

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

In re: Certification Application of	)	DSE 2025-13
ERIQ SWIFTWATER	)	ORDER DENYING
	)	EDUCATOR CERTIFICATE

In accordance with and pursuant to the authority granted to the Secretary by SDCL § 13-42-4, 13-42-9, and ARSD article 24:18, and after review of the record herein, the Secretary issues the following Order:

1. The Secretary affirms and adopts the proposed Findings of Fact #1-30 and Conclusions of Law #1-8, 11, and 13 of the Independent Hearing Examiner, Robert B. Anderson, and hereby incorporates such Findings and Conclusions into this Order by this reference as if set forth in full.
2. The application of Eriq Swiftwater for an educator certificate is **DENIED**.
3. Although the Independent Hearing Examiner recommended Swiftwater's application be denied and he be precluded from reapplying for an educator certificate in the State of South Dakota for a period of three (3) years, the Secretary finds Swiftwater's criminal history, failure to adequately disclose, disregard for the law, and employment as a teacher without a certificate particularly egregious. Coupled with Swiftwater's failure to meet the general requirements for alternative certification and not completing an educator preparation program, supports the decision that Swiftwater is not fit for an educator certificate in the State of South Dakota.
4. Swiftwater is permanently prohibited from reapplication for an educator certificate in the State of South Dakota.
5. The Order and Findings of Fact and Conclusions of Law are a public record pursuant to

SDCL § 13-42-17.1 and ARSD 24:18:04:05.

6. Notification of this denial is to be placed on the NASDTEC registry and be placed in applicant's permanent certification file within the South Dakota Department of Education.

This constitutes final agency action and may be appealed to circuit court pursuant to ARSD 24:18:02:06.

Dated this the 25th of June, 2026.



Dr. Joseph Graves
Secretary
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF HUGHES)

DIVISION OF THE SECRETARY

S.D. DEPT. OF EDUCATION

In Re:	DSE 2025-13
Certification Application of ERIQ SWIFTWATER	FINDINGS OF FACT AND CONCLUSIONS OF LAW

The South Dakota Department of Education issued a written “Notice of Intent to Deny Educator Certificate” in regard to Eriq Swiftwater’s (Swiftwater) application for an Initial Educator Certificate, which application was opened on or about July 9, 2025.

A hearing on the Notice of Intent to Deny was held on Swiftwater’s timely request before Robert B. Anderson, the duly appointed Independent Hearing Examiner, on March 13, 2026, commencing at 01:00 o’clock p.m. CDT in the MacKay Building Library Commons, 800 Governors Drive, in Pierre, South Dakota 57501. The hearing was a public hearing at the request of Mr. Swiftwater. The hearing was held pursuant to written Notice of Hearing.

The South Dakota Department of Education (Department) appeared through Kathryn Blaha, Director of Accreditation and Certification for the Department, and Amanda LaCroix, Senior Staff Attorney for the Department. Swiftwater appeared personally without counsel. The hearing was held before the duly appointed Independent Hearing Examiner, a verbatim record was made, and the Hearing Examiner had an opportunity to see all witnesses testify and make a determination as to their credibility. After hearing the arguments of counsel and the parties and having reviewed all the testimony and exhibits and other evidence offered at the time of the hearing, including but not limited to a written transcript of the March 13, 2026 hearing, as Independent Hearing Examiner, I now make and enter the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Swiftwater filed an application for an Initial Educator Certificate on or about July 9, 2025, with the Department.
2. On or about March 10, 2020, Swiftwater had previously filed an Alternative Preliminary Initial Application for a teaching certificate.
3. Swiftwater’s 2020 application was denied for failing to completely disclose his criminal history and the content of his criminal history itself.

4. The denial of Swiftwater's 2020 application prohibited him from reapplying for a minimum of five (5) years.

5. Swiftwater applied approximately five (5) years later on July 9, 2025, for the certificate subject to this proceeding.

6. Swiftwater has not fulfilled the necessary educational requirements to be issued a teacher certificate in South Dakota at present.

