

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

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In the Matter of the                )  
Teaching Certificate of                )  
Mark Griebel.                         )  
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DSE 2016-3  
**ORDER REGARDING  
SOUTH DAKOTA TEACHING  
CERTIFICATION**

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Pursuant to the authority granted to the Secretary of the South Dakota Department of Education by SDCL 13-42-9, 13-42-15, and 13-43-28.1, following receipt of a Complaint from the South Dakota Professional Teachers Practices and Standards Commission, and after review of the entire record herein, including the Complaint from the Commission and attached exhibits and the entire hearing record, the Secretary enters the following order:

1. The Secretary affirms and adopts the Findings of Fact and Conclusions of Law of the Commission attached as Exhibit A and incorporated herein by this reference.
2. The Secretary enters the following additional Finding of Fact 60:

There was no evidence of sexual contact, a sexual relationship, or sexual communication between Griebel and Student.

3. Although the Commission can make a recommendation regarding the length of suspension, this recommendation is not binding on the Secretary.
4. Based on the foregoing Findings of Fact and Conclusions of Law, Griebel's South Dakota Teaching Certificate 71541 is **suspended for a period of two years, effective April 4, 2016.**
5. In order to be considered for certification at the conclusion of the suspension period, Griebel must reapply and meet all legal requirements for certification at the time of the application.
6. Notification of this Order will be placed on the NASDTEC registry and be placed in Griebel's permanent certification file within the South Dakota Department of Education.
7. This Order and incorporated findings and conclusions are a public record pursuant to SDCL 13-42-17.1.

8. Griebel is prohibited from being employed by a public school or other accredited school in South Dakota during the term of suspension pursuant to SDCL 13-43-5.1.

This constitutes final agency action.

Dated this 4th day of April, 2016.

*Melody Schopp*

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Dr. Melody Schopp, Secretary  
South Dakota Department of Education

STATE OF SOUTH DAKOTA

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PROFESSIONAL TEACHERS  
PRACTICES AND STANDARDS  
COMMISSION

COUNTY OF HUGHES

ss:

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DAVID PAPPONE, SUPERINTENDENT,  
BRANDON VALLEY SCH. DIST.

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Complainant,

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v.

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MARK GRIEBEL,

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Respondent.

PTPSC 2015-01

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER

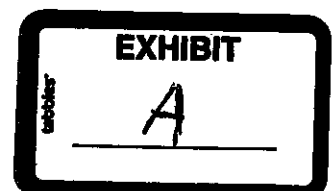
This matter came on for hearing pursuant to the provisions of SDCL § 13-43-28 before the South Dakota Professional Teachers Practices and Standards Commission on January 14, 2016 at 1:00 p.m. Central Time, in Conference Room 1, MacKay Building, 800 Governors Drive, Pierre, South Dakota, as previously scheduled and duly and formally noticed for hearing.

The following members of the South Dakota Professional Teachers Practices and Standards Commission (Commission) were present at the hearing: Thomas Keck, Lance VanderVorst, Bev Kopren, Tammy Jo Schlechter, and Ann Noyes. Paul Bachand and Holly Farris, counsel for the Commission, and Ferne Haddock, executive secretary of the Commission, were also present. Commission member Connie Gretschnann and investigator Adrian Mohr were present at the hearing. Commission member Gretschnann, having been previously assigned by the Commission chair to review the complaint, response, and investigatory report, did not take part in any decision by the Commission. Brandon Valley School superintendent David Pappone was present and appeared through counsel Rodney Freeman of Huron, South Dakota. Respondent Mark Griebel did not appear at the hearing.

Based upon Griebel'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. 71541-2, issued on January 14, 2014, and expiring on July 1, 2023.
2. On or about January 9, 2015, Superintendent David Pappone, of the Brandon Valley School District in Brandon, South Dakota, filed a complaint against Griebel with the Commission.
3. The complaint alleged that Griebel violated sections of the South Dakota Code of Professional Ethics for Teachers as a result of his interactions, both in person and electronically via text and email, with a 17-year old female student (Student) at Brandon Valley Public School.
4. The complaint was served on Griebel on or about January 15, 2015.



5. A due and proper amended notice of hearing was served on Griebel advising him of the time and place of the hearing.

6. A hearing on the complaint was held on January 14, 2016, in Conference Room 1, MacKay Building, 800 Governors Drive, Pierre, South Dakota, at 1:00 p.m. CT.

