

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

In the Matter of the
Revocation of the
Teaching Certificate of
Kandice Schlagel.

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DSE 2014-7

**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 and 13-42-9, following receipt of a Complaint for the revocation of a certificate from the South Dakota Professional Teachers Practices and Standards Commission, and after review of the entire record of the hearing before the Commission and the record of the hearing on July 7, 2014, the Secretary orders the following:

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 certificate of Kandice Schlagel (#73428-0) is hereby **permanently, immediately revoked**.
3. Notification of this revocation will be placed on the NASDTEC registry and be placed in Schlagel's permanent certification file within the South Dakota Department of Education.
4. This Order and findings and conclusions will be provided to Schlagel and her counsel, the complainant before the commission and its counsel, and the executive secretary of the Professional Teachers Practices and Standards Commission and its counsel.
5. This Order and incorporated findings and conclusions are a public record pursuant to SDCL Chapter 1-27 and 1-26-2. See PTPSC v. Tuma, Hughes Co. Civ. 08-170, Letter Decision Re: Respondent's Motion to Seal Court File (Wilbur, J., July 18, 2008).

This constitutes final agency action.

Dated this 31st day of July, 2014.

A handwritten signature in cursive script, reading "Dr. Melody Schopp". The signature is written in black ink and is positioned above a horizontal line.

Dr. Melody Schopp
Secretary
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501

5. A hearing on the complaint commenced on January 8, 2014 and a continued hearing occurred on April 30, 2014 at Conference Room 1, McKay Building, 800 Governors Drive, Pierre, South Dakota.
6. On or about April 30, 2014, Schlager, through her attorney, voluntarily agreed to surrender her teaching certificate.
7. During the 2013/2014 school year, Schlager was a school counselor for the Clark School District.
8. At that time, Student was 16 years old and a student in the Clark School District.
9. Prior to the beginning of the school year, as a result of information provided to the school, the superintendent and principal met with Schlager and discussed with her the need for her to maintain a professional relationship with Student.
10. On or about September 30, 2013, based upon another report concerning Schlager's conduct with Student, the superintendent and principal met with Schlager again.
11. At this meeting, Schlager was specifically told that her friendship and contact with Student had to stop.
12. Schlager agreed to end her contact with Student.
13. Schlager told the superintendent and principal during this meeting that if she had a hard time with Student accepting the ending of the contact with Student that they might have to have a conversation with Student.
14. On or about October 8, 2013, law enforcement agencies commenced an investigation into Schlager's activities with Student.
15. Law enforcement interviewed Schlager on or about October 30 2013, and Schlager admitted to engaging in sexual contact with Student.
16. After being informed of the sexual relationship that Schlager admitted to having with Student, the superintendent and principal met with Schlager.
17. During the meeting between Schlager, the superintendent and principal, Schlager admitted to the inappropriate relationship with Student.
18. At the conclusion of the meeting between Schlager, the superintendent and principal on October 8, 2013, Schlager resigned her position with the Clark School District.
19. During the fall 2013 semester, Schlager had a sexual relationship with Student while Student attended the Clark School District.
20. By engaging in a sexual relationship with Student, Schlager violated ARSD 24:08:03:01(10) in that she engaged in or was a party to sexual activity with a student.

21. By engaging in a sexual relationship with Student, Schlagel violated ARSD 24:08:03:02(8) in that she failed to exemplify high moral standards based upon her engaging in or being a party to sexual activity with a student.
22. 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

23. 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.
24. The burden of proof in this matter is clear and convincing. In Re: Setliff, 202 SD 58, 645 N.W.2d 601, 605.
25. 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 act as follows:
 - a. (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.
26. Clear and convincing evidence exists that Schlagel violated ARSD 24:08:03:01 (10).
27. 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:
 - 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, sexual contact with students, illegal drugs, or use of misleading or false statements.
28. Clear and convincing evidence exists that Schlagel violated ARSD 24:08:03:02 (7) and (8).
29. Any conclusion of law improperly denoted as a finding of fact is hereby incorporated as a conclusion of law.

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 Schlagel as provided for in SDCL 13-43-28. It is further

ORDERED that a copy of the Findings of Fact, Conclusions of Law and Order be sent to parties herein and to the superintendent and school board president of the Clark School District. It is further

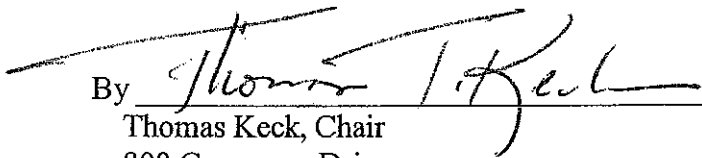
ORDERED that a copy of the Findings of Fact, Conclusions of Law and Order be provided to the Secretary of the South Dakota Department of Education for placement in the Department's permanent certification file and that notice be placed on the NASDTEC clearing house. It is further

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 17th day of May, 2014.

PROFESSIONAL TEACHERS PRACTICES
and STANDARDS COMMISSION

By



Thomas Keck, Chair
800 Governors Drive
Pierre, SD 57501-2294