7. Swiftwater does not presently meet the general requirements for alternative certification.

8. In his 2025 application, Swiftwater failed to disclose certain criminal offenses and the full content of his criminal history since he applied for his certificate in 2020.

9. Although classroom teachers need to be certified in order to be employed by a school district in South Dakota, athletic coaches do not require certification.

10. Swiftwater was employed after the denial of his 2020 application by both the Wessington Springs School District and Oglala Lakota School District. Neither employments were permissible under South Dakota law.

11. The Department made the determination that Swiftwater's 2025 application should be denied based on failure to disclose everything concerning his criminal history, violating the law by being employed by a school district and working as a teacher without certification.

12. Due to his 2020 application experience, Swiftwater was aware in 2025 that he was required to adequately and fully disclose his criminal background.

13. Swiftwater explains his failure to adequately and fully disclose his criminal background in the 2025 application was "merely oversight".

14. The last of Swiftwater's criminal charges was disposed of in December, 2020, by plea and subsequent sentencing.

15. Since December, 2020, Swiftwater has not had any arrests or any contact with the criminal justice system.

16. The last time Swiftwater appeared in criminal court was for a sentencing in December, 2020.

17. Swiftwater acknowledges that, in 2020 and some years prior to that time, he made significant mistakes and did not act appropriately.

18. There is no evidence in the record and no suggestion that Swiftwater has violated the criminal laws of the State or any other jurisdiction since his prior DUI was disposed of by plea and sentencing in December, 2020.

19. Although it is true that in his 2025 application, Swiftwater did not fully disclose his criminal background, that failure is somewhat understandable given the overlap between his arrests and prosecution and the denial of his 2020 application.

20. It mitigates in favor of Swiftwater that there is no record of any criminal arrest or conviction since December, 2020, and that the criminal charges resolved at that time arose from incidents in 2020.

21. The questions contained in the application and, in particular, the conduct review section relating to criminal history are very direct and straightforward.

22. A reasonable person in Mr. Swiftwater's position should have understood the questions contained in the application and, in particular, the conduct review portion of that application, and therefore should have responded more thoroughly and accurately to those questions. This is particularly true in view of the fact that Mr. Swiftwater had experienced a prior denial based on many similar omissions.

23. The Department requires the application and, in particular, the conduct review portion to be completed thoroughly in accordance with instructions so that a well-informed determination can be made as to the applicant's ability to successfully fulfill the duties which are placed upon him or her if the application is granted.

24. Although the Department was aware, at least in part, of Swiftwater's criminal history going back to the year 2020, it still remains that Swiftwater's failure to completely respond to the questions in the conduct review section deprived the Department of the ability to fully examine his history and make an informed decision on his application.

25. During the hearing, Mr. Swiftwater presented himself as a sincere, reasonable, and intelligent person who is dedicated to teaching, coaching, and working with young people of high school age.

26. Swiftwater called several character witnesses, who testified concerning their knowledge of his ability as a teacher, coach, and general mentor for young children. These people had an extensive opportunity to observe Swiftwater in an educational and coaching setting.

27. Those individual witnesses expressed no concern about Swiftwater's character or abilities as a teacher or coach.

28. Although "character" type testimony and "character" witnesses are seldom very persuasive, the witnesses called to testify by Swiftwater regarding their knowledge of his

performance in an educational setting was very impressive and persuasive as to Swiftwater's character and work ethic.

29. The "character" testimony produced by Swiftwater and his witnesses described him as a person who is trustworthy, related well with students especially Native American students, and someone who would offer valuable instruction to students he made contact with.

30. The facts, as found by the Independent Hearing Examiner set forth above, support the Department of Education's determination to deny Swiftwater's application pursuant to SDCL § 13-42, in general, and § 13-42-9, in particular.

31. The facts do not support a determination that a lifelong prohibition should be imposed on Swiftwater, which would prevent him from applying for, obtaining, or utilizing any type of teacher certificate in South Dakota.

