national trip – however Parent was not asked to be a chaperone and Jones was the only chaperone for the female students.

- 29. In addition to the complaints and testimony by Students A, B and C, as well as the written complaint from Parent, the Commission heard the testimony of Student D at the October 7, 2021 hearing as well.
- 30. Student D was a former student who had Jones in a teaching capacity for six years at the District.
- 31. Student D testified that Student D thought the other Students disliked Jones because of his "personality" but not professionally.
- 32. When asked by counsel during the hearing what sexual harassment was, Student D said, "something pretty serious," and did not believe that Jones sexually harassed anyone.
- 33. Student D did indicate that Jones participated in a "hot moms" and "hot dads" list, though.
- 34. Student D also recalls Student A telling her about the SnapChat incident. However, Student D alleges that it was another student who drew the penis on Student A's photo

and not Jones.

35. The Commission also heard and considered the testimony of the Superintendent for the District at the October 7, 2021 hearing.
36. The Superintendent indicated that he contacted attorney for the District, Rodney Freeman, after receiving the first complaint.
37. After contacting Attorney Freeman, Superintendent received the additional complaints.
38. Due to the potential criminal nature of Jones' conduct, Attorney Freeman advised Superintendent to seek counsel from the State's Attorney's Office. The State's Attorney's Office did not proceed with criminal charges.
39. Superintendent then engaged the services of Gerry Kaufman, a certified Title IX Investigator ("Investigator") on January 5, 2021.
40. After Investigator reviewed the complaints and consulted with Attorney Freeman, the decision was made to transfer the complaints pursuant to School Board policy from a sexual harassment investigation to an investigation related to complaints against a school employee. The reason for this transfer being that the new Federal Title IX regulations allow formal Title IX sexual harassment complaints to be filed by current students only.
41. The Investigator found all persons interviewed to be credible and that there was no evidence of any type of conspiracy against or motive to hurt Jones.
42. The Investigator reviewed the two responses submitted by Jones and interviewed Jones as well. Investigator believed that some of Jones' responses, specifically that he

did not remember many of the events that occurred, were a defense mechanism/strategy. However, the Investigator had no credible evidence that Jones knowingly failed to tell Investigator the truth during the interviews.

43. Jones provided written responses to the complaints.

44. The first response was provided on or about August 20, 2020, after the initial complaint was filed.

45. In the August 20, 2020 response, Jones stated that he was “shocked and saddened” when he read the letter by Student A. He also stated that he did not remember much of the events referenced but did write, “I do, however, know enough about myself to say with confidence that I did not engage in the conduct [Student A] described regarding SnapChat in the manner she remembers it. Perhaps one of the boys drew the offensive drawing on the photo and shared it with me – I do not recall.”

46. Jones further stated that there had been many times when he “had to steer conversations with students back toward what is appropriate and acceptable” and “I have certainly never sexually harassed a student.”

47. Jones additionally stated that he wished that at the time of the allegations he wished he knew how [Student A] felt and that he wanted [Student A] to know “that I am truly sorry, and I will strive to do better.”

48. The second response was provided on January 11, 2021, following the submission of the other complaints.

49. In the January 11, 2021 response, Jones initially referred the original complaint from Student A, writing that “I did, however, dispute certain allegations of [Student A’s]

because I knew for a fact that the conduct she described did not happen as she recalled it. Nonetheless, I apologized and vowed that I would strive to do better.”

50. When addressing the subsequent complaints, Jones stated, “[h]owever, it remains true that much of what they have described can more accurately be described as crude - not sexual harassment. I do not say this in an attempt to minimize the allegations, but merely to point out that the conduct they are characterizing is not what they claim it to be. I am not going to attempt to rebut each and every point raised in the letters. Much of what has been described happened so long ago that details of the events have become lost memories or were otherwise unmemorable to me.”

51. Jones proceeded to state, “this school year, I have made efforts to be more careful about what I say or joke about in front of the students.”

52. Jones testified at the hearing.

53. Jones denied ever participating in the “hot mom’s list.” He indicated that he may have been asked a question regarding moms and he would simply indicate “they’re both nice looking ladies.” And that would be the extent of his comments.

54. Jones, being aware of the specific witnesses, denied that any sexual harassment was directed towards any of them.

55. Jones admitted taking the “SnapChat” photo of Student A and posting it, but denied that he was the one that drew a penis in the open mouth of Student A.

56. Jones generally alleged that statements he made got twisted and misinterpreted by Students.

57. Based upon the evidence presented and the ability of the Commission to view the

testimony of Jones and the Students, the Commission finds the Students' testimony credible.

58. During Jones' testimony before the Committee, on October 7, 2021, Jones also disclosed that he had a "man cave" consisting of a hot tub, games, and an entertainment/lounge area. It was located in a separate building outside of his personal home, and a select number of students were allowed to hang out there by invite only – sometimes with or without Jones around.
59. Jones ultimately resigned from his teaching position with the District, effective February 28, 2021. He is now farming, having evidently taken over his father-in-law's operation.
60. When asked by the Commission if Jones would like to teach again at some point, he said that he would like to hold on to his teaching certificate in the event that the economy becomes too bad for farming.
61. The evidence presented to the Commission met the burden in demonstrating that Jones failed to make a reasonable effort to maintain discipline and order in the classroom and school system to protect the students from conditions harmful to learning and emotional well-being.
62. The evidence presented to the Commission met the burden in demonstrating that Jones exposed Students to unnecessary intimidation, embarrassment, or disparagement.
63. The evidence presented to the Commission met the burden in demonstrating that Jones failed to maintain professional relationships with students without exploitation

of a student for personal gain or advantage.

64. The evidence presented to the Commission met the burden in demonstrating that Jones failed to maintain professional relationships with Students in a manner which was free of vindictiveness, recrimination, and harassment.

65. Any evidence presented to the commission of acts by Jones that occurred over five years from the filing of the complaint was relevant to the allegations as contained in the complaint

66. 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

67. 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.

68. 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.

69. ARSD 24:08:04.01:03 provides: "...Evidence relevant to current charges in the complaint from up to five years prior to the filing of the written complaint may be introduced at the hearing. Evidence relevant to the current charges that exceeds the five years may be considered at the discretion of the commission..."

70. Any evidence presented to the Commission that occurred five years previous to the

filing of the complaint was relevant to the allegations contained in the complaints and appropriately considered by the Commission.

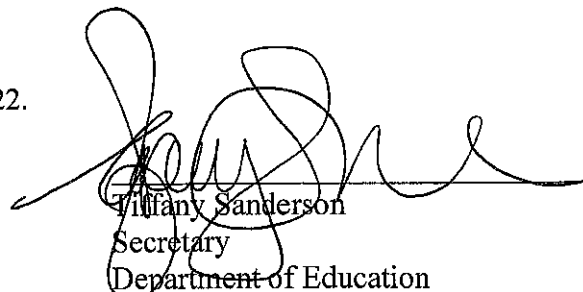
71. The South Dakota Code of Professional Ethics for Teachers as provides at ARSD 24:08:03:01 that in that fulfilling their obligations to students, educators shall act as follows:

- a. (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.
- b. (5) Conduct professional business in such a way that they do not expose the students to unnecessary intimidation, embarrassment, or disparagement.
- c. (7) Maintain professional relationships with students without exploitation of a student for personal gain or advantage.
- d. (9) Maintain professional relationships with students in a manner which is free of vindictiveness, recrimination, and harassment.

72. Clear and convincing evidence exists that Jones violated ARSD 24:08:03:01(4), (5), (7), (9).

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

Dated this the 26 of January, 2022.



Tiffany Sanderson
Secretary
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