7. Griebel failed to appear at the January 14, 2016, hearing to request a private hearing, so a public hearing was held.

8. Griebel's failure to appear at the hearing constitutes an admission of the allegations contained in the complaint.

9. During the 2014-2015 academic year, Griebel was employed as a science teacher and assistant play director at Brandon Valley High School (BVHS). Griebel was a tenured teacher at Brandon Valley High School.

10. On or about Tuesday, December 2, 2014, Griebel sent four to five text messages to Student. At the time, Student was a 17-year-old senior student at BVHS. Student received the messages during a meeting with a school guidance counselor. Student checked the messages at the end of the visit and disclosed to the counselor that all the messages were from Griebel.

11. Griebel texted Student to check on her, after observing Student was upset earlier in the day. Griebel later told administrators that he texted Student to find out what was wrong and to ask how he could help.

12. The number of messages sent to Student from Griebel concerned the guidance counselor, who reported the communications to the administration on Thursday, December 4, 2014. The guidance counselor was concerned about the texts because of the school district's policy on communications between teachers and students.

13. Following the report of the communications between Griebel and Student, school administrators conducted an investigation regarding the relationship between Griebel and Student.

14. During the investigation, Griebel and Student admitted to exchanging "hundreds" of texts, emails, and phone calls during an approximate two-year period.

15. The communications occurred during and after school hours.

16. Both Griebel and Student indicated that many of the texts involved BVHS theater productions and the Lego League, activities in which Student was involved and Griebel oversaw.

17. Student informed school administration that she considered Griebel "one of her best friends."

18. Administration noted that the wallpaper photo on Student's phone was a photo of her and Griebel at a recent theater production.

19. On Tuesday, December 9, 2014, both Student and Griebel were directed by school administration not to communicate with each other until the issue had been resolved.

20. Neither Student nor Griebel were able to provide copies or examples of the text messages to the administration or Adrian Mohr, an investigator for the Commission.

21. Student later admitted to school administration that she went to Griebel's classroom on December 9, 2016, after being told not to contact him because she was concerned about the texts. Student told Griebel that he was going to get into trouble and that they needed to get rid of the texts.

22. Student deleted all of her texts on or about December 9, 2014, and urged Griebel to do the same because she did not want Griebel to get in trouble as a result of the texts.

23. Griebel said that Student did come to his classroom on December 9, 2016, and that he walked her to class, but denied that she told him to delete texts between the two of them. Griebel stated that he was unable to understand Student at that time because she was "not coherent" and "what she was saying did not make any sense."

24. Griebel asserted that he had previously deleted all text messages off of his phone, in order to obtain enough data storage to film a video for a Lego League competition.

25. On December 16, 2014, administration recommended to Griebel that he try to retrieve the text messages from his cell phone provider, in order to provide clarity on the texts' content.

26. Griebel stated that he went directly from meeting with school administration to his cell service provider to recover the texts but was told by an employee that it was not possible.

27. Griebel also visited his cellular service carrier on January 1, 2015, and inquired about retrieving deleted texts messages in an attempt to recover the texts at issue. The recovery attempt was unsuccessful. Griebel obtained a statement from the Verizon store manager to that effect.

28. School administration determined that Griebel's participation in these text conversations violated administrative policies of the Brandon Valley School District.

29. The Brandon Valley School District social media policy, as summarized to the Commission by Superintendent David Pappone, was enacted on December 9, 2010, and states that staff should not exchange text messages with individual students. Group texts and replies to individual students who respond to group texts with a question are permitted.

30. The policy was contained in the teacher handbook supplied to every teacher each year at BVHS.

31. During the investigation, Griebel and Student also acknowledged being alone in a car together at least two times.

32. Griebel told the Investigator Mohr that he and Student were alone in a car together on one occasion when he drove Student to her home to get wood for a theater production set and on one occasion when Student drove Griebel to gather supplies for a Lego League tournament.

33. Student also went to Griebel's residence on one occasion when Griebel asked Student to pick up his children at school and take them home.

34. Administration also discovered that Student “used Mr. Griebel’s classroom as her locker” and “stored all her personal things there during the school day” and therefore visited his classroom before school, in between classes, and after school.

35. Griebel and Student’s mother indicated to Investigator Mohr that Student served as a classroom aide, thereby necessitating keeping her possession in Griebel’s classroom and spending her free time there. No official documentation of such an assignment or designation by the school district confirmed that Student was a classroom aide for Griebel.