32. The facts support the conclusion that Swiftwater would be an asset and benefit both as a classroom teacher and an athletic coach.

CONCLUSIONS OF LAW

1. Robert B. Anderson was duly designated and appointed as Independent Hearing Examiner pursuant to ARSD 24:18:02:03 by the South Dakota Secretary of Education and is thereby designated to preside over the contested case relating to the Department's Notice of Intent to Deny Swiftwater's Application for Educator Certificate. The Hearing Officer's jurisdiction is based on the authorizing statutes, administrative rules, and the Order from the Secretary of the South Dakota Department of Education which appoints him.

2. The Department of Education has jurisdiction over the parties and the subject matter of this proceeding.

3. SDCL § 13-42-9 provides that the Secretary of the Department of Education has the power and authority to refuse to issue an Educator Certificate for a variety of reasons including, but not limited to, violation of the code of ethics, failure to fulfill any requirement for certification imposed pursuant to SDCL §§ 13-42 or 13-43 or administrative rules promulgated thereto, or moral turpitude as defined in SDCL § 22-1-2.

4. The South Dakota Department of Education has the burden of going forward and the burden of proof on whether Swiftwater's actions as described in the Notice of Intent to Deny his Certificate justify such suspension by a preponderance of the evidence.

5. The South Dakota Department of Education has the burden of going forward and the burden of proof to show, by a preponderance of the evidence, that it is justified in denying Swiftwater's application for an Initial Educator Certificate.

6. The South Dakota Department of Education has met its burden of proof as to its decision to deny Swiftwater's application for an Initial Educator Certificate based on their determination that Swiftwater failed to fully and truthfully answer the questions contained in the conduct review portion of his application and failed to provide court documents as required.

7. The Department of Education's reliance on the provisions of SDCL §§ 13-42-9, 13-42, and 13-43, in general, are supported by the facts found in this matter and justify denial of Swiftwater's application.

8. The South Dakota Department of Education has a legitimate concern relating to Swiftwater's criminal history, but their concern is tempered by the timing of his criminal conviction and the fact that, since December, 2020, he has had no further contact with the criminal justice or legal system.

9. The Department's concern identified in the preceding conclusion of law is legitimate but not significant enough to deny Swiftwater the right to re-apply for an Educator Certificate of the appropriate type in the future. Therefore, Swiftwater should be barred from reapplying for any type of certificate for a period of time from three (3) years from the date of entry of Order in this proceeding.

10. As with any applicant for any type of educator certificate, Swiftwater will be required to prove that he has the requisite educational background for whatever type of certificate he may apply for.

11. The Department of Education justifiably depended on Swiftwater and other applicants like him to comply with the requirements of whatever application he completed and, in particular, to do so fully and honestly.

12. It is both the finding and conclusion of this Hearing Officer that the Department of Education's decision to deny Swiftwater's application for an Initial Educator Certificate should be upheld for the reasons set forth in these findings and conclusions as amplified in the Memorandum Opinion filed simultaneously herewith. However, Swiftwater shall be precluded from reapplying for any educator certification in the State of South Dakota only for a time running from three (3) years after a final decision in this matter is signed and filed by the Secretary of Education. Thereafter, Swiftwater shall be permitted to reapply for whatever certification may be appropriate and for which he is qualified after this suspension period expires. At that time, he must comply with the requirements that apply to any application process, including thorough and accurate responses to the character and fitness portion of the application, providing whatever information is required by the Department Education, and completing whatever preliminary requirements may apply. However, the Department of Education will be precluded from relying on the factors described in their Notice of Intent to Deny, which was the subject of this hearing.

13. Any finding of fact which is actually a conclusion of law shall be denominated as such, and any conclusion of law which is actually a finding of fact shall be denominated as such.

Law. An order should be entered consistent with these Findings of Fact and Conclusions of

Dated this 1st day of May, 2026.

A handwritten signature in black ink, appearing to read "Robert B. Anderson", written over a horizontal line.

Robert B. Anderson
Independent Hearing Examiner