36. Griebel classified the car trips as matters of convenience and did not believe there was anything wrong with them.

37. During the investigation, several email exchanges between Griebel and Student were also discovered.

38. Copies of 18 emails exchanged by Griebel and Student dating from February 2014 to December 2014 were provided to BVHS administration by Student’s mother.

39. The emails were sent between Student’s personal email account and both Griebel’s school email account and personal email account.

40. Student denied that her relationship with Griebel was inappropriate.

41. Griebel denied that his relationship with Student was inappropriate.

42. Superintendent Pappone classified the relationship between Griebel and Student as “clearly unusual” and indicated to the Commission that he had not observed a similar relationship between a teacher and a student during his thirty years as a superintendent.

43. In Superintendent Pappone’s professional opinion, the relationship between Griebel and Student was not professional.

44. In Superintendent Pappone’s opinion, Student “was clearly infatuated” with Griebel and Griebel failed to act appropriately to manage the relationship in a professional manner.

45. The Commission finds the observations and professional opinions of Superintendent Pappone to be credible and significant.

46. In the opinion of the Commission’s investigator, Adrian Mohr, the relationship between Griebel and Student was not professional or appropriate.

47. In the opinion of Investigator Mohr, Griebel deleted the text messages as a result of his conversation with Student and not as a result of needing additional data on his phone.

48. The Commission finds the observations and professional opinions of Investigator Mohr to be credible and significant.

49. The Commission finds that Greibel deleted the text messages on his phone as a result of the warning he received from Student.

50. As a result of the testimony of Superintendent Pappone and Investigator Mohr, the Commission finds that Greibel was not truthful or cooperative with the Commission.

51. Greibel's assertion that his relationship with Student was professional is inconsistent with the volume of text messages and emails exchanged, the fact that messages were exchanged outside of regular school hours, and the fact the Greibel felt comfortable using text messages to approach Student when he observed her looking upset at school.

52. Greibel's assertion that his relationship with Student was professional is inconsistent with the actions of Student deleting all text messages off of her phone and telling Greibel that he could get into trouble because of the texts.

53. Greibel's assertion that his relationship with Student was professional is inconsistent with the language used in several of the emails between them.

54. The communications between Greibel and Student violated Brandon Valley School District policies on numerous occasions.

55. In his written responses to the complaint, Greibel asserted that the district's policy on texting between students and teachers was selectively enforced, but no evidence was presented during the hearing to support this assertion.

56. As shown by a majority of the evidence introduced, Greibel did not act professionally or responsibly in his relationship with Student.

57. Greibel's communications with Student and conduct of traveling alone with Student in a vehicle demonstrate a lack of judgment as to appropriate boundaries between students and teachers.

58. Greibel did not appear at the hearing, but sent a written statement to the Commission prior to the hearing. Greibel did not ask for a continuance or to postpone the hearing until he could appear to present testimony and answer questions of Commission. Therefore, Greibel's failure to appear at the hearing was a conscious choice on his behalf and is an aggravating circumstance in this case.

59. 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**

60. 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.

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

62. 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.

63. 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:

- (7) Maintain professional relationships with students without exploitation of a student for personal gain or advantage[.]

64. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:02 that in fulfilling their obligations to the students, 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[.]

65. 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 act as follows:

- (12) Cooperate with authorities and the commissions regarding violations of the codes of ethics of the South Dakota Professional Teachers Practices and Standards Commission and the Professional Administrators Practices and Standards Commission;
- (13) Perform duties in accordance with local, state, and federal rules and laws.

66. The complainant has met its burden of proof as a result of the exhibits entered into the record and testimony presented at the hearing regardless of Griebel's default due to his failure to appear at the hearing.

67. Clear and convincing evidence exists that Griebel violated ARSD 24:08:03:01(7), ARSD 24:08:03:02(8), and 24:08:03:03(12) and (13).

68. 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 his matter be referred to the Secretary of the South Dakota Department of Education for proceedings to suspend the teaching certificate of Griebel as provided for in SDCL § 13-43-28.1. The Commission recommends a suspension period of three years, 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 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 29<sup>th</sup> day of February, 2016.

PROFESSIONAL TEACHERS PRACTICES  
AND STANDARDS COMMISSION

By: Thomas Keck  
Thomas Keck, Chair